

European judicial systems CEPEJ Evaluation Report



Part 1
Tables, graphs
and analyses

2020 Evaluation cycle
(2018 data)

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French edition:
Systèmes judiciaires européens
Rapport d'évaluation de la CEPEJ
Cycle d'évaluation 2020
Tableaux, graphiques et analyses (Partie 1)
ISBN 978-92-871-8699-7

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Cover and layout:
Documents and publications
production Department (SPDP),
Council of Europe

Photos: Council of Europe, ©shutterstock

ISBN 978-92-871-8700-0
© Council of Europe, September 2020
Printed at the Council of Europe

The CEPEJ Report on the evaluation of European judicial systems is composed of three parts :

- ▶ Tables, graphs and analyses (Part 1)
- ▶ Country Profiles (Part 2)
- ▶ The CEPEJ-STAT dynamic database (<https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems>)

CONTENTS

EVALUATION PROCESS OF CEPEJ	7
RESPONDING STATES	10
GENERAL REMARKS	11
METHODOLOGY	11
SCOPE OF THE REPORT AND CEPEJ-STAT	12
GENERAL DATA	13
BUDGETS	17
JUDICIAL SYSTEM BUDGET	20
BUDGET ALLOCATED TO COURTS	24
BUDGET ALLOCATED TO PUBLIC PROSECUTION SERVICES	29
COURT FEES AND TAXES	32
LEGAL AID	34
JUSTICE PROFESSIONALS	43
JUDGES AND NON-JUDGE STAFF	45
PUBLIC PROSECUTORS AND NON-PROSECUTOR STAFF	56
GENDER BALANCE AND ETHICS	64
SALARIES OF JUDGES AND PROSECUTORS	67
LAWYERS	70
COURTS, USERS AND ICT (INFORMATION AND COMMUNICATION TECHNOLOGY)	77
ORGANISATION OF COURTS	79
COURT USERS	88
INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)	95
EFFICIENCY AND QUALITY	105
CEPEJ PERFORMANCE INDICATORS ON COURT EFFICIENCY	107
THE OVERALL EFFICIENCY OF EUROPEAN JURISDICTIONS	108
FIRST INSTANCE COURTS	109
SECOND INSTANCE COURTS	131
HIGHEST INSTANCE COURTS (SUPREME COURT)	134

Evaluation — process of CEPEJ

The European Commission for the Efficiency of Justice (CEPEJ) was set up by the Committee of Ministers of the Council of Europe in September 2002. It is entrusted primarily with proposing concrete solutions suitable for use by Council of Europe member States for:

- ▶ promoting the effective implementation of existing Council of Europe instruments used for the organisation of justice;
- ▶ ensuring that public policies concerning courts take into account the needs of the justice system users;
- ▶ offering States effective solutions prior to the points at which an application would be submitted to the European Court of Human Rights and preventing violations of Article 6 of the European Convention on Human Rights, thereby contributing to reducing congestion in the Court.

■ The CEPEJ is today a unique body, made up of qualified experts from the 47 Council of Europe member States. It proposes practical measures and tools to improve the efficiency and quality of the public service of justice for the benefit of its users.

■ In order to fulfil these tasks, the CEPEJ has undertaken since 2004 a regular process for evaluating every two years the judicial systems of the Council of Europe member States and some observer States.

■ The following constitutes the 2020 CEPEJ Evaluation Report on the “European judicial systems” based on 2018 data. With this eighth biennial evaluation cycle, the CEPEJ aims to provide policy makers and justice professionals a practical and detailed tool for a better understanding of the functioning of justice in Europe, in order to improve its efficiency and its quality in the interest of close to 850 million Europeans, and beyond.

RESPONDING STATES

By May 2020, 45 member States participated in the process: **Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus¹, the Czech Republic, Denmark, Estonia, Finland, France, Georgia², Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova³, Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russian Federation⁴, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine⁵ and United Kingdom⁶** (entities of England and Wales, Northern Ireland and Scotland).

Only **Liechtenstein** and **San Marino** have not been able to provide data for this Report.

Israel, Morocco and, for the first time, **Kazakhstan** have participated in the evaluation cycle as observer States and appear in this Report. It should be noted that the statistics presented in the summary graphs and indicated at the end of the tables (averages, medians, etc.) are always calculated only for the Council of Europe member States in order to provide a picture of the European situation of judicial systems.

Codes - For a complete and easy view of maps and graphs, codes which represent the names of the States and entities are used. These codes correspond to the official classification (ISO 3166-1 alpha-3 codes with three letters) published by the International Organisation of Normalisation. In absence of ISO codes for the entities of the **United Kingdom**, the codes ENG, WAL, NIR and SCO are used for England and Wales, Northern Ireland and Scotland, respectively.

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

1. The data provided by Cyprus do not include data of the territory which is not under the effective control of the Government of Cyprus.
2. The data provided by Georgia do not include data of the territory which is not under the effective control of the Government of Georgia.
3. The data provided by the Republic of Moldova do not include data of the territory which is not under the effective control of the Government of the Republic of Moldova.
4. Being committed under the relevant Committee of Ministers decisions (e.g. CM/Del/Dec(2014)1196/1.8, CM/Del/Dec(2014)1207/1.5, CM/Del/Dec(2015)1225/1.8, CM/Del/Dec(2017)1285/2.1bisb) aimed at upholding the sovereignty and territorial integrity of Ukraine, the Council of Europe does not recognise any alteration of status of the Autonomous Republic of Crimea and the City of Sevastopol.
5. The data indicated for Ukraine do not include the territories which are not under the effective control of the Ukrainian government. All activities of the Council of Europe concerning the Autonomous Republic of Crimea and the City of Sevastopol aim at fostering human rights in the interest of the people living in this territory. They cannot be interpreted as recognising neither the authorities that exercise de facto jurisdiction nor any altered status of the territory in question.
6. The results for the United Kingdom are presented separately for England and Wales, Northern Ireland and Scotland. The three judicial systems are organised on a different basis and operate independently from each other.

GENERAL REMARKS

Comparing data and concepts

The comparison of data from different countries with various geographical, economic and legal situations is a delicate task. It should be approached with great caution by the readers when consulting, interpreting and analysing the information contained in the report.

In order to compare the various States and their systems, it is necessary to bear in mind their peculiarities which may explain some of the differences between their data (different judicial systems, various approaches to courts organisation, different statistical classifications to evaluate the systems, etc.). Particular concern has been given to the definition of the terms used in order to ensure that the concepts have been considered on a common basis of understanding.

The Report aims to give an overview of the situation of the European judicial systems. Rather than ranking the judicial systems in Europe, which would be scientifically inaccurate, it allows comparing countries, or clusters of countries, and discern trends. The Report offers readers the possibility of in-depth study by choosing relevant clusters of countries according to the indicator of the judicial systems analysed (civil law and common law countries, countries of a certain region or other), geographical criteria (size, population) or economic criteria (size of GDP, within or outside the euro zone, etc.).

PRESENTING THE DATA

■ A few abbreviations deserve to be mentioned already here given their frequent use throughout the Report:

- “Qx” refers to the number of the question (x=number) in the CEPEJ Evaluation Scheme (see below under Methodology), based on which information was collected.
- If there was no (valid) information, this is indicated by “NA” (“not available”).
- In some cases, a question could not be answered because it referred to a situation that does not exist in the responding country or entity. These cases are shown as “NAP” (“not applicable”).
- The number of staff (judges, prosecutors, etc.) is given in full time equivalent (“FTE”) in order to enable comparisons, when possible.

METHODOLOGY

■ The CEPEJ methodology is based on specific key documents, actors and processes.

KEY DOCUMENTS

■ **The CEPEJ Scheme for Evaluating Judicial Systems (The Evaluation Scheme)** was revised in 2018 by the CEPEJ Working Group on the Evaluation of judicial systems (CEPEJ-GT-EVAL) and adopted by the CEPEJ at its 31st plenary meeting on 3-4 December 2018 ([Document CEPEJ \(2018\) 16 REV7](#)). It has been designed and used by the CEPEJ on the basis of the principles identified in Resolution Res(2002)12 of the Committee of Ministers setting up the CEPEJ, and relevant Resolutions and Recommendations of the Council of Europe in the field of efficiency and fairness of justice. The Evaluation Scheme takes the form of a questionnaire offering a unique approach aimed at covering all relevant aspects of judicial systems in order to understand their functioning.

■ **The Explanatory Note** accompanies the Evaluation Scheme and provides detailed definitions and explanations of the questions and notions used in the Scheme. Its main purpose is to facilitate a common understanding of the questions by all national correspondents, with a view to ensuring the uniformity and comparability of the data collected ([Document CEPEJ\(2018\)17](#)). In order to fully and accurately understand the Report, it is essential to read it in the light of this Explanatory Note.

KEY ACTORS

■ **The CEPEJ national correspondents** are persons designated by the member States to collect the relevant data in respect of their system and deliver it to the CEPEJ. They are the main interlocutors of the CEPEJ Secretariat in ensuring the quality of the data. The Report uses almost exclusively data provided by the national correspondents. If, exceptionally, data from other sources have been used, the full references of those sources are mentioned.

■ **The CEPEJ Working Group GT-EVAL**⁷, under the chairmanship of Mr Jaša Vrabec (Slovenia), in close cooperation with the CEPEJ Secretariat was entrusted with the preparation of the Report.

KEY STAGES

■ **Data collection** - The national correspondents collect and submit replies to the questions in the Evaluation Scheme on behalf of the member States and entities using the online tool “CEPEJ COLLECT”. For this evaluation cycle, the reference year is 2018 and the online data collection period officially lasted from 1 March to 1 October 2019. National data are completed by descriptions of the judicial systems and comments, both of which contribute greatly to the understanding of the data provided and constitute an essential complement. They are available in the frame of the online tool “CEPEJ-STAT”, the database of the judicial systems of the Council of Europe member States and participating observers. Readers should bear this in mind and always interpret the statistics in the light of the comments and explanations provided by the States and entities.

■ **Quality check** is the process of ensuring the coherence and reliability of the data submitted. The CEPEJ Secretariat verifies the accuracy and consistency of all data submitted via CEPEJ-COLLECT by the national correspondents, through dialogue with them concerning replies which raise questions and need clarifications. At the end of the process, the Secretariat validates the data. According to its methodology, no data is modified by the CEPEJ without the authorisation of the national correspondents. Only verified and validated data have been published in the Report.

SCOPE OF THE REPORT AND CEPEJ-STAT

■ The Report in its printed form focuses on key issues and key data. It does not exploit exhaustively all the information provided by the States and entities but rather adopts an analytical approach identifying main trends and issues common to the member States.

■ For a more detailed analysis, the CEPEJ has made available its dynamic internet database “CEPEJ-STAT” (<https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems>) which contains all the data collected by the CEPEJ since 2010 and features dashboards that give a comprehensive overview of selected indicators. CEPEJ-STAT is freely accessible to everyone, policy makers, legal practitioners, academics and researchers, and presents a complete set of data and information for possible further in-depth research.

■ This Report is based on 2018 data. Since then, several States have implemented fundamental institutional and legislative reforms of their legal systems, as indicated in the answers to the last question of the Evaluation Scheme (Q208). For these States, the situation described in this Report differs from the current situation.

7. The Working Group of the CEPEJ on the Evaluation of judicial systems (CEPEJ-GT-EVAL) is composed of:
Mr Juan Fernando Armengot Iborra, Advisor, Directorate General for International Legal Cooperation and Human Rights, Ministry of Justice, Madrid, Spain;
Ms Joanne Battistino, Department of Justice, Ministry for Justice, Culture & local Govt., Valletta, Malta;
Mr Christophe Koller, Director ESEHA, Center for counselling and comparative analysis, Bern, Switzerland;
Ms Simone Kress, Judge, Vice-President of the Court of Cologne, Germany;
Mr Jaša Vrabec, Head of the Office for Court Management Development, Supreme Court, Ljubljana, Slovenia;
Ms Martina Vrdoljak, Head of the Department for statistics, analytics and strategic development of judiciary, Ministry of Justice, Zagreb, Croatia.
The CEPEJ-GT-EVAL has benefited from the active support of scientific experts:
Ms Raffaella Calo, Magistrate seconded to the Ministry of Justice, Rome, Italy;
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Ms Ana Krnić Kulušić, Justice Reform Expert, Zagreb, Croatia;
Mr Alain Lacabarats, Former President of the CCJE, Honorary Chamber President, Court of Cassation, Paris, France;
Mr Marco Velicogna, Researcher and Consultant, Bologna, Italy;
Ms Federica Viapiana, Researcher and Consultant, Bologna, Italy;
Mr Jan Philipp Westhoff, Judge, Regional Court, Ministry of Justice of North Rhine-Westphalia, Düsseldorf, Germany.

GENERAL DATA

Figure 1.1 General data, 2018

States / Entities	Population	GDP per capita	Average salary	Total public expenditure (in millions)	
				at state level	at regional or federal entity level
ALB	2 870 324	4 460 €	4 717 €	3 727 €	NAP
ARM	2 962 000	3 544 €	3 840 €	2 931 €	232 €
AUT	8 822 267	43 680 €	35 240 €	187 216 €	NA
AZE	9 898 100	4 174 €	3 354 €	11 866 €	NAP
BEL	11 431 406	39 500 €	43 497 €	235 976 €	NAP
BIH	3 496 121	4 886 €	8 363 €	6 959 €	6 087 €
BGR	7 000 039	7 855 €	6 964 €	20 204 €	3 656 €
HRV	4 076 246	12 593 €	13 671 €	10 199 €	NAP
CYP	875 900	23 202 €	22 896 €	7 544 €	NAP
CZE	10 649 800	19 489 €	14 365 €	84 081 €	20 398 €
DNK	5 806 081	51 280 €	38 035 €	93 490 €	- €
EST	1 319 133	19 737 €	15 612 €	10 301 €	NAP
FIN	5 521 773	42 340 €	41 580 €	56 192 €	NAP
FRA	66 992 699	34 978 €	35 763 €	501 000 €	260 400 €
GEO	3 723 500	3 587 €	NA	3 230 €	NAP
DEU	83 019 200	40 852 €	53 688 €	385 998 €	658 933 €
GRC	10 741 165	16 736 €	NA	86 746 €	NAP
HUN	9 591 495	12 500 €	12 288 €	58 205 €	NAP
ISL	356 991	21 012 €	64 858 €	8 850 €	NAP
IRL	4 857 000	66 716 €	38 871 €	81 983 €	NAP
ITA	60 359 546	29 071 €	29 343 €	611 597 €	NAP
LVA	1 919 968	15 136 €	12 384 €	6 489 €	NAP
LTU	2 794 184	16 158 €	11 089 €	9 560 €	2 783 €
LUX	613 900	95 943 €	61 720 €	15 030 €	NAP
MLT	475 701	25 556 €	19 036 €	4 529 €	NAP
MDA	2 681 734	2 733 €	3 898 €	3 002 €	NAP
MCO	38 300	70 881 €	43 574 €	1 280 €	NAP
MNE	620 029	7 423 €	9 192 €	2 152 €	NAP
NLD	17 282 163	45 052 €	58 800 €	325 504 €	NAP
MKD	2 075 301	5 153 €	6 948 €	1 637 €	NAP
NOR	5 328 212	67 046 €	55 224 €	173 708 €	NAP
POL	38 412 000	12 960 €	NA	90 803 €	53 527 €
PRT	10 276 617	19 614 €	16 766 €	88 627 €	NAP
ROU	19 405 156	10 400 €	11 235 €	70 266 €	NAP
RUS	146 780 720	9 280 €	7 411 €	243 960 €	NA
SRB	6 963 764	6 158 €	7 645 €	17 539 €	NA
SVK	5 450 421	16 550 €	12 156 €	16 563 €	NAP
SVN	2 080 908	22 182 €	20 179 €	18 564 €	NAP
ESP	47 007 367	25 703 €	23 033 €	451 119 €	185 548 €
SWE	10 230 185	46 117 €	40 706 €	230 262 €	NAP
CHE	8 542 320	73 697 €	71 641 €	65 417 €	130 719 €
TUR	82 003 882	7 440 €	NA	200 085 €	NAP
UKR	42 153 201	2 655 €	3 355 €	31 281 €	NA
UK:ENG&WAL	59 115 809	30 840 €	33 620 €	NA	599 313 €
UK:NIR	1 881 600	23 605 €	30 109 €	NA	29 504 €
UK:SCO	5 438 100	33 420 €	38 511 €	NA	72 059 €
ISR	8 985 000	34 426 €	30 198 €	124 493 €	NAP
KAZ	18 395 567	8 021 €	4 800 €	21 933 €	11 228 €
MAR	35 586 616	2 872 €	10 512 €	26 288 €	3 708 €

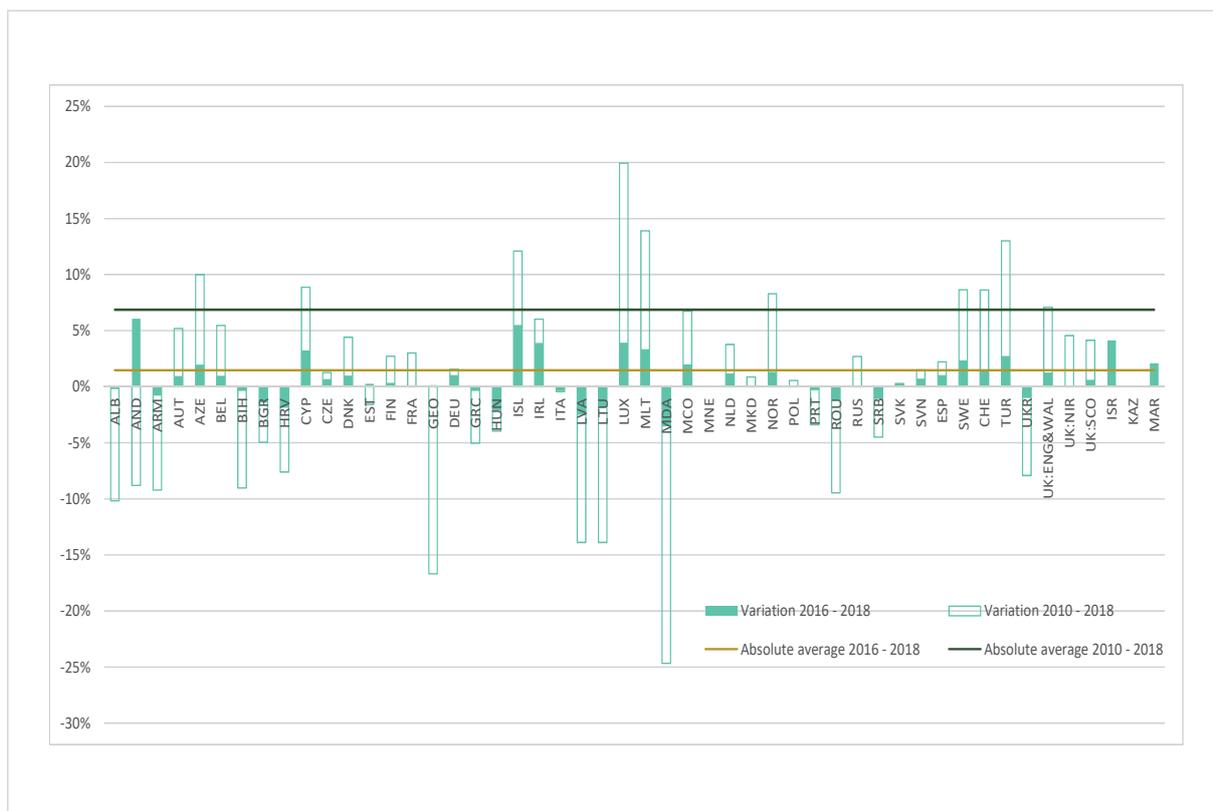
The general and demographic data provide information about the general context in which this study was conducted. In particular, the data make it possible, as was the case in the previous exercise, to standardise other figures and allow for a comparative analysis between different States/entities.

DEMOGRAPHIC DATA

The population (Q1) shows the number of inhabitants in the reference year. These figures enable the reader to appreciate the differences in the population and size of the countries involved: **Monaco** has about 38 000 inhabitants, while the **Russian Federation** has more than 146 million inhabitants. Furthermore, it should be noted that population in many member States and entities varies in time.

This demographic diversity and these variations must always be kept in mind, considering that population data will be used in most ratios.

Figure 1.2 Variation in population, 2010 - 2018 and 2016 - 2018



ECONOMIC DATA (GDP PER CAPITA, AVERAGE GROSS SALARY AND STATE PUBLIC EXPENDITURE)

These data also demonstrate a great diversity of wealth and living standards represented by GDP per capita and the amount of global public expenditure (national and regional). The average annual gross salary gives an interesting view of the wealth and living standards as it involves an economic, social and demographic component. Though this indicator is not perfect, it nevertheless highlights, again, substantial disparities between the populations of different countries/entities.

GDP per capita (Q3) - here again, large disparities can be noted and this must be kept in mind when analysing financial data of different judicial systems. For instance, two extremes can be noted: countries with a GDP per capita at less than 3 000 € (**Republic of Moldova, Ukraine**) and **Luxembourg**, for instance, having a GDP per capita at over 90 000 € reported, a value more than 30 times higher.

National annual gross salary (Q4) - is also used as a standardisation value, comparing for example the salaries of judges and prosecutors. This is done in order to guarantee an internal comparability with the standards of living in each country. Details of the disparities can be observed in Figure 1.1.

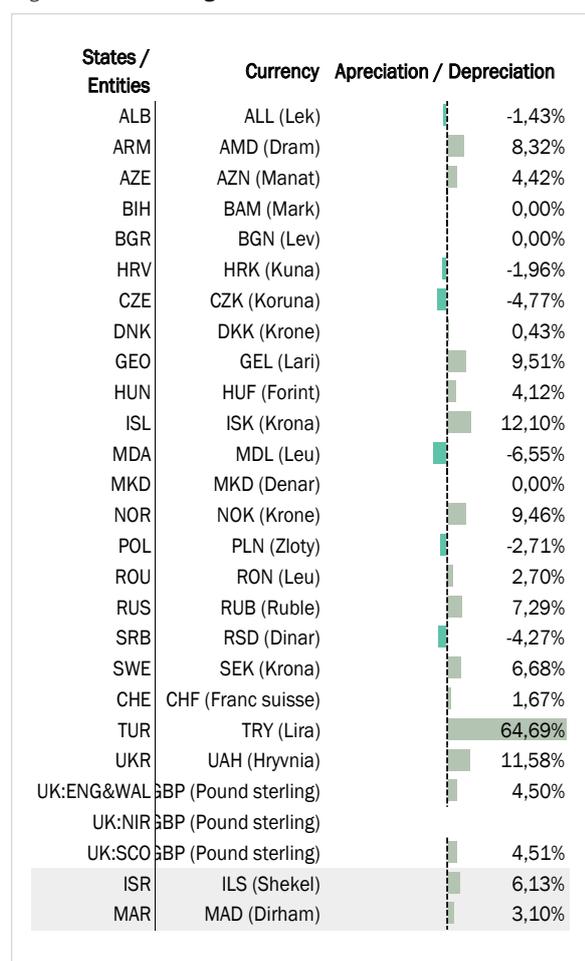
Annual state public expenditure (Q2) - constitutes another standardisation value for other data collected. However, the variety of organisational systems of States (federal, centralised, decentralised) and the quality of the data provided do not allow an equivalent use of this indicator.

EXCHANGE RATE (Q5) AND INFLATION RATE

Monetary values are reported in euros. For that reason, using exchange rates for States outside the euro zone causes some difficulties. Exchange rates vary from year to year, so the exchange rates of 1 January 2019 have been used for this report. In case of high inflation rates and/or a variation in exchange rates, very high or low figures must be interpreted in the light of this choice.

The important variation in the exchange rate has a significant effect on monetary data of countries outside the euro zone. For some of them, the exchange rate against the euro could have been more favourable in this cycle than in previous ones. It is therefore necessary to pay attention to this issue while comparing monetary figures of the 2018 and 2020 editions. A specific table (Figure 1.3) shows the variation in the exchange rate for the countries outside the euro zone. As far as possible, this was taken into account while commenting on the tables and figures showing budgetary variations both in euros and in other currencies.

Figure 1.3 Exchange rate



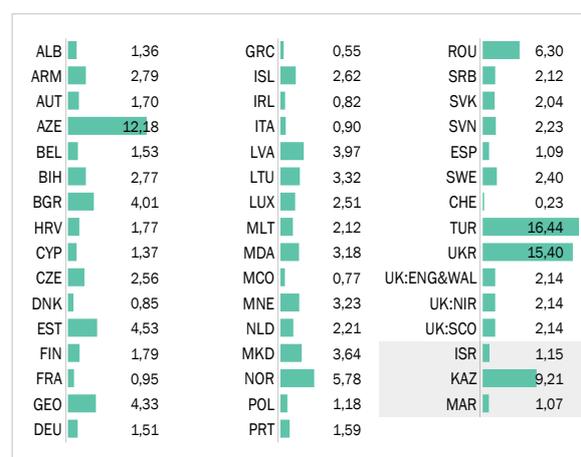
Between the 2018 and 2020 evaluation cycles, significant depreciations of the local currency were observed in the **Czech Republic, Republic of Moldova** and **Serbia**. Some depreciation, but to a smaller extent, were identified in **Croatia** and **Poland**. While currencies in **Bosnia and Herzegovina, Bulgaria** and **North Macedonia** remained stable, all other member States and entities experienced appreciation.

The analysis presented in this Report on variations in budgets is carried out in parallel in euro and in local currencies for non-euro area countries. Indeed, a significant variation in the budget in euros does not necessarily reflect reality. Thus, a reduction in euros may be only an appearance, as the local currency budget remains stable or even increasing.

Accordingly, both during the quality control process and when analysing the budget data, the values in euro are construed in the light of the exchange rate.

Table 1.4 Inflation rate (GDP deflator)

(Source: World Bank⁸)



Inflation measures the increase in price over time. It is a valuable indicator which has to be taken into account when analysing economic data, namely budgets and salaries.

In 2018, the highest inflation was measured in **Azerbaijan, Turkey, and Ukraine**, all of which had a rate above 10%. All other States and entities had an inflation rate lower than 6%, but none of them recorded deflation.

8. <https://databank.worldbank.org/reports.aspx?source=2&series=NY.GDP.DEFL.KD.ZG#> (01.07.2020)

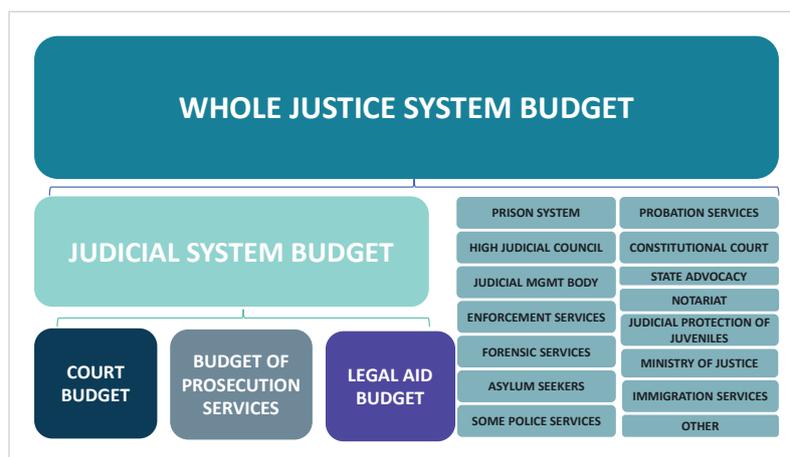
Budgets _____

An adequate budget is necessary to guarantee the functioning of judicial systems. Courts and prosecutor offices must be sufficiently funded in order to allow them to work efficiently, delivering justice within a reasonable time. An adequate budget dedicated to legal aid allows ensuring access to justice for all citizens.

■ One of the goals of the CEPEJ Report is to describe and analyse the “budget allocated to judicial systems”, as defined by the CEPEJ, namely: budgets allocated to courts, public prosecution services and legal aid.

■ The “budget allocated to the whole justice system” encompasses that of the judicial system and may also include the budget of the prison system, the probation service, Councils for the Judiciary, the Constitutional Court, judicial management bodies, the State Advocacy, enforcement services, notary services, forensic services, the judicial protection of juveniles, the functioning of the Ministry of Justice, refugees and asylum seekers services, some police services, etc. Insofar as the components of the budget of the whole justice system vary from one State or entity to another, this report will focus only on the “judicial system budget”, as illustrated by the following figure.

Figure 2.1 Whole justice system and judicial system budgets



■ It is noteworthy specifying the distinction between implemented and approved budget. As from this evaluation cycle, the judicial system budget analysed and presented will be the implemented budget, except for those countries which did not provide it; in that case, the approved budget will be used. Moreover, considering that the implemented budget has been collected since 2014, for any longer time series (from 2010 or 2012) only the approved budget will be compared.

■ For easier analysis, States and entities have been divided into four groups on the basis of their GDP per capita:

- ▶ Group A: <10 000 €
- ▶ Group B: 10 000 € – 20 000 €
- ▶ Group C: 20 000 € - 40 000 €
- ▶ Group D: >40 000 €

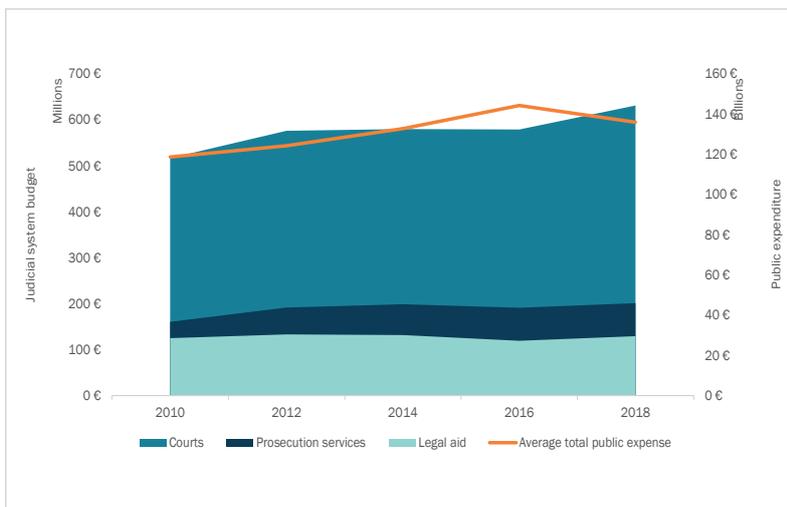
■ The analysis could take into account the comparison among these groups A, B, C and D, named as such throughout the budget section of this report.

JUDICIAL SYSTEM BUDGET

How have the judicial system budgets evolved?

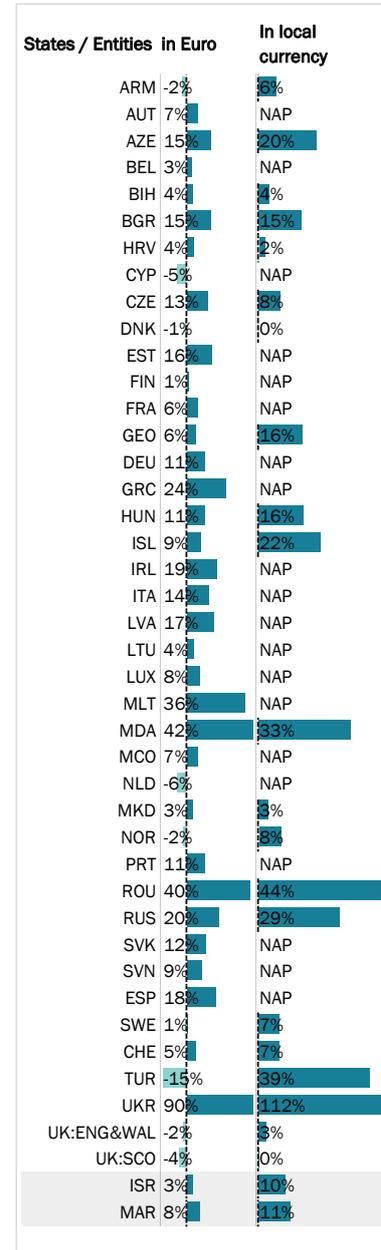
In most States and entities, the evolution of the budget of the judicial system follows the evolution of public expenditure. Overall, the European trend remains the same, a gradual and continuous increase in the budgets of judicial system. The following Figure shows the evolution of the average budget allocated to the judicial system and the average public expense from 2010 to 2018 which, with few exceptions, are increasing in almost all countries.

Figure 2.2 Evolution of average approved judicial system budget and average public expenditure, 2010 - 2018 (Q2, Q6, Q12, Q13)



Between 2016 and 2018, the judicial system budget of **Armenia, Cyprus, Denmark, the Netherlands, Norway and UK - England and Wales and UK - Scotland** has slightly decreased (-1% to -6%). For the same period all non-euro area countries have increased the budget allocated to their judicial system in local currency. In **Turkey**, a more important decrease of 15% is to be noticed in Euros but in local currency there is an increase of 39%. **Ukraine**, in particular, shows a huge increase in the budget dedicated to the judicial system, both in Euros and in local currency, following a reform providing for salary increases and other structural investments in buildings and information and communication technology (ICT).

Figure 2.3 Variation in the judicial system budget, 2016 – 2018, in € and local currency (Q2, Q6, Q12, Q13)



Which countries invest the most in their judicial systems?

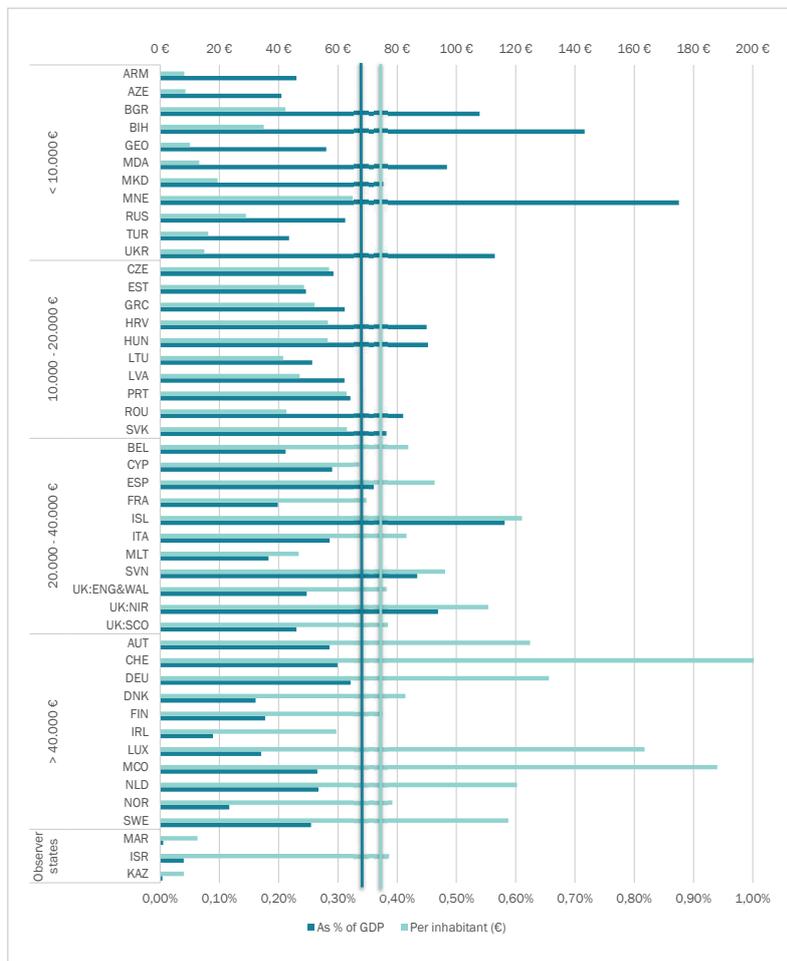
The budget allocated to the judicial system depends on many factors, primarily the size of the population and the wealth of the country.

The budget of the judicial system is calculated in relation to the population (€ per inhabitant), as a percentage of total public expenditure and as a percentage of nominal Gross domestic product (GDP). The budget per inhabitant is logically higher in States and entities placed in the group of richest countries. By contrast, the budget calculated as a percentage of GDP is relatively higher in the less wealthy countries, meaning that most of them are prioritising the judicial system relative to other public services.

Table 2.1 Average of judicial system budget by different groups of GDP per capita (Q1, Q3, Q6, Q12 and Q13)

Group	Per inhabitant	As % of GDP
A: < 10 000 €	23,81 €	0,44%
B: 10 000 € - 20 000 €	52,81 €	0,34%
C: 20 000 € - 40 000 €	84,13 €	0,32%
D: > 40 000 €	123,79 €	0,22%
Average	71,56 €	0,33%
E: (Observer States)	32,67 €	0,02%

Figure 2.4 Judicial system budget - per inhabitant €, and as % of GDP 2018 (Q1, Q3, Q6, Q12, Q13)



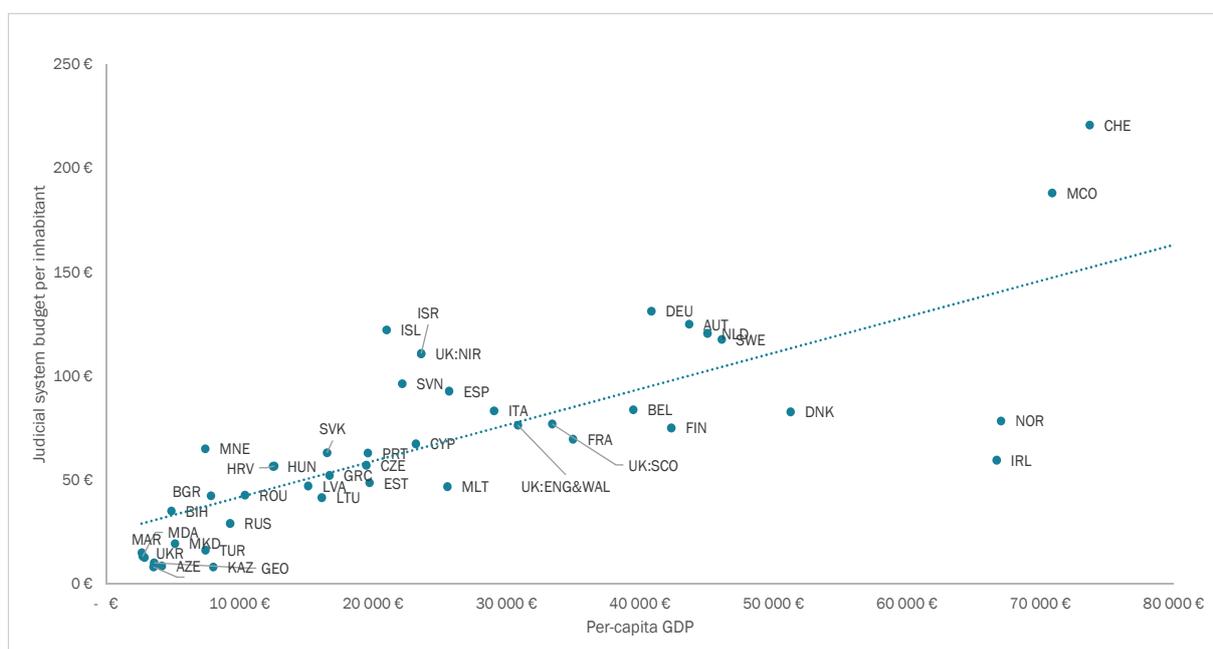
Some exceptions can be noted. In groups C and D, **Ireland** dedicates less than the median (59 €). Within groups C and D, **Iceland, Slovenia, Spain, and UK - Northern Ireland** have a higher budget as a percentage of GDP, while in groups A and B **Armenia, Azerbaijan, and Turkey** have a lower judicial system budget as a percentage of GDP.

” Is there a link between the level of wealth and the judicial system budget?

■ The budget allocated per inhabitant is not sufficient in order to illustrate a state’s actual budgetary effort for the judicial system, this effort being very different when examined from the perspective of the state’s wealth. The same budget allocated to the judicial system may correspond to a quite different budgetary effort, depending on the wealth of the country.

■ The Figures below put into perspective the budget allocated per inhabitant to the judicial system in comparison with GDP per capita, thereby giving a more meaningful representation of the actual budgetary effort for the judicial system by each State and entity. This makes possible to measure the budgetary effort devoted by a country towards access to justice and judicial activity.

Figure 2.5 Judicial system budget per inhabitant and GDP per capita 2018 (Q3, Q6, Q12, Q13)



■ Figure 2.5 shows that there is a positive correlation between the level of wealth of the States or entities and the resources allocated to the judicial systems. This positive correlation is represented by a trend line.

■ All States situated along the trend line have a similar ratio “budget per inhabitant/GDP per capita”.

■ States or entities that are positioned above the trend line show a relatively higher budgetary effort given their wealth. In contrast, States or entities that are positioned below the trend line show a moderate budgetary effort given their wealth. For example, **Ireland, Monaco, Norway, and Switzerland**, have a similar GDP per capita. However, **Monaco** (197 €) and **Switzerland** (220 €) spend significantly more per inhabitant on the judicial system than **Ireland** (56 €) and **Norway** (81 €). This difference is clearly shown by the chart, where **Switzerland** and **Monaco** are situated well above the trend line, while **Norway** and **Ireland** are situated well below.

■ In group A (less than 10.000 €), the country that spent the most on the judicial system is **Montenegro**,

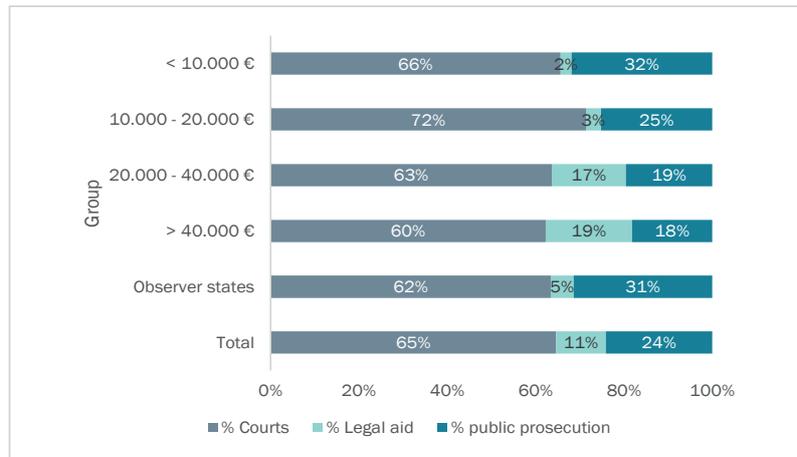
in group B (10 000 € - 20 000 €) the **Slovak Republic**, while **Iceland** is the country that spent the most within group C (20 000 € - 40 000 €). These three countries are characterised by a high litigiousness rate (number of incoming cases per inhabitant) that certainly influences the amount of resources necessary for the functioning of the judiciary.

■ Of course, even if this linkage between the budgets per inhabitant allocated to the judicial systems and the wealth of the States and entities leads to a more fine-tuned and more complex analysis than the analysis of raw data, it is, however, not sufficient to interpret in a fully accurate manner the budget data on judicial systems. The reality of the systems is even more complex. To avoid premature comparisons, the specificities of the judicial systems which may explain the variations from one State or entity to another should also be taken into account. Organisational aspects, a particular way of functioning, different procedures and legal tradition may help explain the discrepancies observed.

» What are the components of a judicial system budget?

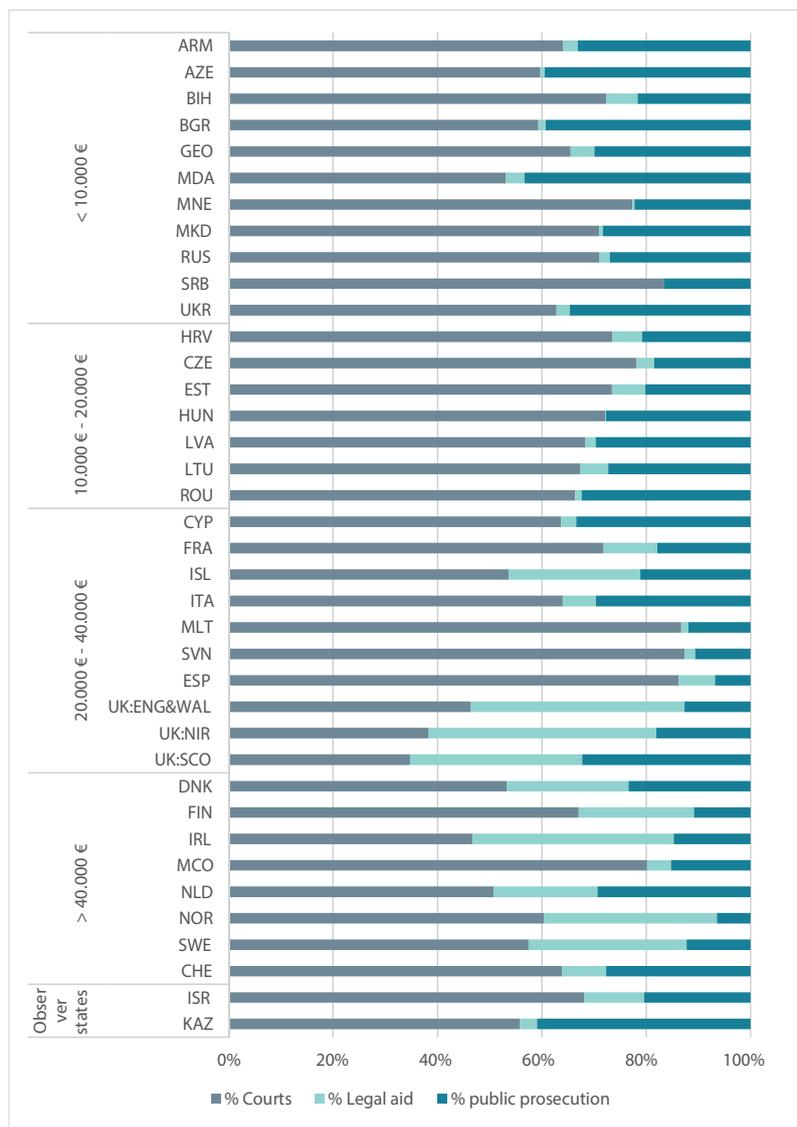
As already mentioned, the judicial system budget is calculated as the sum of the budget allocated to courts, the budget allocated to the prosecution services and the budget allocated to legal aid. On average, member States and entities spend almost 2/3 of their judicial system budget on courts, almost 1/4 on public prosecution services and the remaining 11% on legal aid (Figure 2.6).

Figure 2.6 Composition of the judicial system budget by GDP categories in 2018 (Q6, Q12, Q13)



However, there are substantial differences among countries, as shown by the following chart (Figure 2.7). In 2018, **Bosnia and Herzegovina, Croatia, the Czech Republic, Estonia, France, Hungary, Malta, Monaco, Montenegro, North Macedonia, Serbia, Slovenia, Spain, and Russian Federation** dedicated more than 70% of their judicial system budget on courts; **Armenia, Azerbaijan, Bulgaria, Cyprus, Republic of Moldova, Romania, Ukraine, and UK - Scotland** dedicated more than 30% to the public prosecution services, while **Denmark, Finland, Ireland, the Netherlands, Norway, Sweden, UK – England and Wales, UK – Northern Ireland and UK – Scotland** dedicated more than 20% to legal aid.

Figure 2.7 Distribution of implemented judicial system budget by its components (Q6, Q12, Q13)



As a general trend, the northern countries and the UK spend proportionally more than the other countries on legal aid, while the less wealthy countries spend proportionally less on legal aid. At the same time, less wealthy countries spend relatively more compared with the richest countries on the prosecution services. This argument will be developed in the subsequent sections.

BUDGET ALLOCATED TO COURTS

Does the budget of the courts depend on the wealth of the country?

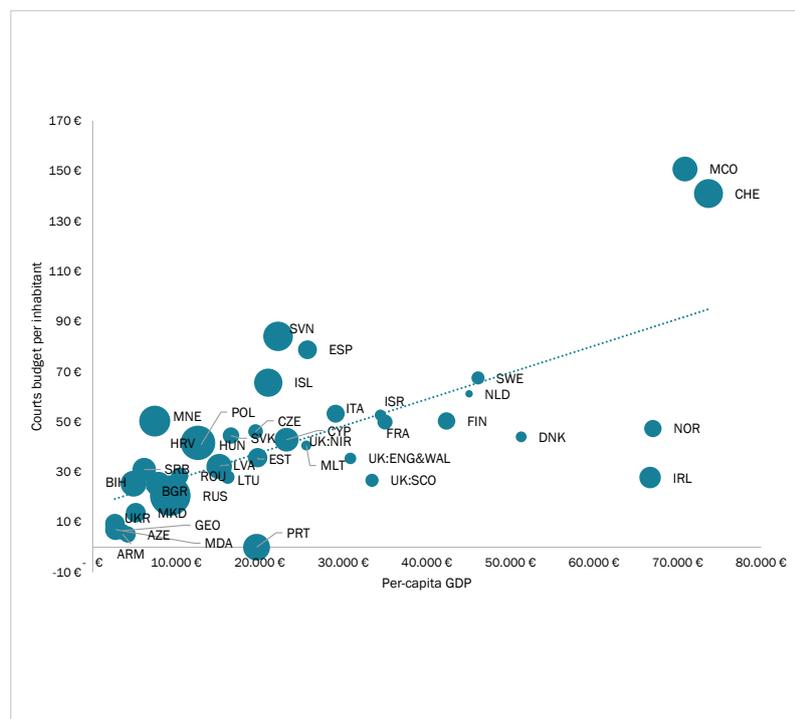
In 2018, European countries spent on average 42 € per inhabitant on courts, 10% more than in 2016 (39 €). The expense is closely related to the GDP per capita: Group D countries spent on average 74 € per inhabitant, while group A spent 16 € (Table 2.2).

Table 2.2 Average budget of all courts by different groups of GDP per capita 2018 (Q1, Q3, Q6)

Group	Per inhabitant	As % of GDP
A: < 10 000 €	15,85 €	0,29%
B: 10 000 € - 20 000 €	38,51 €	0,26%
C: 20 000 € - 40 000 €	53,14 €	0,21%
D: > 40 000 €	73,72 €	0,13%
Average	42,11 €	0,23%
E: (Observer States)	28,55 €	0,10%

However, between countries in the same group, there are notable differences in respect of courts' budget.

Figure 2.8 Courts' budget per inhabitant, GDP per capita and courts' geographic location per 100 000 inhabitants in 2018 (Q1, Q3, Q6, Q42.3)



To give a more meaningful representation of the actual budgetary effort made by the European countries for the courts, Figure 2.8 relates the budget allocated to courts per inhabitant to the wealth, measured by means of GDP per capita. Accordingly, the size of the bubble reflects the number of courts (geographic locations) per 100 000 inhabitants. Countries that are above the line spend relatively more on courts than countries below the line, relative to their wealth. **Monaco** and **Switzerland** are confirmed as the States that invest more in the courts, compared with the countries with a same GDP per capita. Among the other countries, the **Czech Republic**, **Iceland**, **Montenegro**, **Slovenia**, the **Slovak Republic**, **Spain**, and **Portugal** stand out within their groups for the major effort in court funding.

Monaco, **Switzerland**, **Slovenia** and **Montenegro** are characterised by a high number of courts and judges per inhabitants and this can obviously influence the amounts of the budgets allocated to courts. Generally speaking, countries located below the line have fewer courts per 100 000 inhabitants than the countries above the line. The following chart shows a positive correlation between the number of courts (geographic locations) per 100 000 inhabitants and the courts budget per inhabitant, meaning that courts' expense depends on the number of courts, in addition to the GDP per capita and other factors.

Figure 2.9 Courts' budget per inhabitant and number of courts (geographic location) per 100 000 inhabitants in 2018 (Q1, Q6, Q42.3)

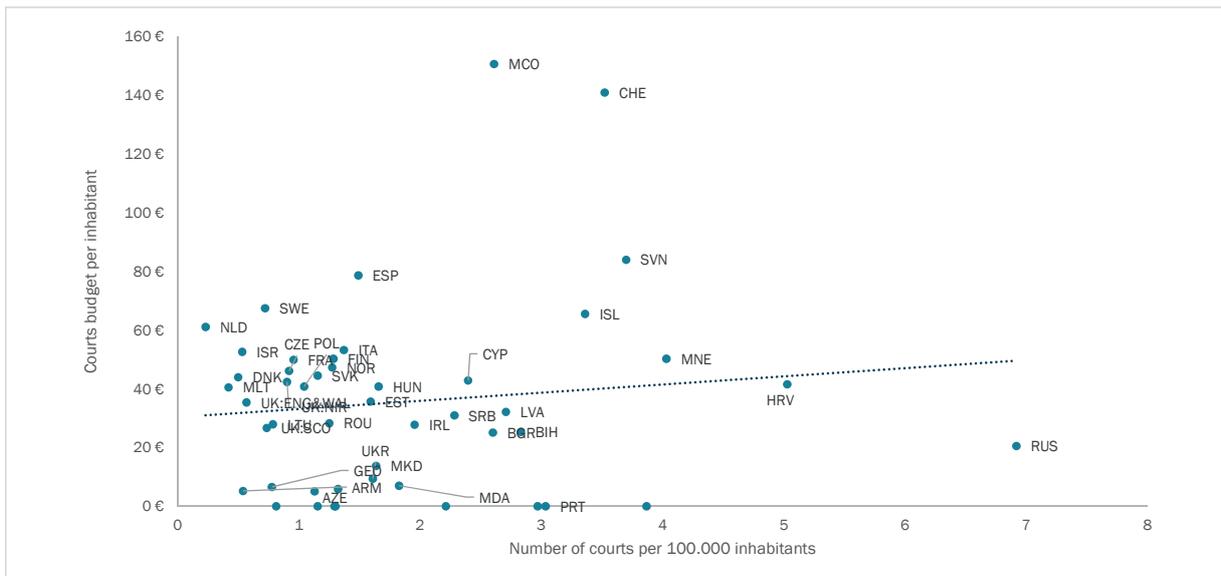
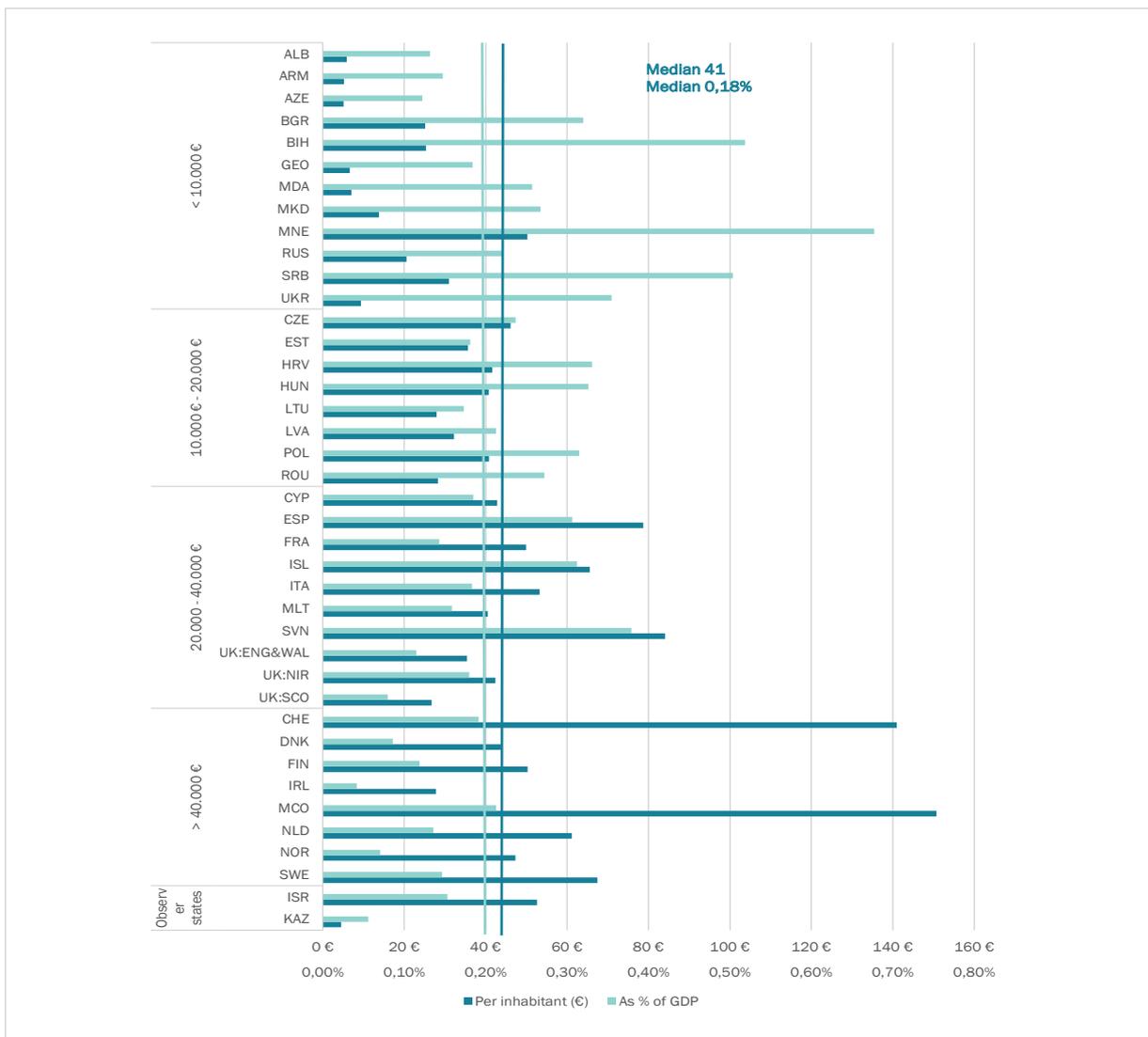


Figure 2.10 Budgets of courts per inhabitant, as % of GDP in 2018 (Q1, Q3, Q6)



■ Countries with a lower GDP per capita tend to allocate a bigger budget to courts as a percentage of GDP, compared with States and entities with a higher GDP per capita.

How has the budget of the courts evolved?

The average budget allocated to courts increased from 2016 to 2018, after a certain stability recorded from 2012 to 2016.

Figure 2.11 Evolution of the approved courts' budget 2010-2018 in Euro (Q6)

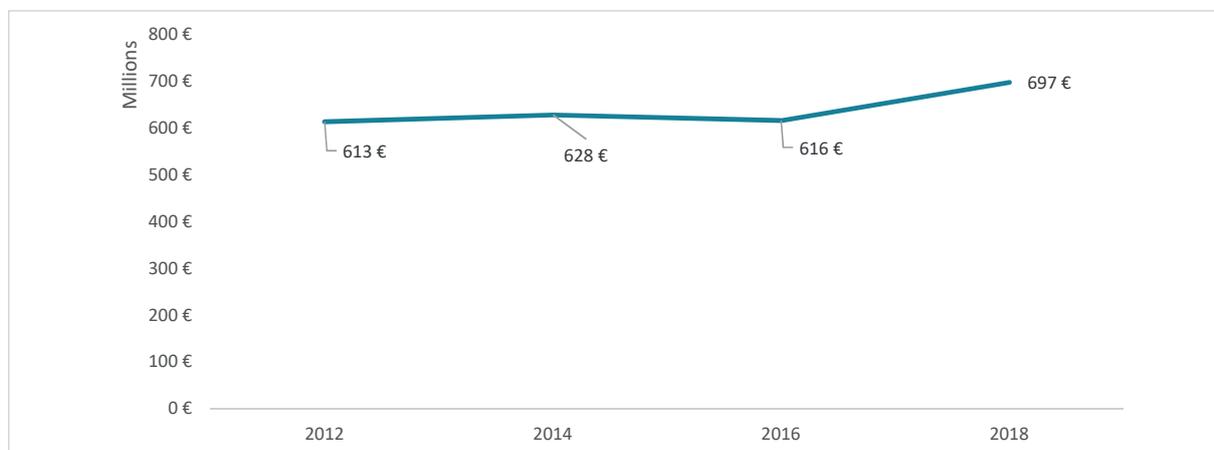
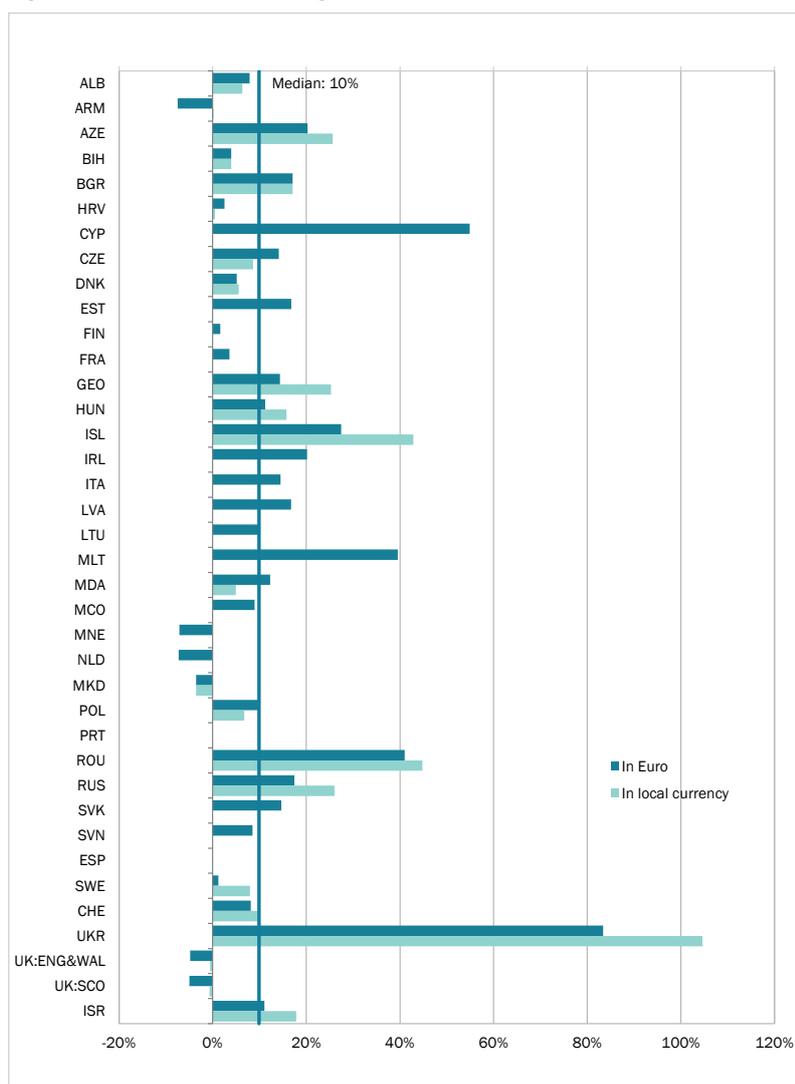


Figure 2.12 Variation in budgets of courts, 2016 – 2018, in % (in Euro and local currency) (Q5, Q6)

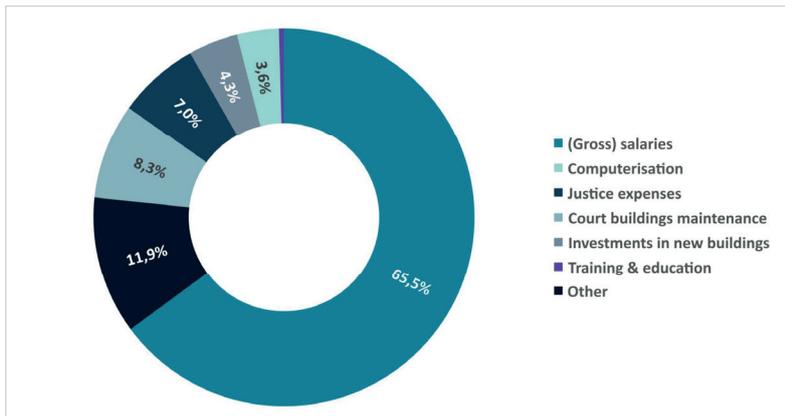


From 2016 to 2018, 32 countries increased their budget allocated to courts, while six countries reduced it. The strongest increases are registered in **Ukraine** (+83%, +105% in local currency), **Cyprus** (+55%), **Romania** (+41%, +45% in local currency). **Ukraine**, as part of its judicial reform, invested heavily in the judiciary by increasing the salaries of judges and court staff, improving conditions of accessibility for court users, equipping courts with videoconferencing systems and renovating court buildings. **Cyprus** invested more in new computers, arbitration, experts and the construction of a new building for the Supreme court. **Romania** increased magistrates' salaries and included social insurance in the gross salaries amount.

» What are the components of the courts' budget?

■ The budget allocated to courts includes salaries (of judges and other staff), court buildings' maintenance, investments in new buildings, computerisation, justice expenses, training and education and other expenses. On average, 65% of the budget allocated to the courts is dedicated to salaries, 8% to court building maintenance, 7% to justice expenses, 4% to investments in new buildings, 4% to computerisation, 1% to training and education and 12% are other expenses.

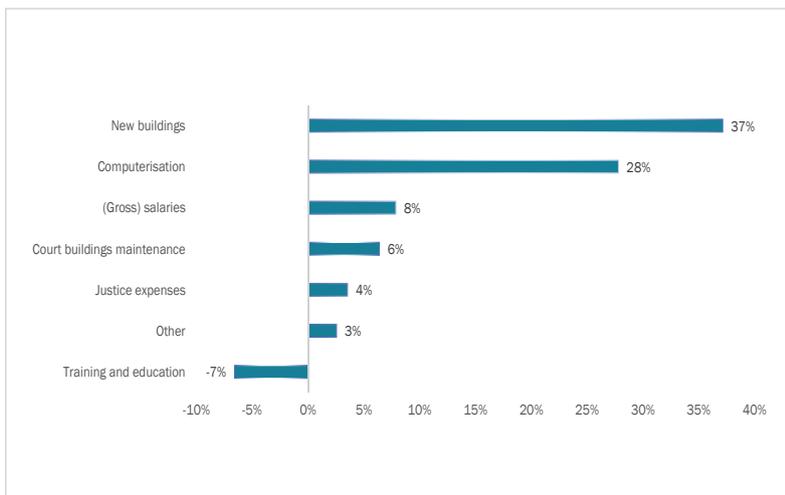
Figure 2.13 Approved courts' budget per category of expenses in 2018 (Q6)



■ However, there are some differences among States. In 2018, **Albania, Armenia, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Lithuania, Republic of Moldova, Montenegro, North Macedonia, Spain and Portugal** spent more than 80% of their court budget on (gross) salaries, while **Azerbaijan, Hungary, Ireland, Israel, UK - Northern Ireland, UK - Scotland** and **Israel** spent less than 50% on

salaries. **Azerbaijan** spent 37% on investments in new buildings, **Hungary, Ireland** and the **Russian Federation** spent respectively 27%, 36% and 42% for other expenses, **UK - Northern Ireland** spent 36% on justice expenses. From 2016 to 2018, the average court budget increased by 13%. This increase is mainly due to an increase in investments in computerisation (median increase +28%), and in new buildings (+37%), while expenses on training provided by courts decreased (-7%). However, this measure does not concern training provided by a training institution.

Figure 2.14 Variation in implemented budget by category of expenses, 2016 -2018, in % (Q6)



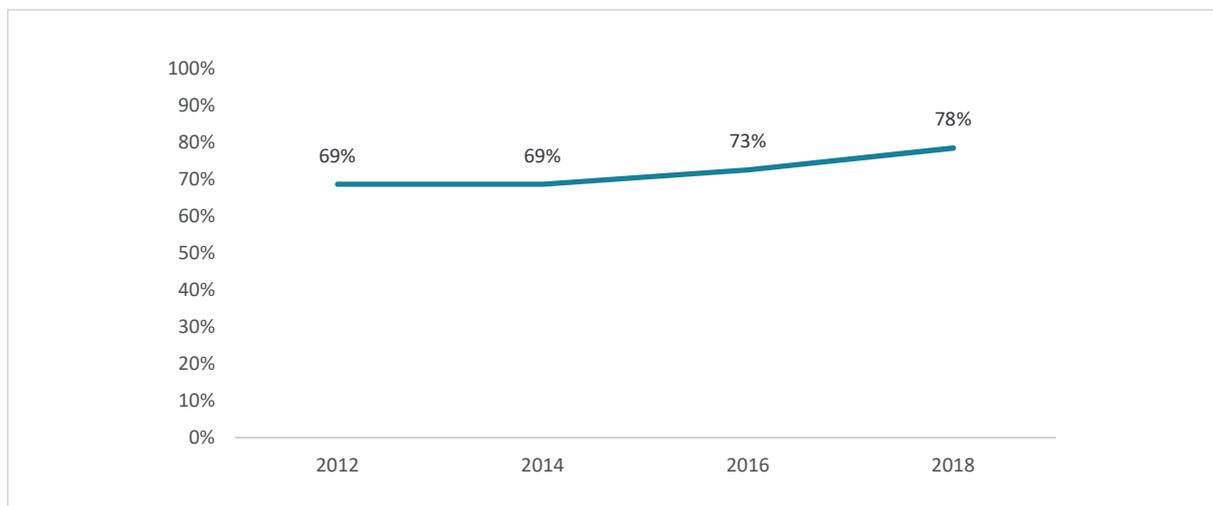
■ From 2016 to 2018, the States or entities that have the biggest increase in the implemented budget allocated to computerisation are **Cyprus (+126%), Estonia (+421%), Hungary (+92%), Georgia (+102%), Italy (+84%), Malta (+738%), Montenegro (+107%), Sweden (+88%), Ukraine (+138%)**, while the major investments in computerisation were made by **Georgia (+187%), Hungary (+153%), Serbia (+551%), Sweden (+111%)** and **Ukraine (+476%)** from 2014 to 2018.

■ The countries that have increased investments on training and education the most are **Azerbaijan (+51%), Ireland (+22%), Italy (+48%), Slovenia (+48%), Ukraine (+37%),** and **UK - England and Wales (+396%),** while the countries that had the largest rise in the implemented budget allocated to salaries are **Hungary (+31%), Republic of Moldova (+32%), Romania (+74%)** and **Ukraine (+45%).**

” Do courts outsource some services?

Outsourcing consists in delegating a service to the private sector. It can be an effective way of reducing costs and, at the same time, increasing the quality of services by taking advantage of different expertise, especially in specialised sectors such as ICT and training.

Figure 2.15 Percentage of countries that have outsourced at least one service, 2012-2018, in % (Q54)



In 2018, 78% of States or entities outsourced at least one service. This percentage has been continually increasing since 2012. In 2018, only four countries are not delegating any services to the private sector: **Cyprus, Luxembourg, Monaco, Montenegro** and **North Macedonia**. The most common outsourced services are IT services, training of staff, security, archives, cleaning and other services (such as interpreters and translation, courier, maintenance, catering etc).

Figure 2.16 Outsourcing by category of service in 2018 (Q54-1)

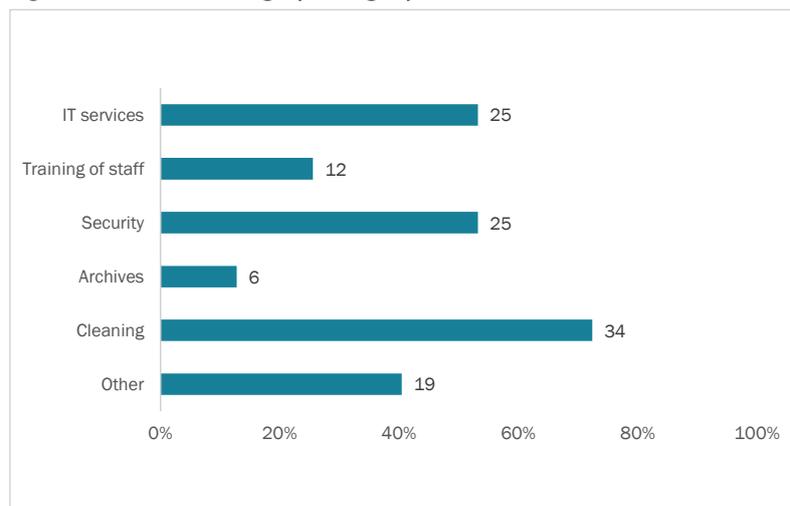


Figure 2.16 shows the percentage of outsourcing by category of services. Cleaning, security and IT services are the most outsourced services, while the management of archives is mainly dealt with by the court staff.

BUDGET ALLOCATED TO PUBLIC PROSECUTION SERVICES

How do states fund public prosecution services?

As already mentioned, the budget allocated by European States to prosecution services is around 25% of the judicial system budget, with some differences from country to country. In particular, the South-Eastern and the Eastern European States are characterised by a strong position conferred upon public prosecution services within the judicial system (close to or more than 30% of the total budget).

In 2018, States and entities spent on average 14 € per inhabitant on the prosecution services, which corresponds to 0,09% of GDP per capita. The average expense in 2018 is 17% higher than the average expense in 2016, which was 12 €.

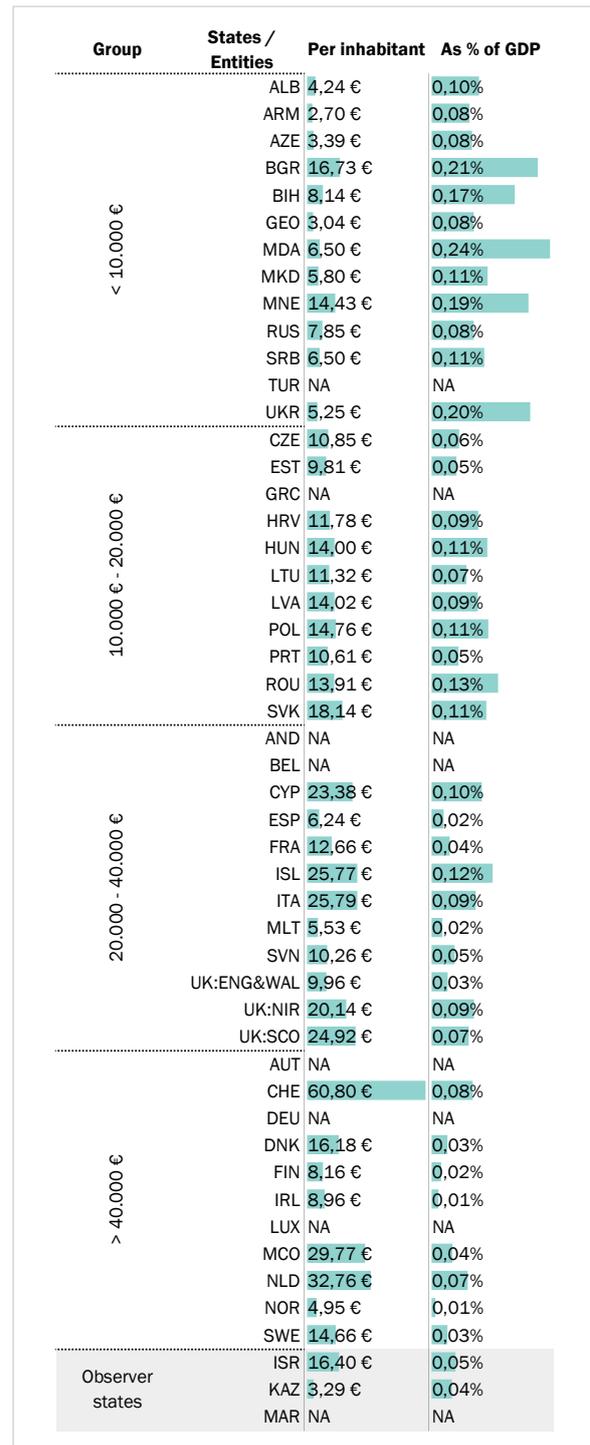
As expected, with regard to public prosecution services, countries with a level of GDP per capita above 20 000 € dedicate higher amounts per inhabitant. On the other hand, less rich countries dedicate lower amounts compared to their size, but they invest more than the wealthier countries in prosecution services relative to the GDP.

Table 2.3 Average budget of public prosecution services by different groups of GDP per capita in 2018 (Q1, Q3, Q13)

Group	Per inhabitant	As % of GDP
A: < 10 000 €	6,87 €	0,13%
B: 10 000 € - 20 000 €	13,33 €	0,09%
C: 20 000 € - 40 000 €	16,20 €	0,06%
D: > 40 000 €	22,61 €	0,04%
Average	14,00 €	0,09%
E: (Observer States)	9,53 €	0,04%

Obviously, inside the groups, there are some peculiarities, as shown in the following chart (Figure 2.17).

Figure 2.17 Public prosecution services' budget per inhabitant (€) and as % of GDP in 2018 (Q1, Q3, Q13)



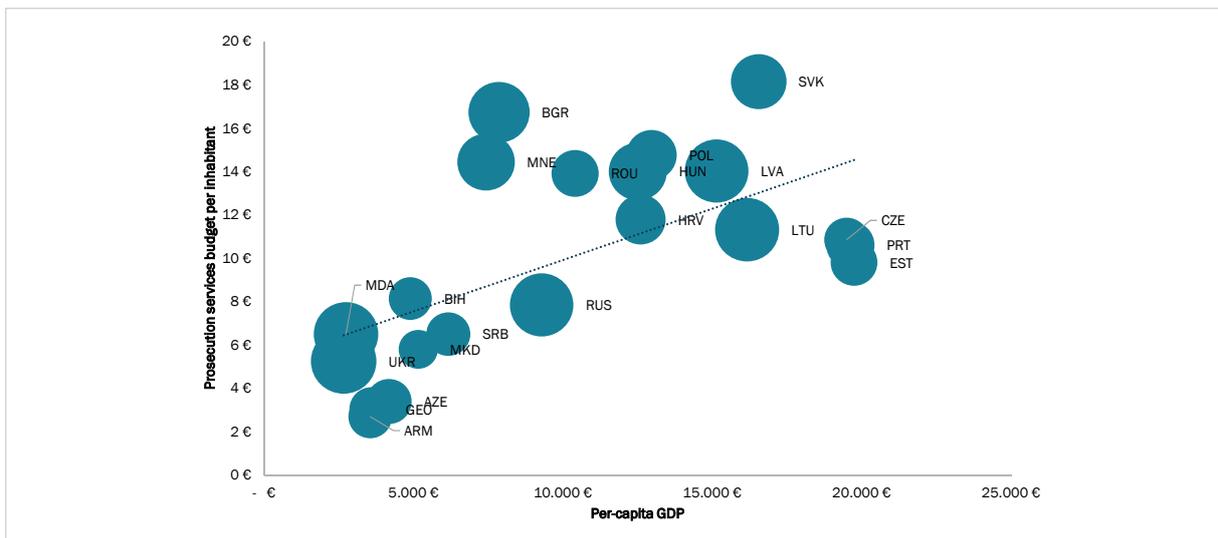
Bulgaria and Montenegro (group A), spent more than the European average amount per capita, while **Finland, Ireland, and Norway** (group D) spent less than the average. Within groups C and D, **Cyprus and Iceland** allocated a higher amount of budget as a percentage of GDP per capita relative to the average, while, within groups A and B, **Armenia, Azerbaijan, Georgia, Russian Federation, the Czech Republic, Estonia, Lithuania, and Portugal** allocated a lower amount of GDP per capita.

Does the budget of public prosecution depend on the wealth of the country?

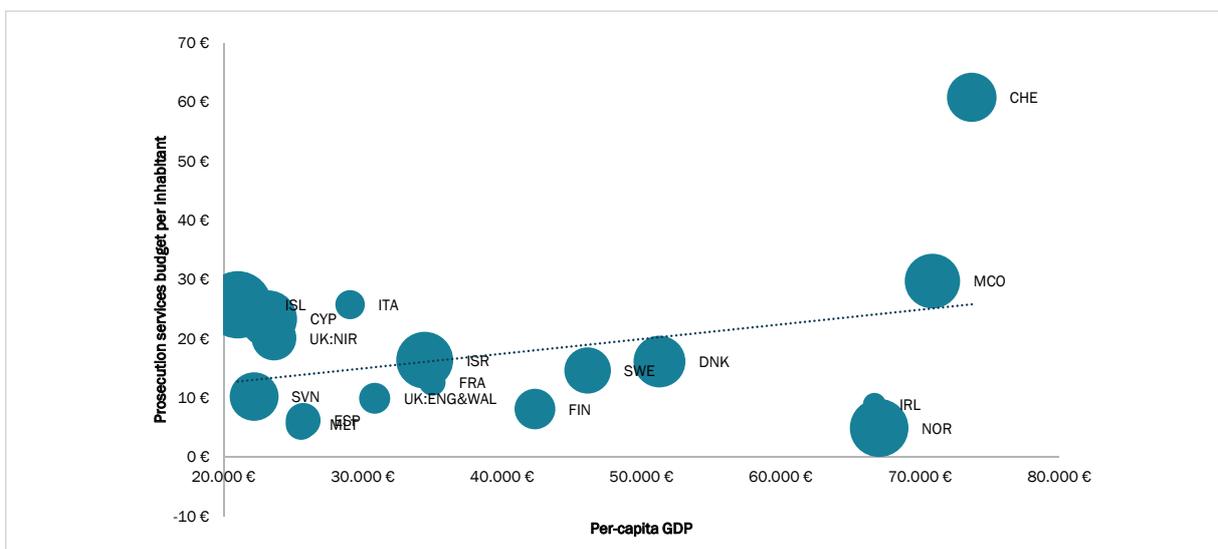
Like the annual public budget allocated to the judicial system and the one allocated to courts, the annual public budget allocated to public prosecution services can be analysed relative to the wealth of the States and entities. In Figure 2.18 A, member States and entities that belong to groups A and B are presented, while in Figure 2.18 B, those belonging to groups C and D are shown. The size of the bubble reflects here the number of prosecutors per 100 000 inhabitants. The trend line suggests a positive correlation: the budget per inhabitant allocated for public prosecution services increases with the increase in GDP per capita. States located above the trend line make a more significant budgetary effort in favour of public prosecutors. **Bulgaria, Iceland, Italy, the Slovak Republic and Switzerland** are situated well above the line, meaning that they are allocating a larger amount to the prosecution services, compared with the countries with a similar GDP per capita. At the opposite end, **Finland, Ireland, Malta and Norway** dedicate a lower amount to the prosecution services. Considering bubble-size, there does not appear to be a relationship between the number of prosecutors per inhabitant and the prosecution services budget per inhabitant.

Figure 2.18 GDP per capita and total implemented budget of public prosecution services, per capita and number of prosecutors per 100 000 inhabitants in 2018 (Q1, Q3, Q13, Q55)

Part A. Countries with less than 20 000 € GDP per capita



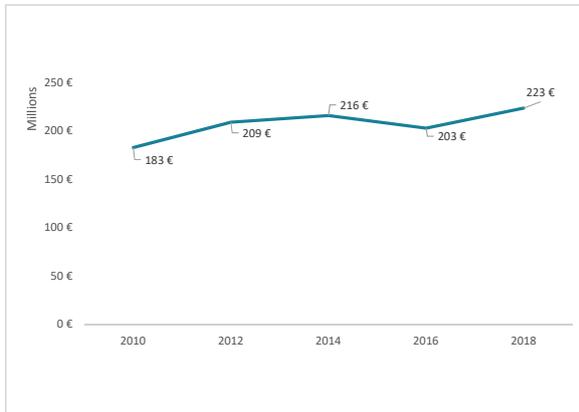
Part B. Countries with more than 20 000 € GDP per capita



How has the budget of public prosecution services evolved?

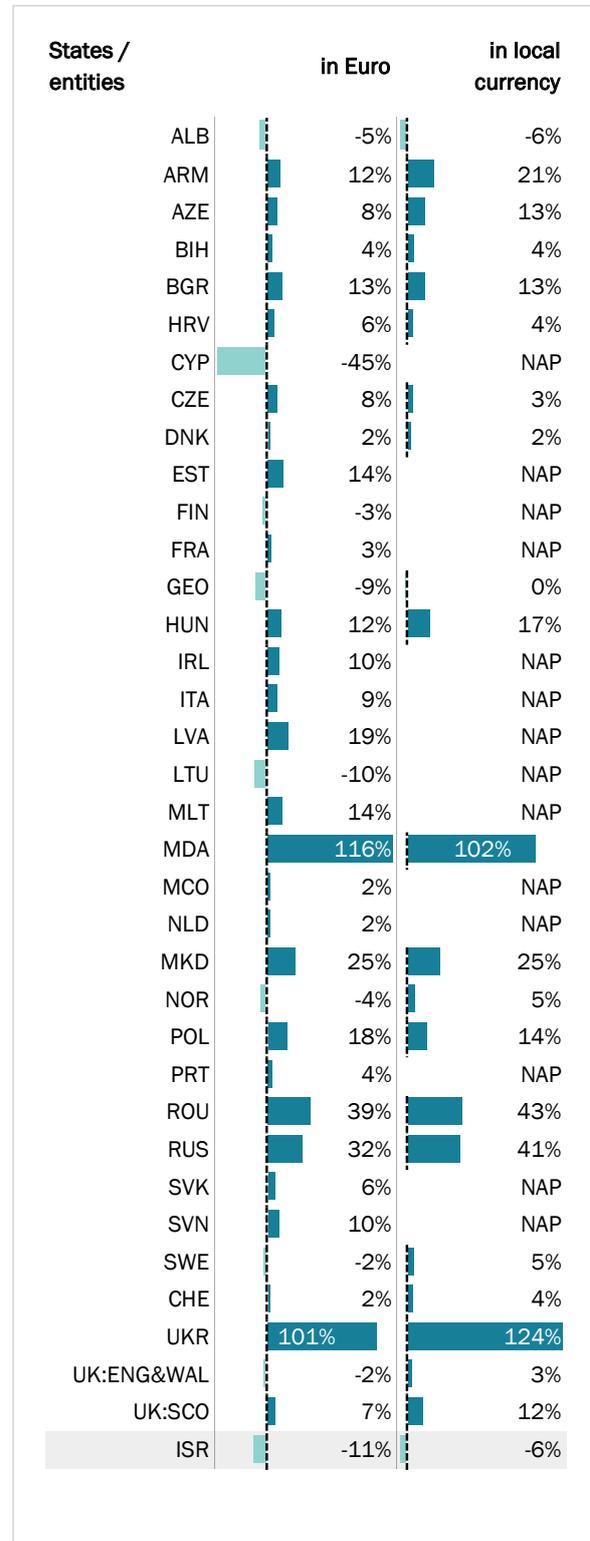
The average budget allocated to public prosecution services increased from 2010 to 2012, remained stable from 2012 to 2016 and increased slightly from 2016 to 2018.

Figure 2.19 Approved budget allocated to prosecution services, 2010-2018 (Q13)



For the period 2016-2018, if we look at the variation in local currency or Euro (for the member States and entities that use only this currency), 31 countries have increased their budgets allocated to the prosecution services, while four member States and one Observer state have reduced it. The more substantial increases can be found in **Ukraine** (+101%, +124% in local currency) and the **Republic of Moldova** (+116%, +102% in local currency), while a significant decrease is registered in **Cyprus** (-45%). In **Ukraine**, the rise is explained, among other things, by the continuing reform of the prosecution service, with the implementation of advanced training of prosecutors and the development of a system for evaluating the performance of prosecutors. In the **Republic of Moldova**, the upward trend can be explained by an increase in the prosecutor and non-prosecutor staff salaries. In **Cyprus**, the decrease is due to a decrease in the services rendered by private lawyers that were needed in the previous years as a result of the bail-out cases.

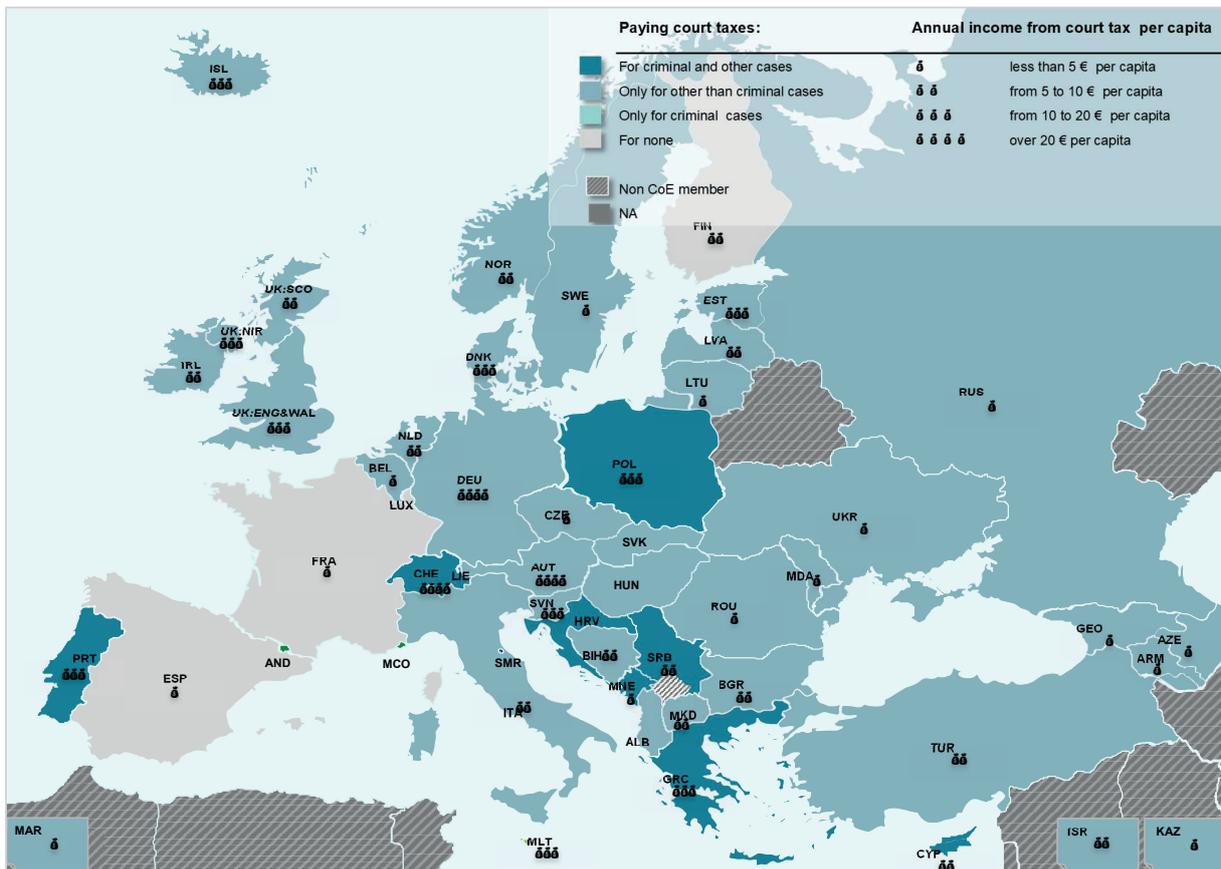
Figure 2.20 Variation in the budget for prosecution services, 2016 - 2018, in % (Q5, Q13)



Is access to justice free of charge in Council of Europe member States?

Payment of court fees or taxes is a characteristic of European judicial systems, with court users required to partly contribute to their financing. In all States and entities, except **Finland, France, Luxemburg, and Spain**, litigants are required to pay a court tax or fee to initiate a proceeding. In **France**, access to justice is free of charge; only a few exceptions are reported in certain civil matters, on appeal level. Most countries require the payment of court taxes to initiate a civil proceeding; few countries require court taxes for both civil and criminal proceedings. In **Spain**, natural persons are exempted from fees and only companies are required to pay. In **Finland**, the court fees are collected after the court proceeding is finished. In criminal matters in **Croatia, Cyprus, Greece, Montenegro, Poland, Portugal, Serbia** and **Switzerland**, parties to the proceedings must pay court fees, which are covered by legal aid when granted.

Map 2.21 Annual income from court taxes per capita and requirement to pay court fees by categories in 2018 (Q8, Q9)

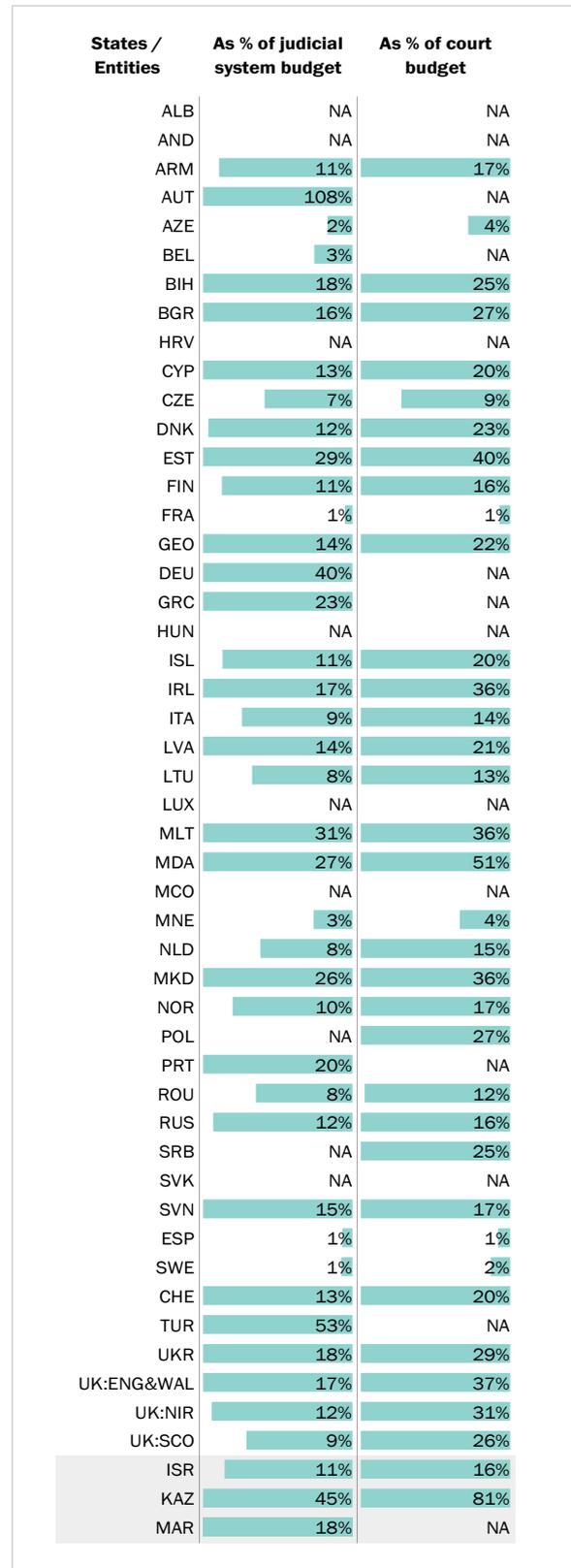


Do the court fees and taxes collected generate income and finance the judicial system?

The revenues generated by court fees vary from less than 1% to over 50% of the court budget, and even, in some States, they correspond to more than half of the budget of the judicial system. The average amount of income from court fees and taxes is around 20% of the court budget for most countries. **Austria** stands out for the highest percentage of court fees relative to the judicial system budget: 108%, meaning that the court fees finance the full Austrian judicial system budget. To a large extent, the high level of court fees can be explained by the fact that courts also charge fees for the services provided by their automated registers (mainly land and business registers). By contrast, the income received from taxes and fees in **Azerbaijan, Belgium, France, Spain and Sweden** is low.

Court fees and taxes	
Median as % of the judicial system budget	13%
Median as % of court budget	20%

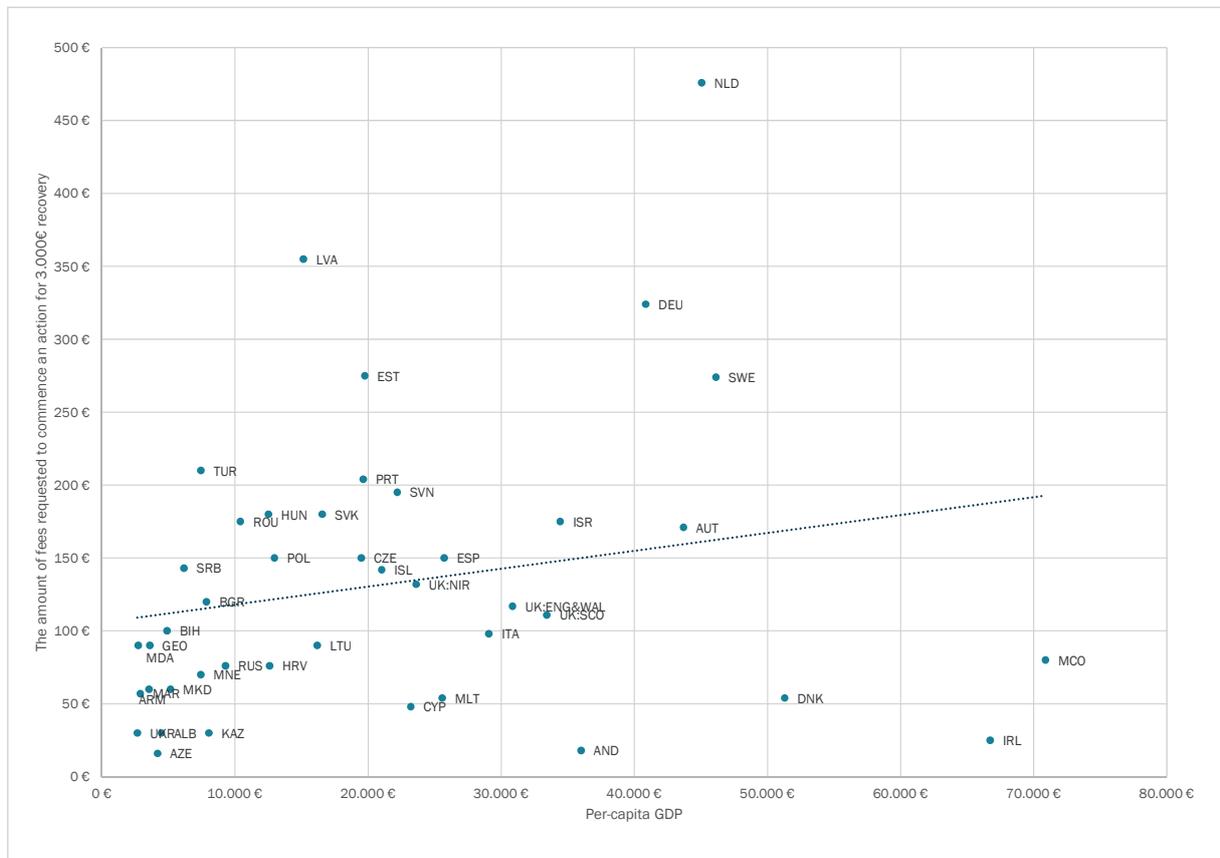
Figure 2.22 Court fees and taxes as a percentage of the court budget and the judicial system budget in 2018 (Q6, Q9, Q12, Q13)



What is the amount of court fees required to initiate an action for a 3 000 € debt recovery?

Another way to assess court fees and taxes consists in comparing the amount of court fees required in each country to initiate an action for a 3 000 € debt recovery. Where such fees exist, the average is 154 €, but the amount varies among the countries, from a minimum of 16 € (**Azerbaijan**) to a maximum of 646 € (**Switzerland**) which is not shown in Figure 2.23. The amount is weakly related to the GDP per capita, with some countries requesting higher amounts than other countries with a similar GDP. Within group A, **Serbia** and **Turkey** require the highest court fees; in group B, **Latvia** and **Estonia** request the highest amount; **Slovenia** in group C; **Germany**, the **Netherlands**, and **Sweden** in group D. Generally speaking, the countries lying below the trend line are financially more accessible to the users of the system.

Figure 2.23 Amount of court fees required to commence an action for a 3 000 € debt recovery and GDP per capita in 2018 (Q3, Q8-2)



LEGAL AID

Legal aid is defined as the assistance to certain categories of persons in the form of State funded legal advice and/or representation. An adequate budget allocated to legal aid can guarantee access to justice for everyone, as envisaged by Article 6.1 and 6.3 of the European Convention on Human Rights. The CEPEJ makes the distinction between legal aid granted in criminal matters and legal aid granted in other than criminal matters, as well as between legal aid for cases brought to court and legal aid outside the courts, aimed at preventing litigation or offering access to legal advice or information.

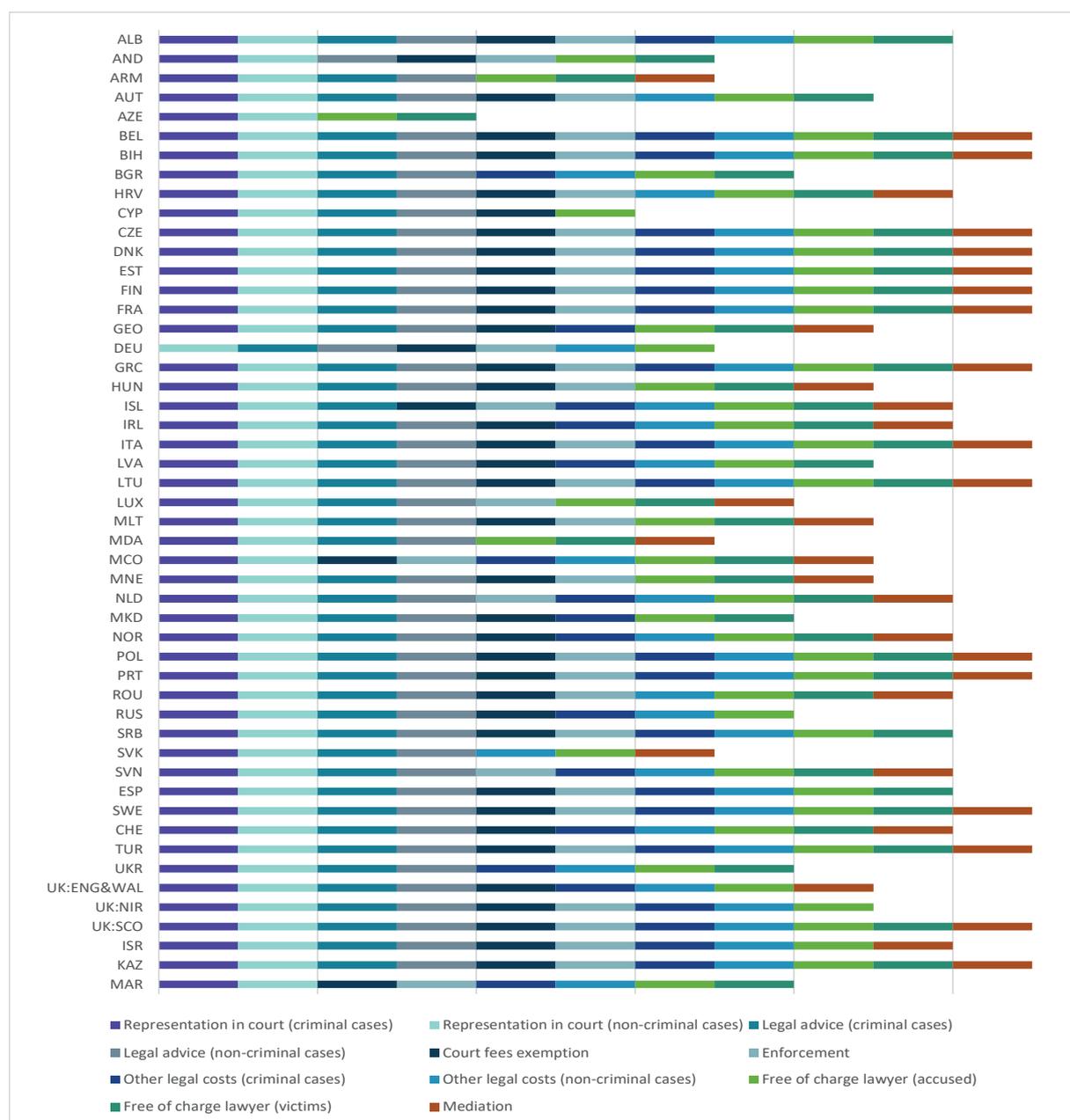
The concept of legal aid has thus been given a broad interpretation, covering jurisdictional aid allowing litigants to finance fully or partially their court fees when they bring an action and appear before courts (access to justice), on the one hand, and access to information and legal advice to know one's rights and assert them, but not necessarily through judicial review (access to law), on the other hand.

” Is legal aid provided for all types of cases in Europe?

Almost all States and entities provide legal aid in criminal and non-criminal proceedings, in compliance with the case-law of the European Court of Human Rights. Most often, the aid provided covers legal representation in courts. As shown in Figure 2.24, in most States or entities (38 out of 46) the regime of legal aid includes but is not limited to coverage of, or exemption from, paying court fees, as described in the previous section. For example, in 32 out of 46 States or entities, legal aid covers fees related to the enforcement of judicial decisions. Legal aid, in criminal and other than criminal matters, can also be granted for other costs: fees of technical advisors or experts in the framework of judicial expertise, fees related to interpretation and/or translation, travel costs, costs related to the preparation of documents and files necessary for the initiation of court proceedings, or coverage (full or partial) of fees concerning other professionals such as notaries, bailiffs or even private detectives.

States and entities belonging to group B seem to have on average the widest range of legal aid, while group A countries cover fewer types of legal aid. Generally speaking, legal aid covers mostly representation in court, a free of charge lawyer for the accused person and legal advice; in a smaller number of States and entities legal aid includes fees related to enforcement of judicial decisions, mediation and other legal costs.

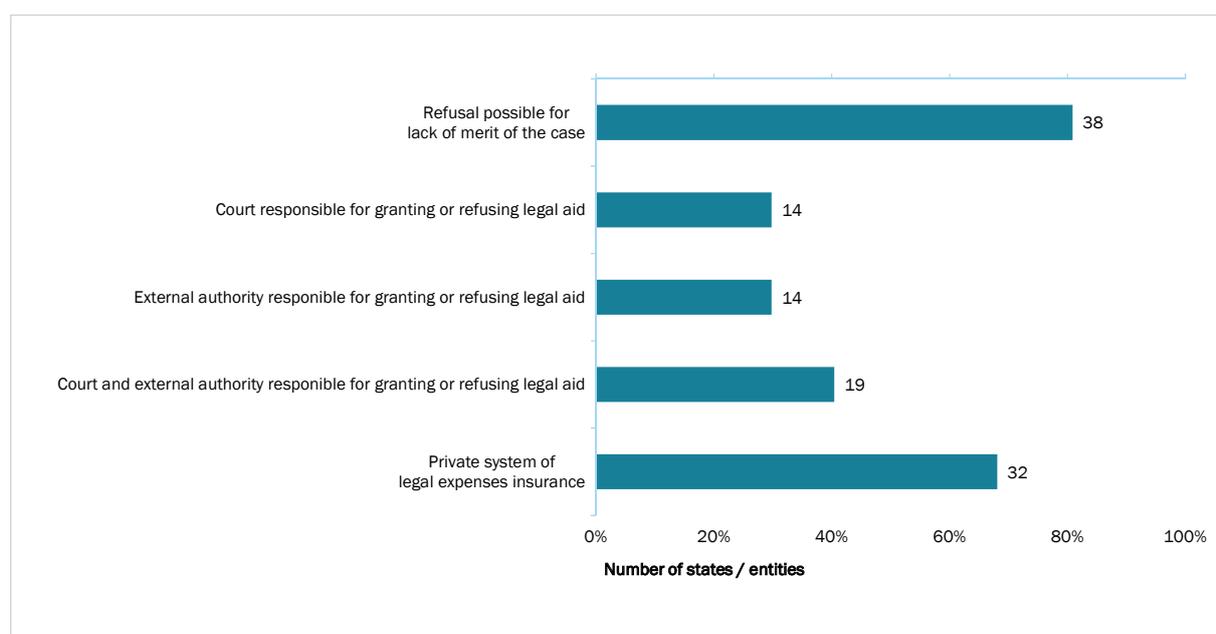
Figure 2.24 Types of legal aid in 2018 (Q16, Q17, Q18, Q19, Q21, Q65)



How is legal aid organised in the different States/entities?

The following chart presents the authorities responsible for granting or refusing legal aid in the States or entities, number of States or entities in which it is possible to refuse legal aid for lack of merit of the case and number of States in which a private system for legal insurance exists.

Figure 2.25 Authorities responsible for granting legal aid and existence of a private system for legal insurance in 2018 (Q24, Q25 and Q26)



Based on the comments obtained from the member States and entities, eligibility is examined on a case-by-case basis in some of them (in **Bulgaria**, the **Czech Republic**, **Poland**, **Switzerland**, **UK - Northern Ireland**) and legal aid is generally granted according to the individual's financial means. This may include an assessment of the individual's income and assets. Comparing eligibility for legal aid across the States and entities is difficult due to the wide variation in the eligibility rules and personal or family income thresholds. The law can come to determine the level of legal aid to be granted, to cover fully or partly the total legal costs (**Belgium**, **France**) or define a specific method of assessing the amount of legal aid to be granted (**Finland**, **Republic of Moldova**). This may for instance depend on the minimum living wage (**Austria**, **Republic of Moldova**, **Russian Federation**).

The categories of persons who are eligible for legal aid also vary, without prior examination of the means of the individuals, namely socially vulnerable persons (**Bosnia and Herzegovina**, **Croatia**, **Israel**, **Latvia**, **Monaco**, **Montenegro**, **Spain**, **Turkey** and **Israel**). In **Hungary**, **Lithuania**, **UK - England and Wales** and **UK - Scotland** the decision to grant legal aid is based on more comprehensive eligibility frameworks, which specify in detail income thresholds and categories of beneficiaries. In **Turkey**, court users can be granted legal aid upon presentation of a social certificate. In certain States and entities, only certain members of society are eligible (as in **Georgia**, where insolvent persons, registered in a United Database of Socially Vulnerable Families, can be granted legal aid).

■ The decision to grant legal aid can be within the sole competence of courts (14) by other authority external to court (14) or by mixture of both (19). In some other States, an authority external to the court intervenes exclusively as for example the Centre for Granting of Secondary Legal Aid in **Ukraine**, the Legal Aid Board in the **Netherlands**, or the Bar association in **Spain**. Most of the time the competence is endowed by both courts and external bodies (e.g. the Bar association in **Armenia, Italy, Turkey**, the National legal Aid Bureau and Regional Centers for consultation functioning in some Bar Councils in **Bulgaria**, the Legal Aid Authority in **Ireland, Latvia, and Sweden**).

■ The delivery of the legal service can be provided by the same public body (**Ireland, Malta, Scotland, UK – Northern Ireland**) or by a lawyer appointed by the entity that approves the legal aid request (**Latvia, Israel**). Lawyers can be public, private, or there can be a mixed model where the person entitled to legal aid can choose a public or a private lawyer (**Finland**). Some forms of legal aid (“primary legal aid”, which consists in providing legal information, legal advice and drafting of preliminary documents) can be provided by other professionals and institutions such as notaries, mediators and law faculties (**Serbia**), NGO’s (**Hungary**) or they can be organised by municipalities (**Lithuania**).

” How have the budgets of legal aid evolved in Europe?

■ From 2016 to 2018, the average expense for legal aid has increased by 8%. Generally, the implemented budget for legal aid tends to fluctuate, as it depends on the number of cases for which it is requested.

Figure 2.26 **Implemented budget allocated to legal aid, 2014 - 2018, in Euros (Q12)**

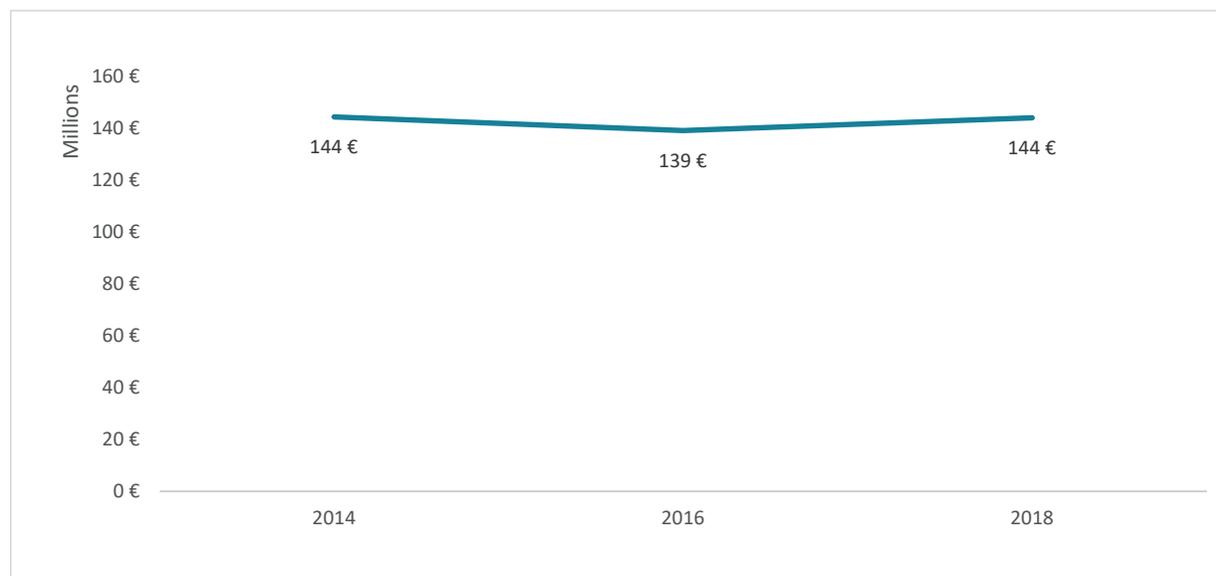
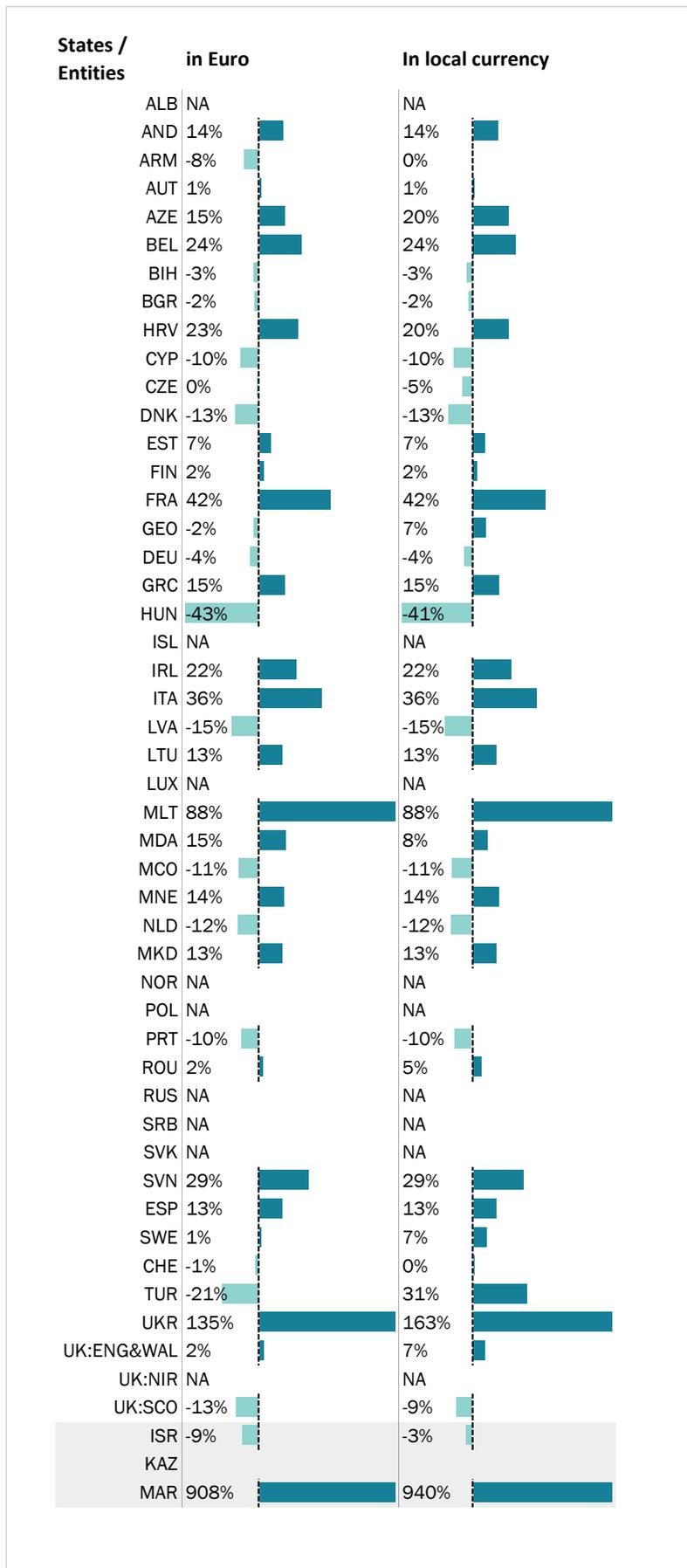


Figure 2.27 Variation in implemented legal aid budget, 2016 - 2018, in % (Q5, Q12)



The implemented budget for legal aid has been increased in 25 States and entities and one observer state, while 13 countries and one observer have decreased it. The major increase is registered in **Malta** and **Ukraine**, while the steadier decrease is in **Hungary**. In **Malta**, since 2017 there has been an increase in the number of lawyers and staff recruited by the Legal Aid Agency and an improvement in their remuneration. In **Ukraine**, the increase is explained by the rise in the lawyers' hourly pay and the increase in the number of cases for which legal aid has been granted.

” Is there a link between the level of wealth and the legal aid budget?

As shown in the table and the Figure below, countries with a GDP per capita above 20 000€ have the highest percentage of budget allocated to legal aid in relation to the GDP per capita and the largest amounts per inhabitant. This shows that wealthier countries spend more on legal aid by any parameter examined, which differs from the trends in budgetary spending on courts and prosecution services.

Table 2.4 Average implemented budget for legal aid by different groups of GDP per capita in 2018 (Q1, Q3, Q12-1)

Groups	Per inhabitant	As % of GDP
A: < 10 000 €	0,57 €	0,01%
B: 10 000 € - 20 000 €	2,00 €	0,01%
C: 20 000 € - 40 000 €	14,59 €	0,05%
D: > 40 000 €	17,62 €	0,03%
Average	9,14 €	0,03%
E: (Observer states)	3,08 €	0,01%

Devised on the basis of the *Habeas Corpus* guarantees, judicial systems of the United Kingdom entities have always granted a special priority to legal aid. Accordingly, the legal aid budget represents 41% of the total budget allocated to the judicial system in **UK - England and Wales**, 44% in **UK - Northern Ireland**, and 33% in **UK - Scotland**. Northern European States also have a strong tradition of generous legal aid with a significant budgetary share within the total budget of the judicial system: **Ireland** (39%), **Norway** (33%), and **Sweden** (30%). The same countries, except **Ireland** and including **Iceland**, spend more than 25 € per inhabitant per year.

Figure 2.28 Implemented legal aid budget per inhabitant and as % of GDP in 2018 (Q1, Q3, Q12-1)

Group	States / Entities	per inhabitant	as % of GDP	
< 10.000 €	ALB	NA	NA	
	ARM	0,23 €	0,006%	
	AZE	0,07 €	0,002%	
	BGR	0,59 €	0,008%	
	BIH	2,08 €	0,043%	
	GEO	0,46 €	0,013%	
	MDA	0,47 €	0,017%	
	MKD	0,14 €	0,003%	
	MNE	0,26 €	0,004%	
	RUS	0,60 €	0,006%	
	SRB	NA	NA	
	TUR	0,99 €	0,013%	
	UKR	0,39 €	0,015%	
	10.000 € - 20.000 €	CZE	1,98 €	0,010%
		EST	3,10 €	0,016%
GRC		0,65 €	0,004%	
HRV		3,25 €	0,026%	
HUN		0,07 €	0,001%	
LTU		2,23 €	0,014%	
LVA		0,90 €	0,006%	
POL		NA	NA	
PRT		5,31 €	0,027%	
ROU		0,53 €	0,005%	
SVK		NA	NA	
20.000 € - 40.000 €		AND	7,15 €	0,020%
	BEL	9,00 €	0,023%	
	CYP	1,96 €	0,008%	
	ESP	6,30 €	0,025%	
	FRA	7,16 €	0,020%	
	ISL	30,74 €	0,146%	
	ITA	5,27 €	0,018%	
	MLT	0,64 €	0,003%	
	SVN	1,91 €	0,009%	
	UK:ENG&WAL	31,26 €	0,101%	
	UK:NIR	48,35 €	0,205%	
	UK:SCO	25,37 €	0,076%	
	> 40.000 €	AUT	2,25 €	0,005%
CHE		18,53 €	0,025%	
DEU		7,80 €	0,019%	
DNK		19,37 €	0,038%	
FIN		16,53 €	0,039%	
IRL		22,95 €	0,034%	
LUX		NA	NA	
MCO		8,57 €	0,012%	
NLD		23,95 €	0,053%	
NOR		26,01 €	0,039%	
SWE		35,59 €	0,077%	
Observer states		MAR	0,04 €	0,002%
		ISR	8,92 €	0,026%
		KAZ	0,26 €	0,003%

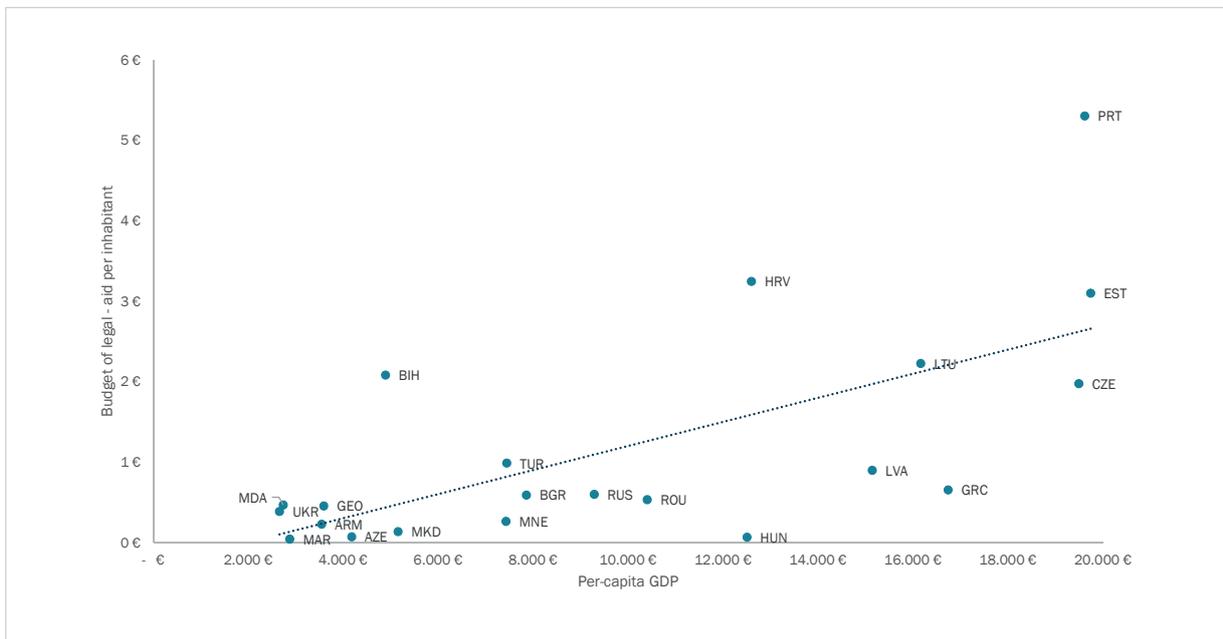
Which States and entities grant the largest amount of legal aid compared with their GDP?

The Figure with two parts below relates the legal aid budget per inhabitant to the GDP per capita. The second part reveals the significant effort of the northern countries to enable litigants who do not have the necessary financial resources to have access to justice. Moreover, within the same group of countries with important financial wealth, this chart shows the effort of **Iceland**, the **Netherlands**, **Norway**, **Sweden**, **UK - England and Wales** and **UK - Northern Ireland**

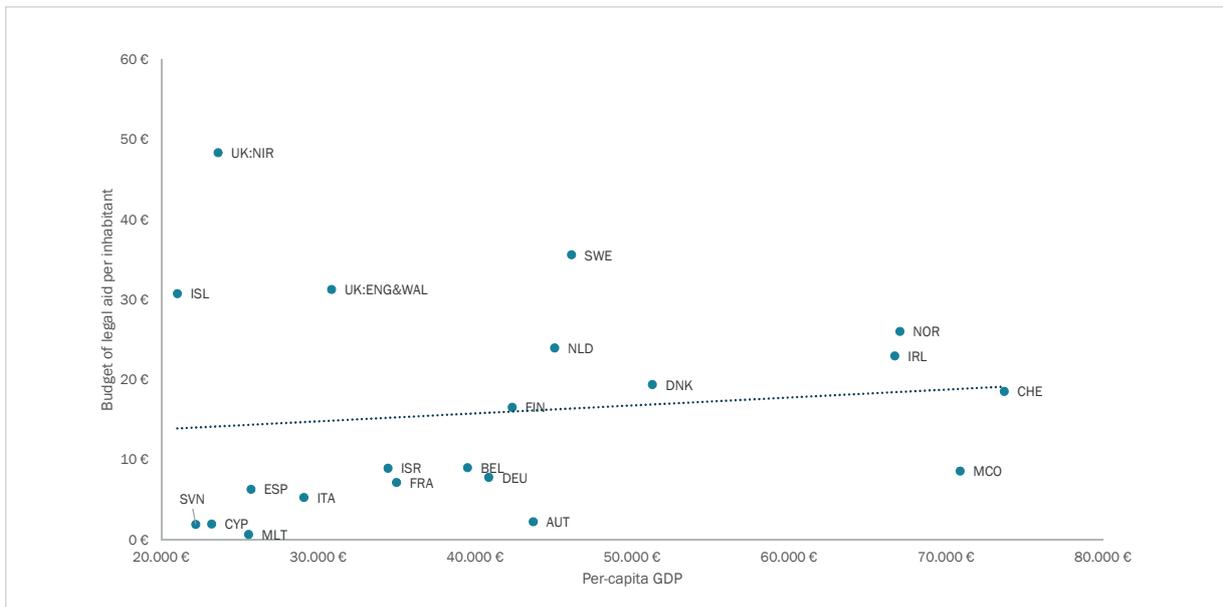
compared to **Austria**, **Cyprus**, **Malta** and **Slovenia**. Within the first group with a lower GDP (less than 20 000 €), **Bosnia and Herzegovina**, **Croatia**, and **Portugal** stand out for the higher amount of budget allocated to legal aid. By contrast, **Greece**, **Hungary**, **Latvia**, **Montenegro**, **Romania** and the **Russian Federation** allocated a lower amount of budget to legal aid, compared with the countries with a similar GDP per capita.

Figure 2.29 Implemented Legal aid budget per inhabitant and GDP per capita in 2018 (Q1, Q3, Q12-1)

Part A. Countries with less than 20 000 € GDP per capita

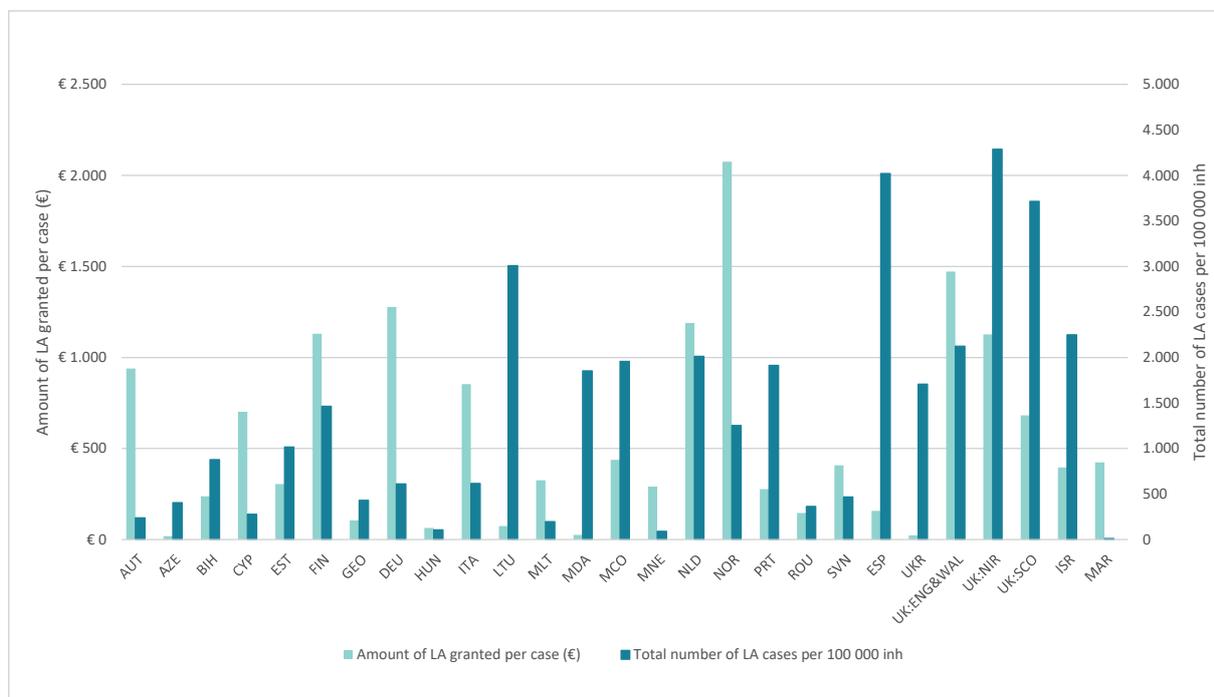


Part B. Countries with more than 20 000 € GDP per capita



Which States and entities grant legal aid for the largest number of cases?

Figure 2.30 Amount of implemented legal aid per case (in €) and total number of cases per 100 000 inhabitants in 2018 (Q12-1, Q20)



— To refine the analysis of policies related to securing access to justice through legal aid, the CEPEJ’s aim has been to link the demand (the number of litigious and non-litigious cases granted legal aid for 100 000 inhabitants) with the amounts granted by case. The information is available for 20 States and entities only. As in the last evaluation cycles, many States have not been able to provide such details.

— Generally speaking, some States and entities have a low cost per legal aid case and a high number of cases benefiting from legal aid, while others reported a higher amount per case for a smaller number of cases.

— **Finland, Germany, the Netherlands, Norway, UK - England and Wales, UK - Northern Ireland** provide the highest amount per case. Among these countries, the **Netherlands, UK - England and Wales** and **UK - Northern Ireland** also provide legal aid for many cases. On the other hand, some countries such as **Lithuania, Monaco, Portugal, Republic of Moldova, Spain, Ukraine** and **Israel** have a high number of legal aid cases but with a lower amount allocated per case. To a lesser extent, **Azerbaijan, Bosnia and Herzegovina, Estonia, Georgia Romania** and **Slovak Republic** extend the eligibility to a relatively large number of cases but limit the amount allocated. Finally, **Hungary** limits both the number of eligible cases and the amount spent per case.

Trends and conclusions

As stated by the Venice Commission (Report on the Independence of the Judicial System. Part 1: the Independence of Judges, (2010, CDL-AD(2010)004-e.) *“It is the duty of the state to provide adequate financial resources for the judicial system. Even in times of crisis, the proper functioning and the independence of the Judiciary must not be endangered”. An adequate funding is necessary to “enable the courts and judges to live up to the standards laid down in Article 6 of the European Convention on Human Rights and in national constitutions and perform their duties with the integrity and efficiency which are essential to the fostering of public confidence in justice and the rule of law”.* At the same time, as resources are by definition limited, it is important that they are used efficiently.

Between 2010 to 2018, the member States and entities have slightly but constantly increased the average budget allocated to the judicial system. In 2018, European countries spent on average more than 1 billion Euros on their judicial systems, equal to 72 € per inhabitant (8 € more than in 2016) and 0,33% of GDP. Countries with a higher GDP per capita invest more per inhabitant in judicial systems, while less wealthy countries allocate more budget as a percentage of GDP, showing a greater budgetary effort for their judicial systems.

On average, member States allocate 65% of judicial system budget to courts, 24% to prosecution services and 11% to legal aid. 65% of court budget is dedicated to salaries. From 2016 to 2018, almost all member States and entities have increased the budget allocated to courts, prosecution services and legal aid. The most significant increase, equal to 13% on average, has been recorded for court budget. The budget allocated to courts seems to be related not only to the wealth of the country, but also to the number of courts. In order to rationalise budgetary resources of courts and, at the same time, reinforce specialisation and expertise, an increasing trend to outsource certain services is confirmed.

Less wealthy countries spend proportionally more on prosecution services, while States and entities with higher GDP per capita invest relatively more in legal aid. Adequate legal aid coverage is essential to guarantee access to justice for all. Generally speaking, all the countries have implemented a legal aid system in criminal and non-criminal matters, in compliance with the requirements of the European Convention on Human Rights. As a general rule, these systems encompass representation by a lawyer before the court, but also legal advice. Some countries tend to have a low cost per legal aid case and a high number of cases granted legal aid, while others choose to provide a higher amount for a smaller number of cases.

JUDGES AND NON-JUDGE STAFF

” Who is a judge?

■ For the purposes of this chapter, the judge, defined according to the case law of the European Court of Human Rights (ECrHR, *Mutu et Pechstein v. Switzerland*, app. n° [40575/10](#) and [67474/10](#), 4/2/2019, §139), decides, according to the law and following an organised proceeding, on any issue within his/her jurisdiction. He/she is independent from the executive power. Judges dealing with administrative or financial matters fall within this definition if they fulfil the above-mentioned criteria.

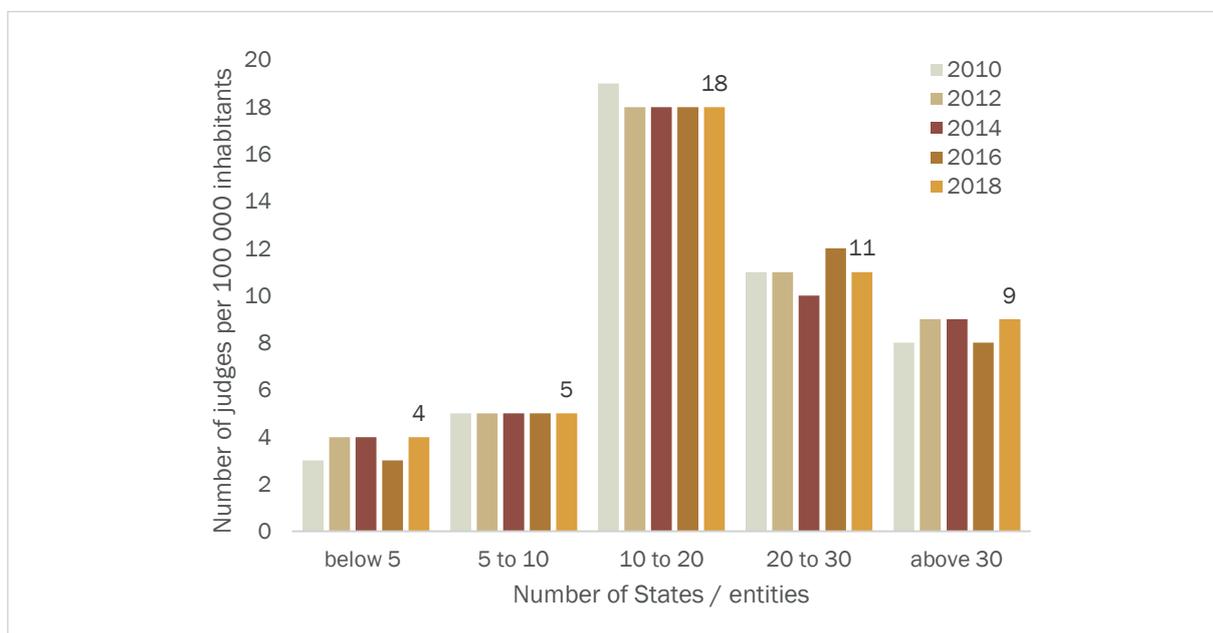
■ To better take into account the diversity in the member States in the status and functions which can be linked to the word “judge”, three types of judges have been defined in the CEPEJ’s Evaluation Scheme:

- ▶ professional judges, recruited, trained and paid as such and who perform their duty on a permanent basis;
- ▶ occasional professional judges who do not perform their duty on a permanent basis, but are paid for their function as a judge;
- ▶ non-professional judges who sit in courts and whose decisions are binding but who do not fall within the category of professional judges, arbitrators or jury members. This category includes *lay judges*, i.e. judges without initial legal training who are known in **France** as “*juges consulaires*” and in **Montenegro, North Macedonia, Slovenia** and **Serbia** as “*sudija/sodnik-porotnik*”.

■ For these three categories, the report uses full time equivalents (FTE) for the number of professional judges’ positions effectively occupied, whether they are practicing full time or on an occasional basis.

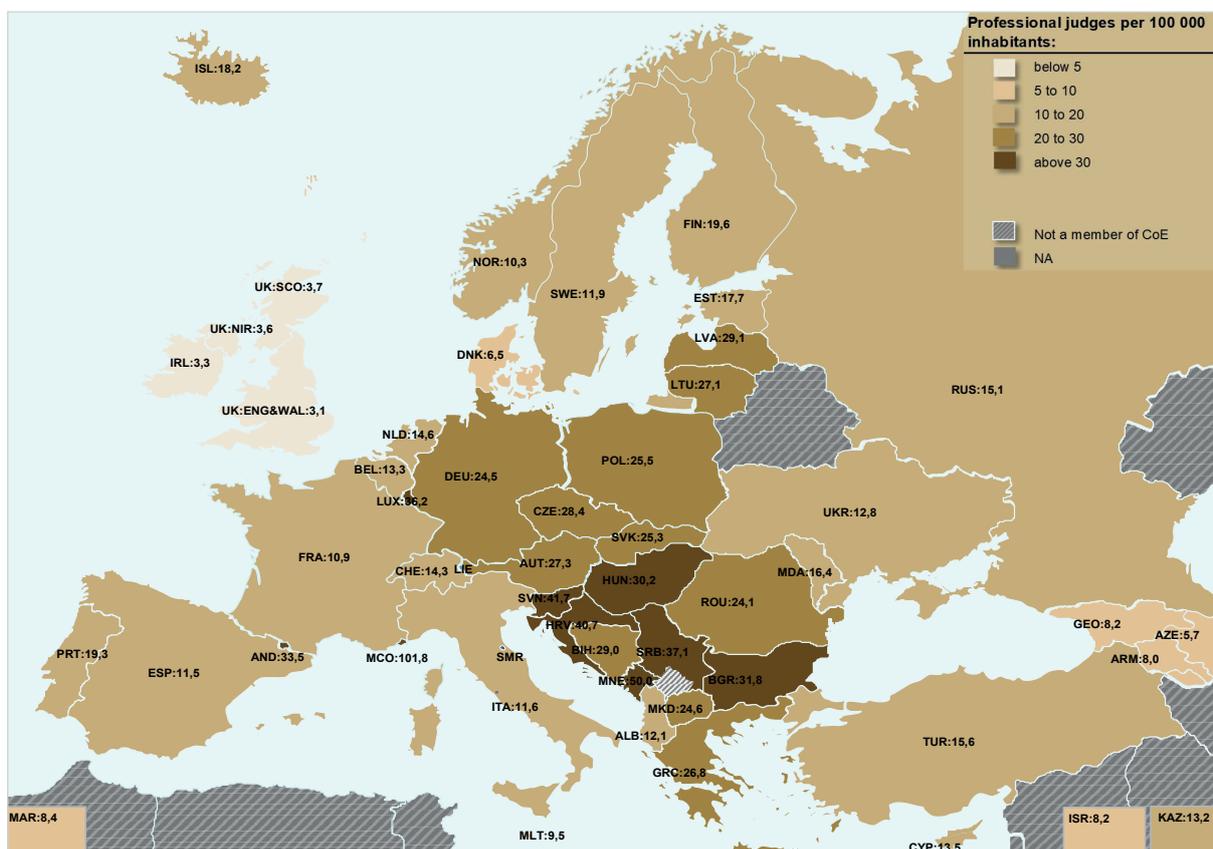
” Is there an equal number of judges all over Europe?

Figure 3.1 Number of professional judges per 100 000 inhabitants, 2010 - 2018 (Q1, Q46)



The Figure shows that there are between 10 and 30 professional judges per 100 000 inhabitants in most States and entities and that their distribution between the States and entities has remained broadly stable over the years. This means that there are still significant disparities, even between countries of similar size and income level, as can be seen from the following map.

Map 3.2 Number of professional judges per 100 000 inhabitants in 2018 (Q1, Q46)

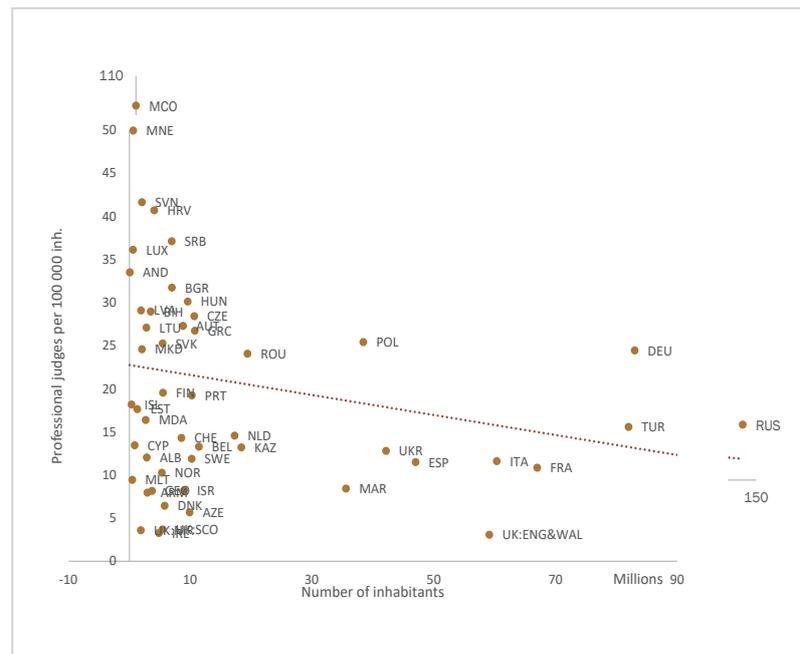


How can the disparities in the number of professional judges in Europe be explained?

The disparities can partly be explained by the diversity of judicial organisations. From one State to another, professional judges deal with a very variable volume of cases, in parallel with litigations handled by occasional professional judges and/or non-professional judges. In **Malta, Spain, Switzerland** and **UK - England and Wales**, professional judges sitting in courts occasionally are dealing with a significant part of the total volume of cases. The small number of professional judges per inhabitant in **UK - England and Wales** (3 per 100 000 inhabitants), **UK - Northern Ireland** and **UK - Scotland**, is due to the very high proportion of cases dealt with by non-professional *magistrates*. Some countries with 10 to 20 professional judges per 100 000 inhabitants resort to non-professional judges for labour law and commercial law cases in **France**, for small claim civil and commercial disputes and for misdemeanor cases in **Italy**, for family law, labour law, social law, commercial law, insolvency law and misdemeanor criminal cases in the **Netherlands** and for civil issues of less than 90 € in **Spain**.

A look at Map 3.2 suggests that the number of judges per 100 000 inhabitants may be affected by geographic factors and/or the evolution of European legal systems. A coherent area in Central and Southeast Europe has more than 20 judges per 100 000 inhabitants. These are essentially legal systems influenced by Germanic law, namely **Austria, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Germany, Greece, Hungary, Latvia, Lithuania, Montenegro, North Macedonia, Poland, Serbia, the Slovak Republic** and **Slovenia**. Furthermore, as already highlighted in the previous report, Eastern European countries count traditionally a very high per inhabitant rate of judges and civil servants. In contrast, Western and Southern European countries with legal systems inspired by Nordic law, Common law or Napoleonic law, have a lower rate of professional judges per 100 000 inhabitants. This applies in particular to **Belgium, Denmark, France, Ireland, Italy, Malta, the Netherlands, Norway, Spain, Sweden, UK - England and Wales, UK - Northern Ireland** and **UK - Scotland**.

Figure 3.3 Number of professional judges per 100 000 inhabitants compared with the population (Q1, Q46)



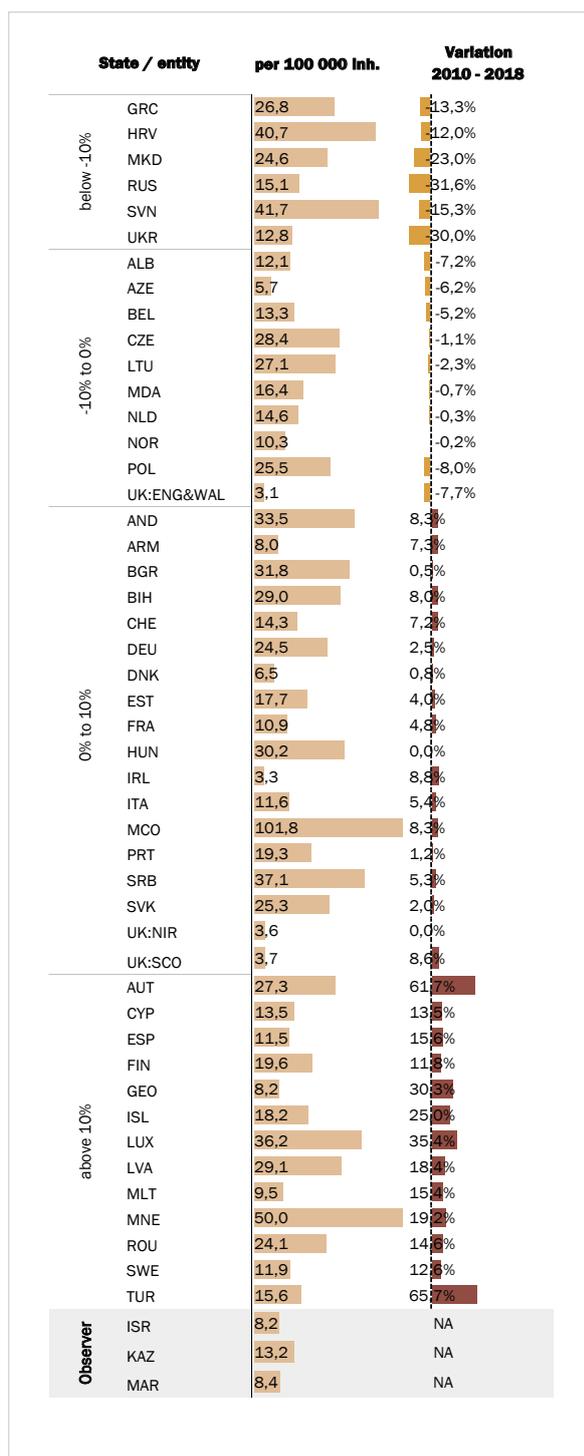
Another influencing factor for the number of judges per 100 000 inhabitants could be the population size, as can be seen from Figure 3.3. All countries with more than 30 judges per 100 000 inhabitants have less than 10 million inhabitants, while no country with more than 15 million inhabitants has more than 26 judges per 100 000 inhabitants.

How has the number of professional judges evolved over the years?

The distribution of the numbers of professional judges per 100 000 inhabitants shown in Figure 3.1 has been broadly stable over the years, as has the average number of about 21 professional judges per 100 000 inhabitants.

Nevertheless, there have been significant variations in numerous countries. Thus, Figure 3.4 illustrates that the number of professional judges per 100 000 inhabitants has increased between 2010 and 2018 in most States, while there is no noticeable trend towards harmonisation. The evolutions observed have particular explanations, such as judicial reforms, changes in data collection or decline or growth in the population (see Figure 1.2 in Chapter 1). The number of judges in **Austria** increased due to the creation of administrative courts in 2014, included in the statistics only as of 2016. In **Bosnia and Herzegovina**, the High Judicial Council has increased the number of judges in several courts in light of the number of cases to be dealt with and in order to avoid excessive delays in trials. In **Montenegro**, three Misdemeanor Courts and the High Misdemeanor Court were established in 2015. The increases in **Lithuania** and in the **Republic of Moldova**, and – to some extent – in **Armenia**, **Bosnia and Herzegovina**, **Georgia**, **Latvia** and **Serbia** can be explained by the population decline. **Turkey** shows a significant increase in the number of judges, prosecutors and judicial staff in recent years. One of the evoked explanations is the establishment of the courts of appeal that started functioning in 2016. The situation of **Ukraine** is characterised by a significant decrease in the number of judges, due in particular to the implementation of an important judicial reform in 2016.

Figure 3.4 Number of professional judges per 100 000 inhabitants and variation, 2010 - 2018 (Q1, Q46)

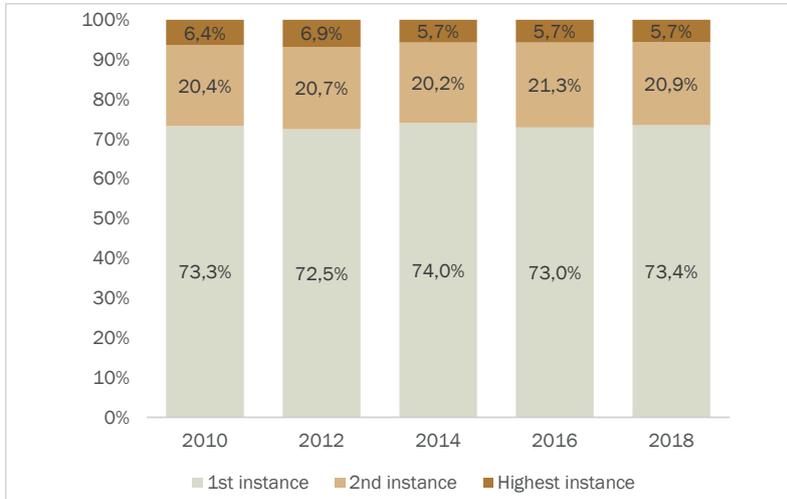


Professional judges per 100 000 inhabitants

Average 21,4
Median 17,7

How are judges distributed across the instances?

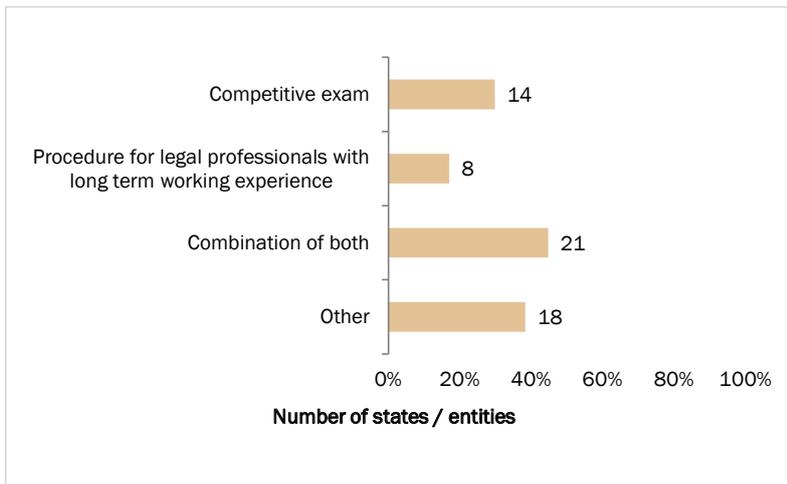
Figure 3.5 Average distribution of professional judges by instance 2010 – 2018 (Q46)



As regards the different levels of jurisdictions, there is a fairly uniform distribution of professional judges that has remained very stable over the years. Judges are about two-thirds to 80% first instance judges, about 20% to one-third second instance judges, and about 2% to 10% Supreme court judges.

How are judges recruited?

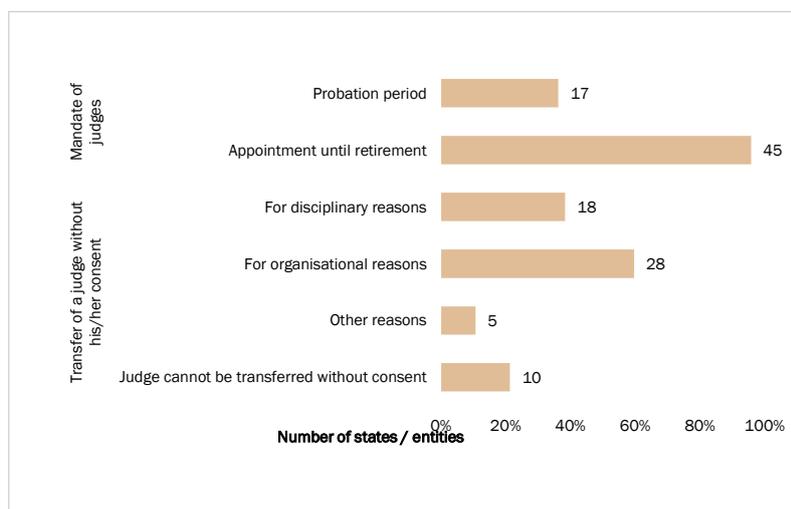
Figure 3.6 Modalities for recruiting professional judges in 2018 (Q110)



A competitive exam, common way of recruiting judges, is the majority option chosen by 35 member States and entities and two observer States. 21 member States and entities and one observer State are using this way in combination with a procedure for legal professionals with long term working experience. Some States and entities, in particular common law countries, have a procedure which relies only on experience and seniority among lawyers, without a competitive exam (**Ireland, Malta, Norway, Switzerland, UK - England and Wales, UK - Northern Ireland and Israel**). Other recruitment procedures are used in 18 member States and entities.

” Is irremovability of judges guaranteed?

Figure 3.7 Probation period, term of appointment and transfer of judges without consent in 2018 (Q121, Q121-1, Q122)

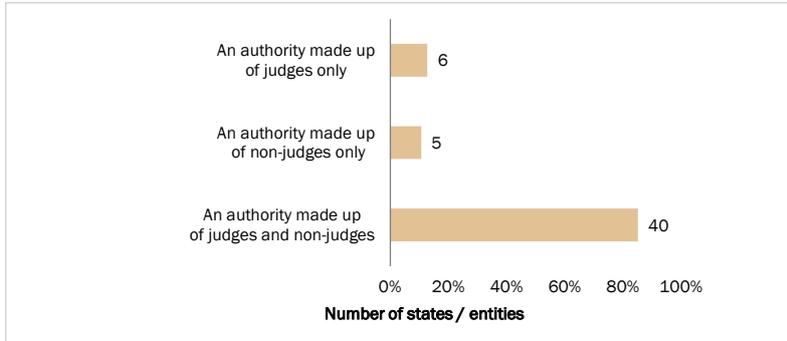


The CCJE notes that full-time appointments until the legal retirement age constitute the general rule in European practice (Opinion No. 1(2001) of CCJE on standards concerning the independence of the judiciary and the irremovability of judges, paragraph 48) and that this is the least problematic approach from the point of view of independence. Indeed, this principle is observed in almost all member States, entities and observer States. The situation in **Switzerland**, where judges are elected, depending on the canton, by the people, the parliament or appointed by the appeal court is quite specific. As also noted by the CCJE, many civil law systems involve probation periods for new judges (Opinion No. 1 aforesaid, paragraph 49). There is a probation period in 17 States. The durations vary from 10 months in **Greece** to a maximum of 5 years in **Bulgaria** and **Germany**.

Special consideration should be given to modalities for transferring judges without their consent. The principle of irremovability implies that a judge cannot receive a new assignment without his/her consent. This transfer may, however, be made without consent if it results from a disciplinary procedure before an independent body. More than one-third of the States and entities resort to this possibility. Furthermore, more than 60% of the States and entities allow the change in the judges' assignments without their consent for organisational reasons (closure, merger, restructuring of courts, etc.) framed by guarantees such as the possibility of claiming a range of allowances (**UK - England and Wales**) or the right to appeal the decision before a court (**Poland, Hungary, Estonia**). These numbers have stayed quite stable since the last report. In some States, a temporary transfer can be decided without the consent of the judge in the interest of the good administration of justice (e.g. **Bosnia and Herzegovina, Germany, Georgia, North Macedonia, Slovenia**). Here again, specific guarantees are framing this type of reassignment.

” Is the recruitment procedure entrusted to an independent body?

Figure 3.8 Authorities responsible for initial recruitment of professional judges in 2018 (Q111)

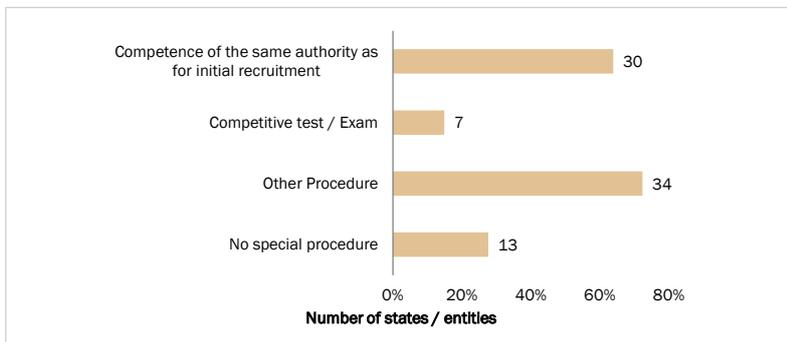


— To ensure the independence of the judiciary, the authority in charge of recruitment procedures for judges should be independent. Some States and entities distinguish the formal authority, which may be the one that appoints (for instance the President of the Republic or the Minister of Justice), from the authority actually in charge of the recruitment process, which must enjoy independence from the executive to guarantee full judicial independence. In the large majority

of member States and entities, and in all observer States, an authority made up of judges and non-judges is responsible for the initial recruitment of professional judges. Only few States and entities provide for an authority made up of judges only or for an authority made up of non-judges only.

” How are judges promoted?

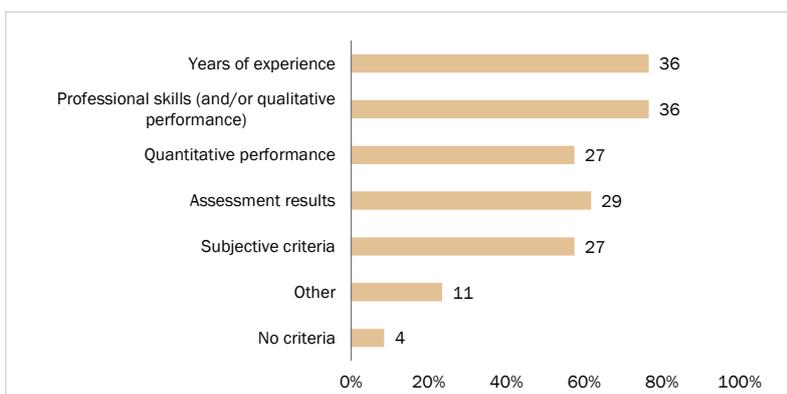
Figure 3.9 Competence and procedure for the promotion of professional judges in 2018 (Q112, Q113)



— In 30 member States and entities and two observer States, the same authority competent for the initial recruitment is also competent for the promotion of judges. Only few States provide for a competitive test or exam for promotions. In most States and entities, another procedure is applied, or there is no specific procedure.

” What are the criteria used for the promotion of a judge?

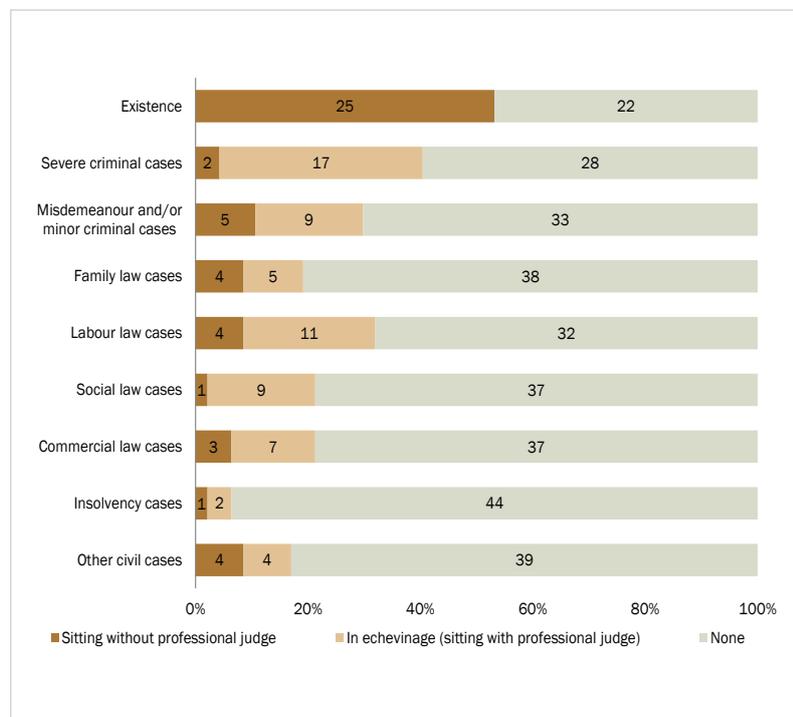
Figure 3.10 Criteria used for the promotion of professional judges in 2018 (number of member States / entities) (Q113-1)



— Most States use a wide range of criteria for the promotion of professional judges. The most common of them are professional skills (and/or qualitative performance) and years of experience, used by 36 member States and entities, respectively, and all observer States. There is not a single State that uses only subjective criteria (integrity, reputation, etc.), but 27 member States and entities and all three observer States use subjective criteria among others.

Do non-professional judges perform the same functions in Europe?

Figure 3.11 Tasks entrusted to non-professional judges in 2018 (number of member States / entities) (Q49-1)



In its Opinion No. 18, the CCJE highlighted that the appointment of lay judges can be seen as providing a helpful link between the judiciary and the public (Opinion n°18(2015) on the position of the judiciary and its relation with the other powers of state in a modern democracy, paragraph 32). It is true that non-professional judges can make a significant contribution to relieve professional judges of their caseload. Nevertheless, only about half of the States (25 member States and entities and one observer State) make use of non-professional judges who, generally, are not hearing and deciding cases without professional judges and always sit together with professional judges (known as *échevinage*). The matters within their competence are broad, with and without *échevinage*: diverse civil law cases, as well as family law cases, labour law cases, social law cases and criminal law cases.

What types of non-judge staff exist in Europe?

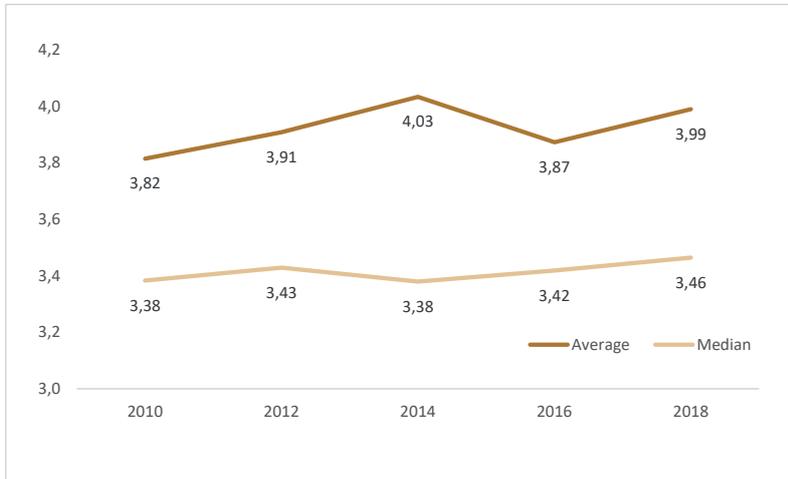
Having competent staff with defined roles and a recognised status alongside judges is an essential precondition for the efficient functioning of judicial systems.

In the CEPEJ's Evaluation Scheme, a distinction is made between five types of non-judge staff:

- ▶ The **Rechtspfleger** is defined as an independent judicial body according to the tasks that were delegated to him/her by law. Such tasks can be connected to: family and guardianship law, law of succession, law on land register, commercial registers, decisions about granting a nationality, criminal law cases, enforcement of sentences, reduced sentencing by way of community service, prosecution in district courts, decisions concerning legal aid, etc. The *Rechtspfleger* has a quasi-judicial function.
- ▶ **Non-judge (judicial) staff** directly assist a judge with judicial support (assistance during hearings, (judicial) preparation of a case, court recording, judicial assistance in the drafting of the decision of the judge, legal counselling – for example court registrars).
- ▶ **Administrative staff** are not directly involved in the judicial assistance of a judge, but are responsible for administrative tasks (such as the registration of cases in a computer system, the supervision of the payment of court fees, administrative preparation of case files, archiving) and/or the management of the court (for example a head of the court secretariat, head of the computer department of the court, financial director of a court, human resources manager, etc.).
- ▶ **Technical staff** includes staff in charge of execution tasks or any technical and other maintenance-related duties, such as cleaning staff, security staff, staff working at the courts' computer departments, electricians, etc.
- ▶ **Other non-judge staff** includes all non-judge staff that are not included in the categories mentioned before.

” What is the ratio of non-judge staff per professional judge and how has this ratio developed?

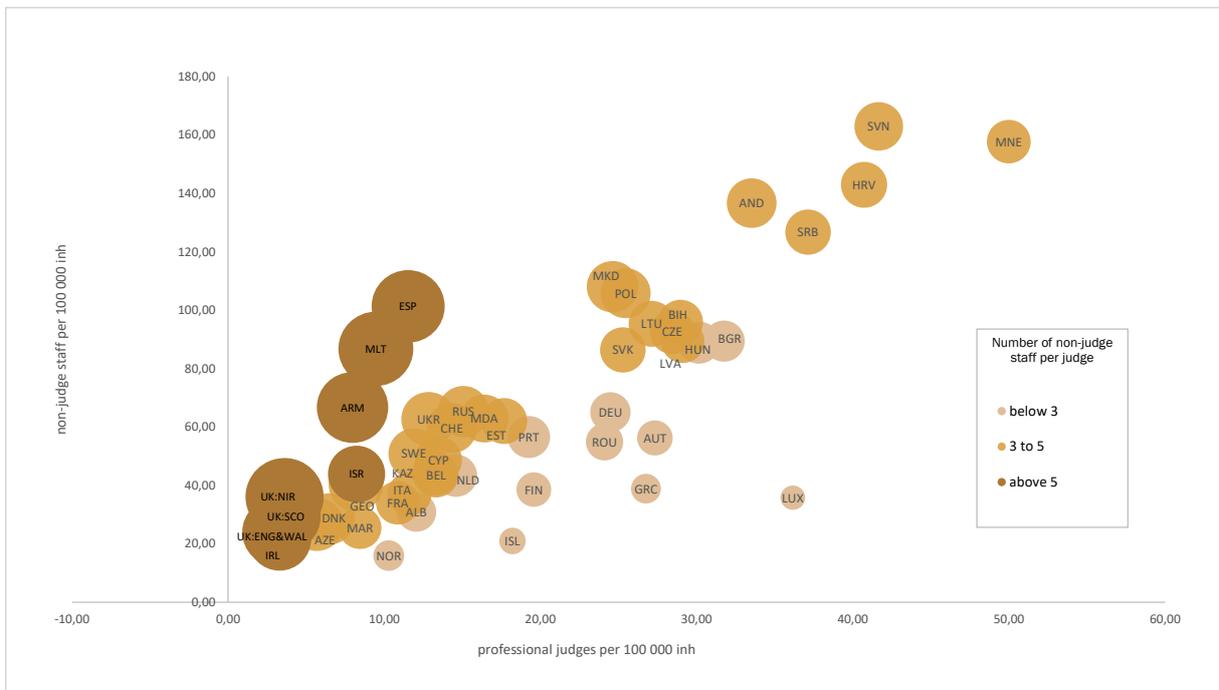
Figure 3.12 Evolution in the number of non-judge staff per professional judge, 2010 - 2018 (Q46, Q52)



— The average ratio of non-judge staff to professional judges is about 4 in 2018 (median: 3,4), the minimum being 1,0 (**Luxembourg**) and the maximum 10,0 (**UK - Northern Ireland**). These numbers show fairly high stability over the years.

” How do the number of professional judges and the number of non-judge staff depend on each other?

Figure 3.13 Number of non-judge staff per 100 000 inhabitants compared to the number of professional judges per 100 000 inhabitants; number of non-judge staff per professional judge (Q1, Q46, Q52)



It might be expected that there would be a negative correlation between the number of professional judges per 100 000 inhabitants and the number of non-judge staff per 100 000 inhabitants because of the support from the non-judge staff. Figure 3.13 shows (for better visibility this Figure does not include **Monaco** which because of its size shows an extreme value) that this is not the case and that there is even a positive correlation between the two indicators meaning that countries that have more professional judges per 100 000 inhabitants also have more non-judge staff per 100 000 inhabitants. This underlines the significant differences in the staffing of the judiciaries in Europe.

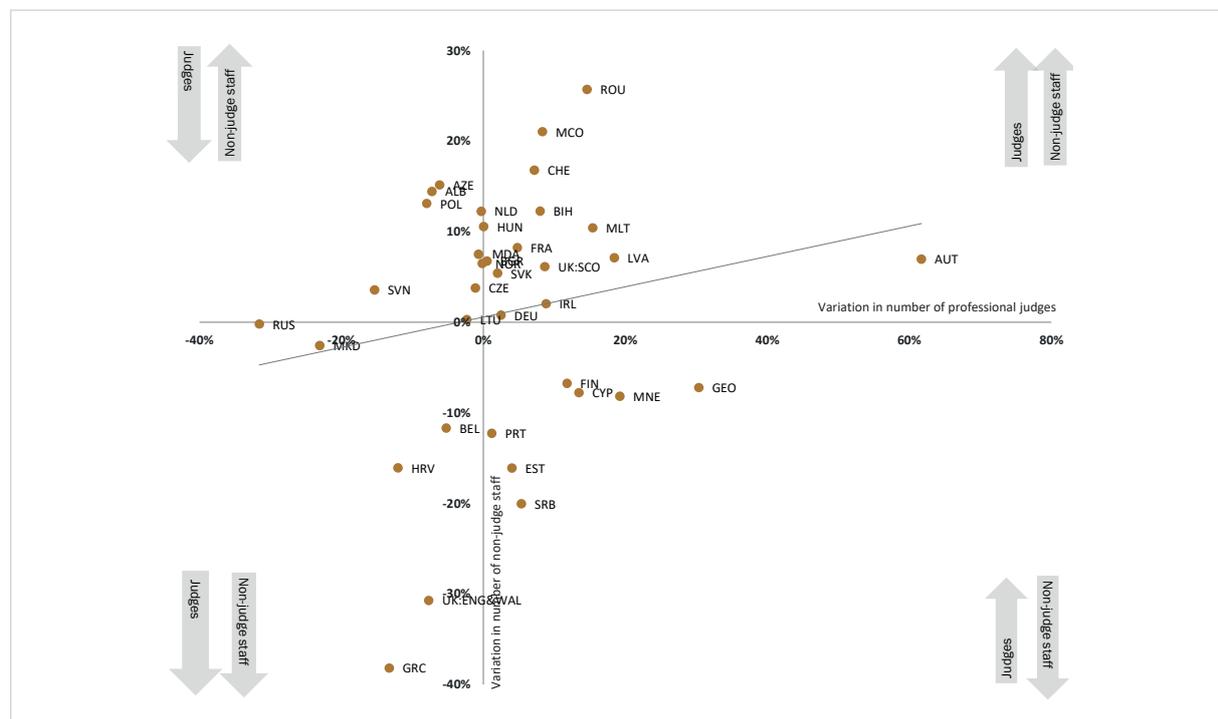
However, the bubbles size and colour – which illustrate the number of non-judge staff per professional judge – indicate that in States and entities

with fewer professional judges per 100 000 inhabitants, there tend to be more non-judge staff per professional judge. All States and entities with more than 5 non-judge staff per professional judge have fewer than 12 professional judges per 100 000 inhabitants, while ratios of less than 3 non-judge staff per professional judge can only be found in States and entities with 10 or more professional judges per 100 000 inhabitants.

Consequently, there seems to be some dependency between the number of non-judge staff per professional judge and the number of professional judges per 100 000 inhabitants. The exact interactions can be various: they depend on the degree of assistance provided to judges, the extent to which decisions are transferred to *Rechtspfleger* (see below) or the extent to which judges carry out administrative tasks and tasks related to the management of the courts.

Have the numbers of professional judges and the numbers of non-judge staff developed uniformly?

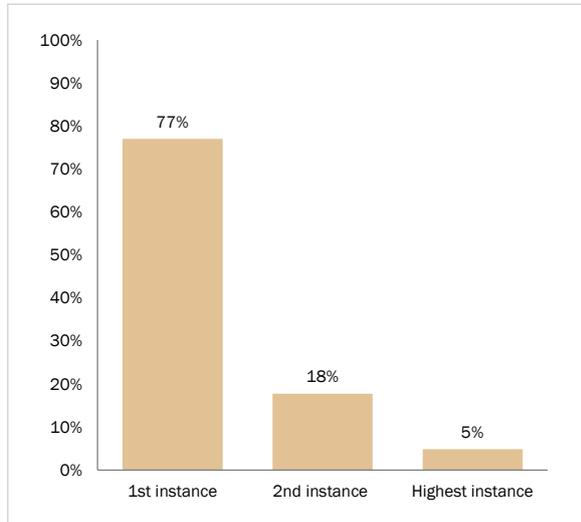
Figure 3.14 Variation in the number of non-judge staff compared to the variation in the number professional judges, 2010 - 2018 (Q46, Q52)



To ensure the efficiency of the courts, the connection between the number of professional judges and the number of non-judge staff must be considered when creating or reducing posts. Figure 3.14 shows that the positive correlation between the number of professional judges and the number of non-judge staff shown above is also reflected in the variation in these data between 2010 and 2018. However, this correlation is very small and there can be no talk of a uniform development. Although the reasons for the developments are probably complex and must be assessed individually in each case, special caution appears to be necessary with regard to the conclusions to be drawn in terms of efficiency where the number of professional judges has increased while the number of non-judge staff has decreased.

” How is non-judge staff distributed across instances?

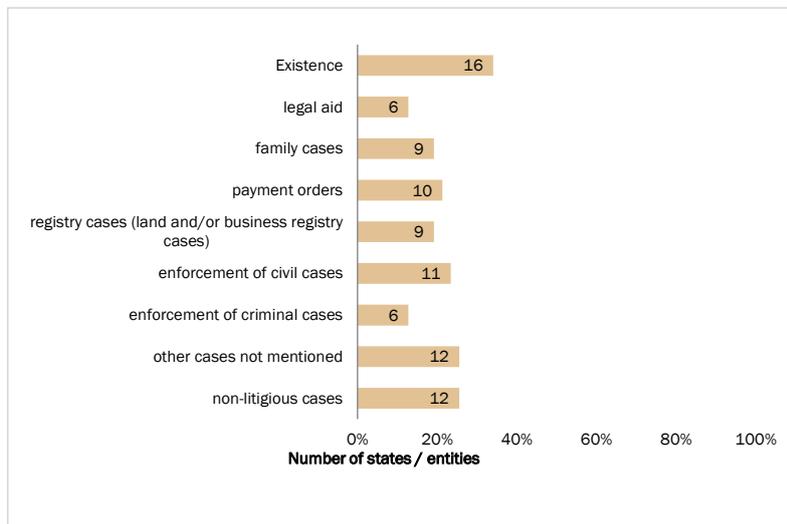
Figure 3.15 Average distribution of non-judge staff by instance in 2018 (Q52-1)



— The average distribution of non-judge staff across instances is similar to that of judges (cf. Figure 3.5), but a higher ratio can be found at first instance (73% for judges) and lower ratios at second instance and at Supreme court level (respectively 22% and 8% for judges). It is not possible to show the development of the distribution because the data on this topic were collected for the first time.

” How many States have set up *Rechtspfleger* and what are the roles entrusted to them?

Figure 3.16 Summary of the different roles of *Rechtspfleger* (or similar body) in 2018 (number of member States / entities) (Q53)



— Sixteen European States and one observer State have set up *Rechtspfleger*. The roles entrusted to them in each country that are shown in Figure 3.16 have not changed since the previous report. The *Rechtspfleger* is a real judicial body alongside the judge or magistrate.

” How many *Rechtspfleger* are there, and how have the numbers developed?

— Between 2010 and 2018, in countries where this body exists, the average ratio of *Rechtspfleger* per 100 000 inhabitants has increased from 7,8 to 10,5; the median has also increased from 5,5 to 9,2.

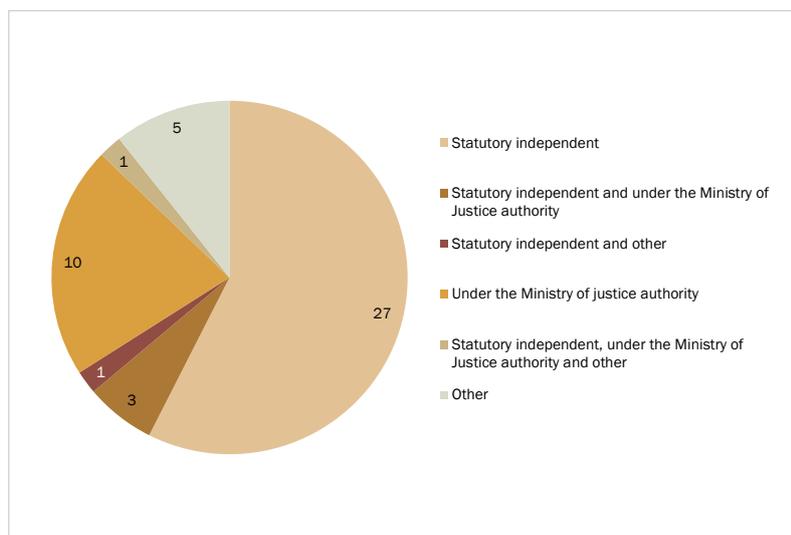
” Who is a public prosecutor?

According to the definition contained in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the Role of public prosecution in the criminal justice system, public prosecutors are understood 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”.

” What is the status of public prosecutors in Europe?

The report focuses on a formal statutory approach, distinguishing statutory independence from attachment to the authority of a ministry; account is also taken of the instructions given in particular cases, in order to analyse the type of intervention in judicial cases. But much also depends on real practice, linked to the cultural traditions of different States and entities, hence the importance of considering the comments provided by States in addition to the replies to the Evaluation Scheme. The national models are often complex, and the real autonomy of the public prosecutions services sometimes depends more on practices and traditions than legal provisions.

Figure 3.17 **Summary of the status of the public prosecutor in 2018 (number of member States / entities) (Q115)**



The public prosecutor is declared statutorily independent in 31 of 47 member States and entities and in two observer States, which is in line with the existing trend. In 2018, the Prosecution Service of **Georgia** continued to undergo reforms aimed at further strengthening its independence, transparency and effectiveness. A draft constitutional law to further strengthen the independence of the prosecution is currently under preparation in **Luxembourg**. In 2010, only 28 of 47 States and entities had granted statutory independence to the public prosecutor.

The sensitivity of the issue of the relationship between the executive branch and the prosecutors is also reflected in regulations to prevent specific instructions to prosecute or not. 31 States and entities and two observers indicate that they had such regulations in place in 2018, compared to only 26 States and entities in 2014 (no data was collected on this topic for previous years).

What is the number of public prosecutors in Europe? How has the number of public prosecutors developed?

Figure 3.18 Number of public prosecutors per 100 000 inhabitants, 2010 - 2018 (Q1, Q55)

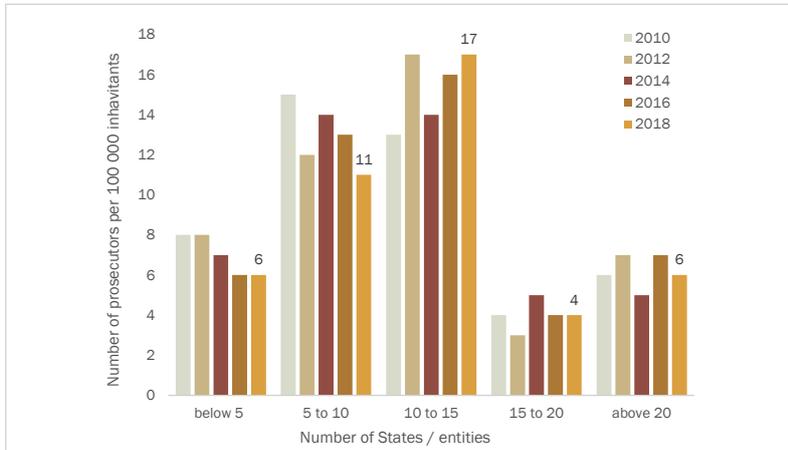
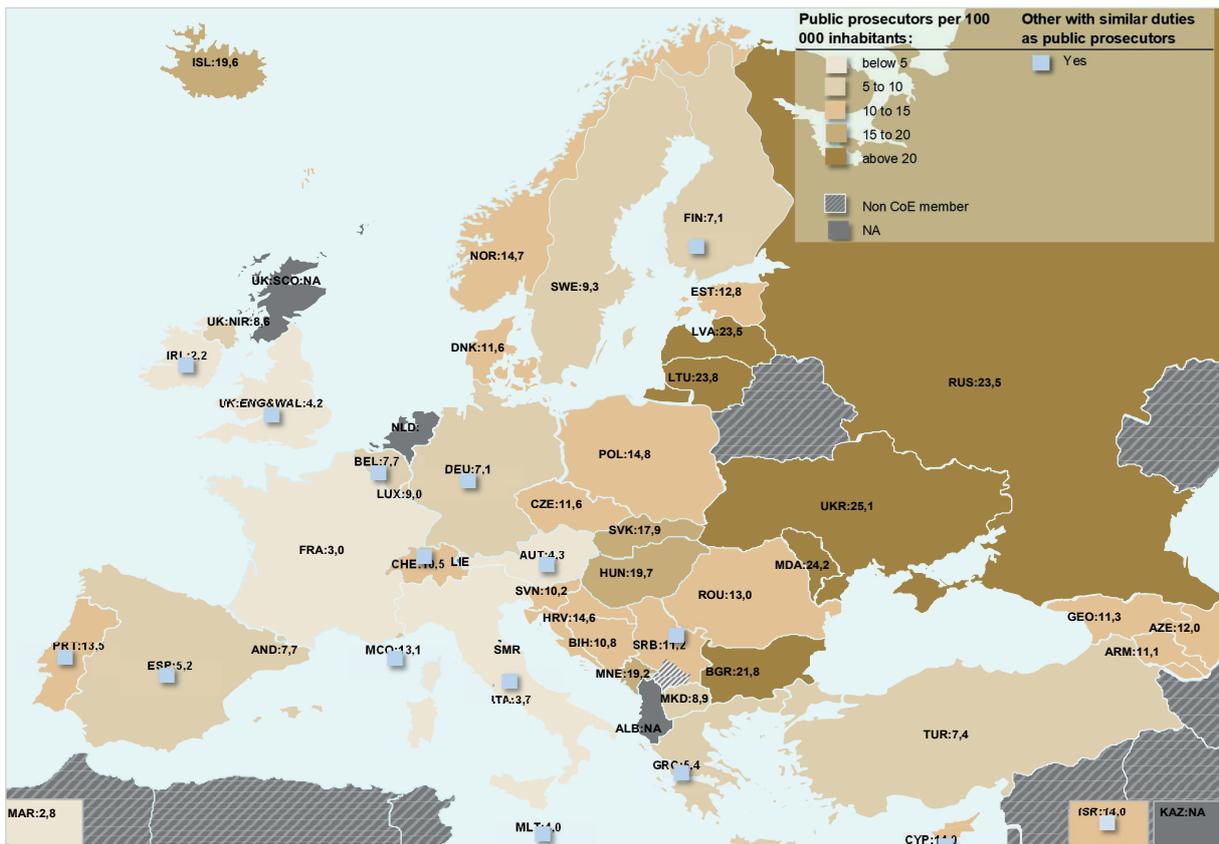


Figure 3.18 illustrates that in 2018 most States have between 5 and 15 public prosecutors per 100 000 inhabitants, and mainly between 10 and 15 over the years from 2012 to 2018.

Map 3.19 Number of public prosecutors per 100 000 inhabitants in 2018 (Q1, Q55)



Map 3.19 illustrates the diversity in the number of public prosecutors per 100 000 inhabitants in Europe depending on the regions. While most States and entities in Northern, Western, Central and Southern Europe employ very low to average numbers of 2 to 15 prosecutors per 100 000 inhabitants (**Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, Monaco, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Switzerland, Turkey, UK - England and Wales and UK - Northern Ireland**), higher numbers of more than 15 prosecutors per 100 000 inhabitants can be found mainly in more eastern areas (**Bulgaria, Hungary, Latvia, Lithuania, Republic of Moldova, Montenegro, the Russian Federation, the Slovak Republic and Ukraine**).

Similar to what was shown for judges in Figure 3.3, there seem to be lower numbers of prosecutors per 100 000 inhabitants in States with higher population size, also when including the number of other persons with similar duties to those of public prosecutors.

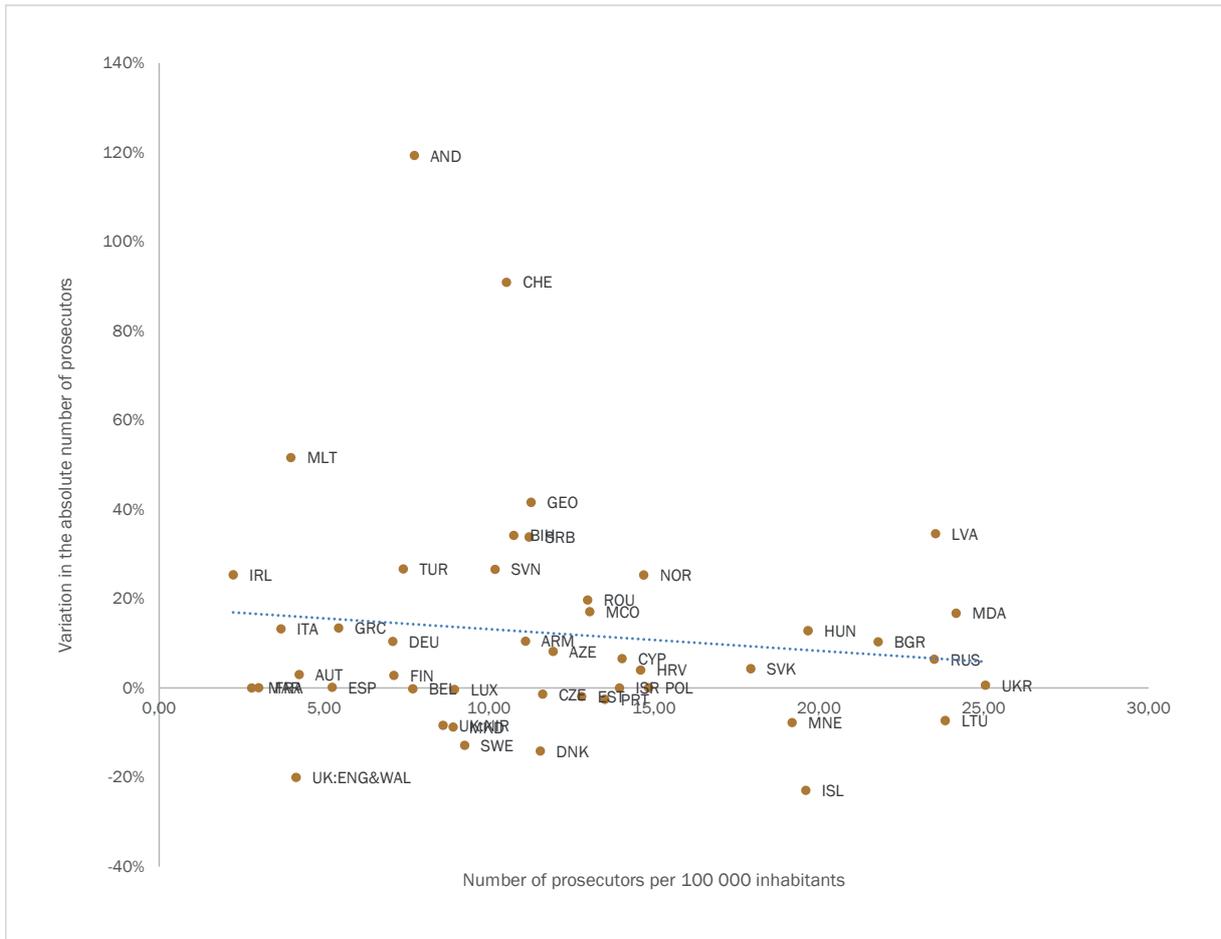
Figure 3.20 Number of public prosecutors per 100 000 inhabitants in 2018 and variation 2010 - 2018, % (Q55)

	State / entity	per 100 000 inh.	Variation 2010 - 2018	
below -10%	DNK	11,6	-14%	
	ISL	19,6	-23%	
	SWE	9,3	-13%	
	UK:ENG&WAL	4,2	-20%	
-10% to 0%	BEL	7,7	0%	
	CZE	11,6	-1%	
	EST	12,8	-2%	
	LTU	23,8	-7%	
	LUX	9,0	0%	
	MKD	8,9	-9%	
	MNE	19,2	-8%	
	PRT	13,5	-3%	
	UK:NIR	8,6	-8%	
	0% to 10%	AUT	4,3	3%
		AZE	12,0	5%
CYP		14,0	7%	
ESP		5,2	0%	
FIN		7,1	3%	
FRA		3,0	0%	
HRV		14,6	4%	
POL		14,8	0%	
RUS		23,5	5%	
SVK		17,9	4%	
UKR		25,1	1%	
above 10%		AND	7,7	119%
		ARM	11,1	10%
	BGR	21,8	10%	
	BIH	10,8	34%	
	CHE	10,5	91%	
	DEU	7,1	10%	
	GEO	11,3	42%	
	GRC	5,4	13%	
	HUN	19,7	13%	
	IRL	2,2	25%	
	ITA	3,7	13%	
	LVA	23,5	35%	
	MCO	13,1	17%	
	MDA	24,2	17%	
	MLT	4,0	52%	
	NOR	14,7	25%	
	ROU	13,0	20%	
	SRB	11,2	34%	
	SVN	10,2	27%	
	TUR	7,4	27%	
Observer	ISR	14,0		
	KAZ			
	MAR	2,8		

Although there are some States and entities in which the number of prosecutors per 100 000 inhabitants has decreased between 2010 and 2018, there is a strong and ongoing trend of increasing numbers of prosecutors per 100 000 inhabitants. The average number of prosecutors per 100 000 inhabitants increased from 11,1 to 12,1 between 2010 and 2018, and the median increased from 9,9 to 11,3. The average increase in all States and entities was 10% and the median increase was 6%. The very big increase for **Switzerland** can be explained by the change of the investigation system in some cantons (replacement of investigating judges with public prosecutors) and by the strengthening of defence rights in 2011 by the new Penal procedure code. The extreme variation for **Andorra** is a result of the increase in the number of prosecutors, from 3 in 2010 to 6 in 2018.

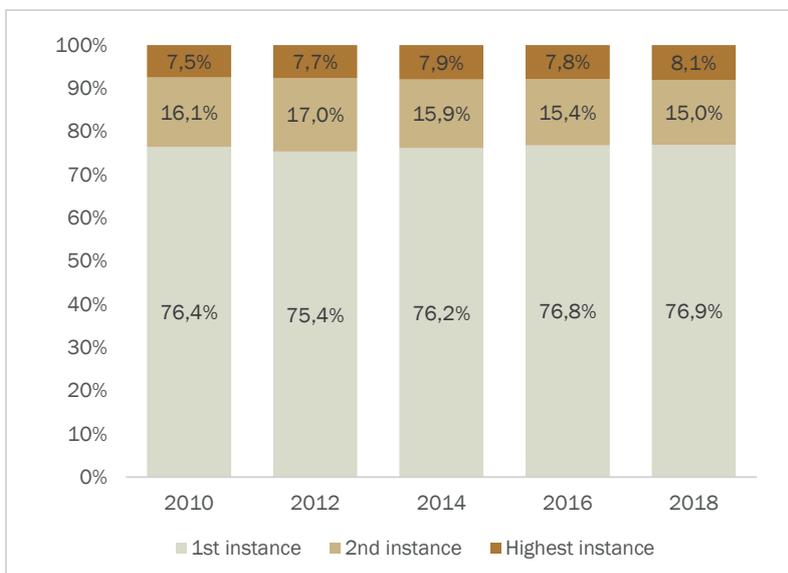
Public prosecutors per 100 000 inhabitants	
Average	12,13
Median	11,25

Figure 3.21 Variation in the number of public prosecutors between 2010 and 2018 compared with the number of public prosecutors per 100 000 inhabitants in 2018 (Q1, Q55)



How are public prosecutors distributed across instances?

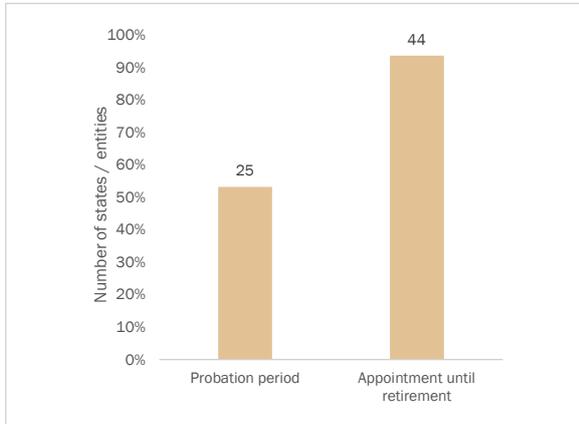
Figure 3.22 Average distribution of public prosecutors by instance, 2010 - 2018, in % (Q55)



The distribution of public prosecutors among instances varies widely. In most States and entities, 60% to 90% of prosecutors work at first instance level, 5% to one-third at second instance level and 1% to 18% at the highest instance. These figures have remained stable over the years. When evaluating the numbers, it should be noted that only 28 States have provided data on the distribution of prosecutors and that not all States have three instances in the public prosecutor's service.

Are prosecutors irremovable?

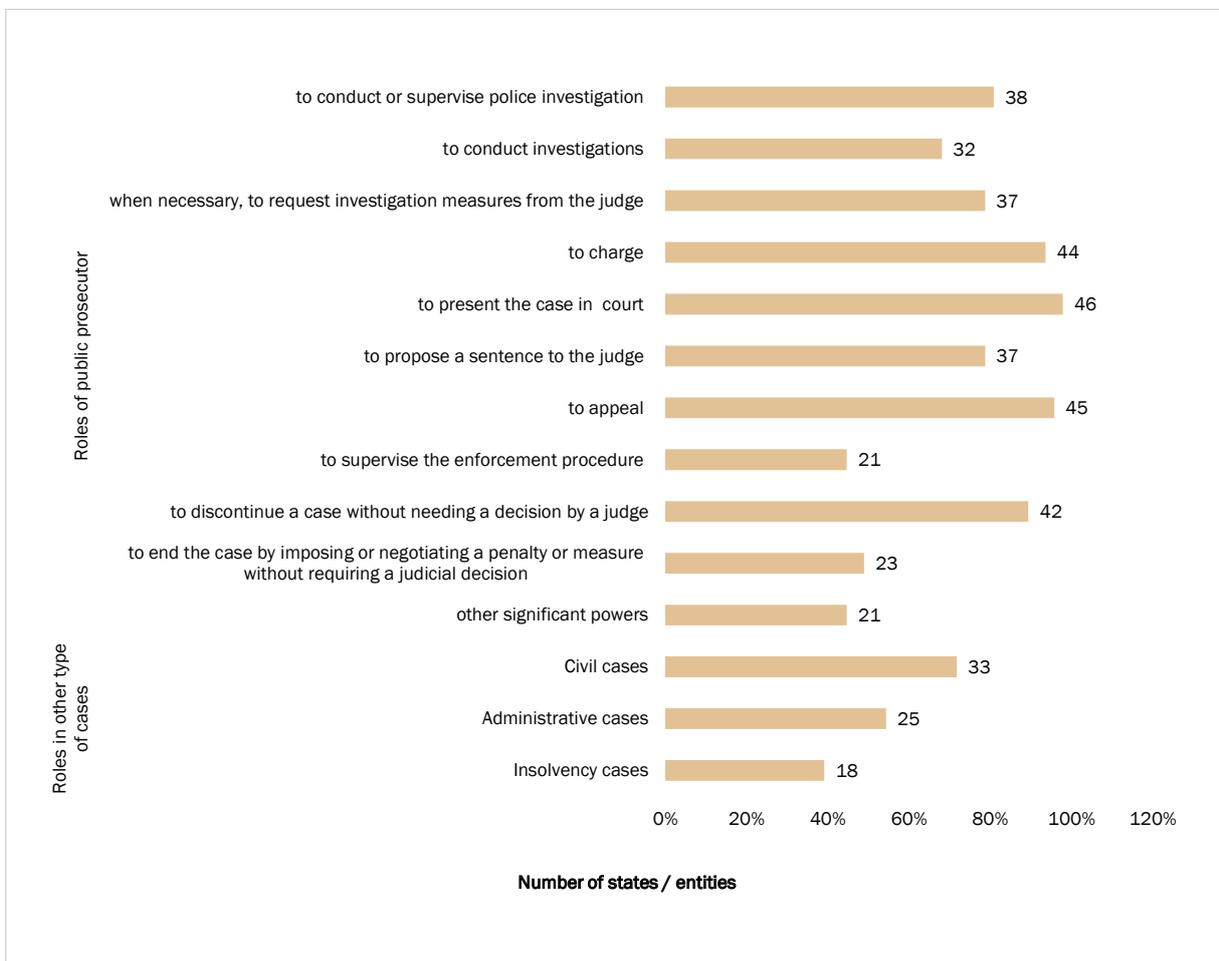
Figure 3.23 Probation period and term of appointment of public prosecutors in 2018 (Q123, Q124)



Similar to judges, public prosecutors are appointed until retirement in almost all States and entities (44 member States and entities and all observer States). The majority of States and entities indicates a probation period for new prosecutors with a duration from 3 months to 5 years.

What are the roles and responsibilities of public prosecutors?

Figure 3.24 Summary of the roles and responsibilities of public prosecutors in criminal matters and other than criminal matters in 2018 (number of member States / entities) (Q105 and Q106)



As can be seen in Figure 3.24, there are still large disparities in the roles and responsibilities of prosecutors. In all States and entities, prosecutors are responsible for submitting cases to the court. With the exception of **UK - England and Wales** (except for the most serious crimes, according to specific modalities), prosecutors from all States and entities may appeal. They carry the charge in all States and entities, with the exception of **UK - Northern Ireland** and **UK - Scotland**. In addition to their essential role in criminal matters, in some member States public prosecutors are also granted important prerogatives outside the field of criminal law. They intervene in civil and/or administrative cases in 33 member States and entities and all observer States, as well as in insolvency matters in 18 member States and entities and in two observer States.

Only in two States (**Hungary** and **Monaco**) public prosecutors have jurisdiction over all fourteen assignments listed in Figure 3.24, and almost all in **Bulgaria, France, Latvia, Portugal** and the **Slovak Republic**. Conversely, prosecutors in six States and entities only have jurisdiction over half or less of these assignments: in **Cyprus, Finland, Ireland, Malta, UK - England and Wales** and **UK - Northern Ireland**.

Is workload of prosecutors the same everywhere in Europe?

Figure 3.25 Number of roles of public prosecutors vs number of public prosecutors (and persons with similar duties) per 100 000 inhabitants and cases received by public prosecutors per 100 inhabitants, 2018 (Q1, Q55, Q57-1, Q105, Q106, Q107)

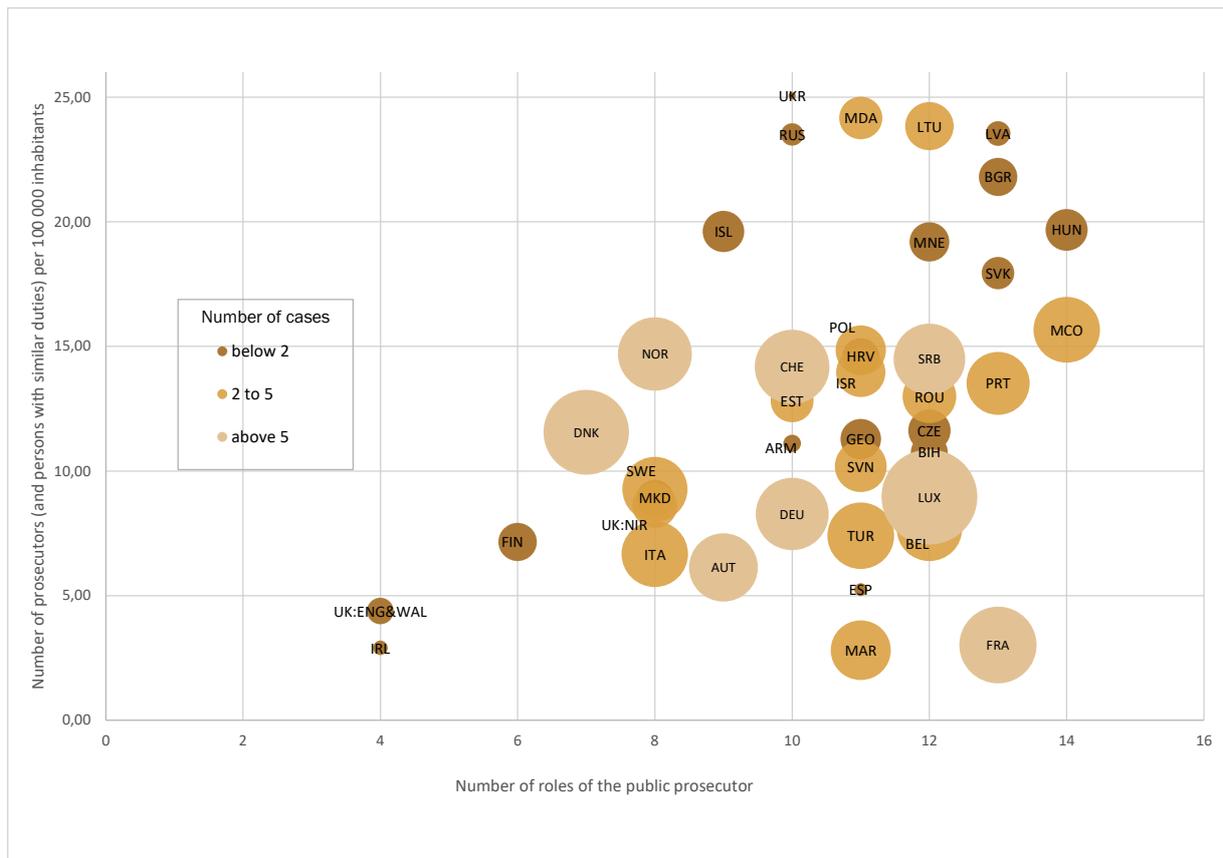
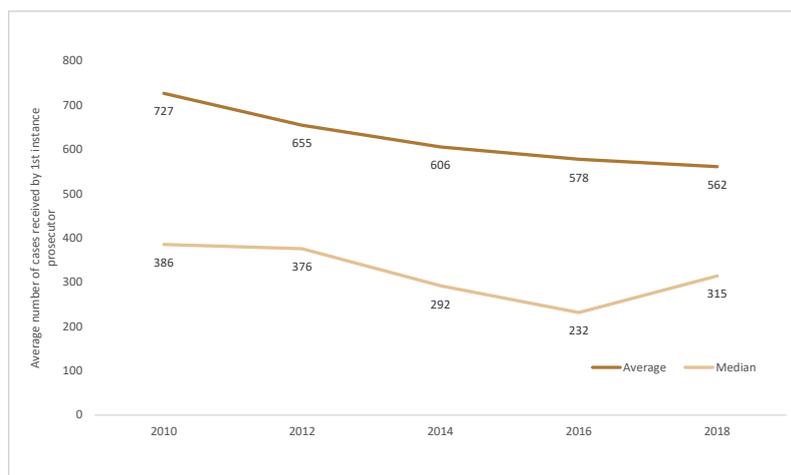


Figure 3.26 Evolution in the average and median number of cases received by first instance public prosecutors, 2010 - 2018 (Q55, Q107)



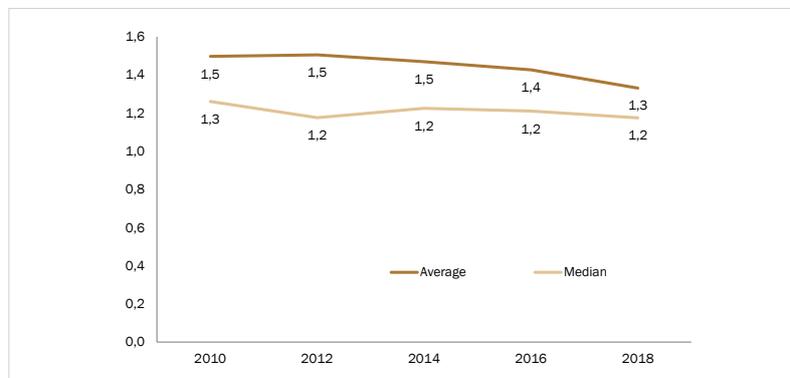
The workload of prosecutors may be measured taking into account the number of public prosecutors (and, if applicable, the number of other staff having similar duties to prosecutors), the number of cases received by prosecutors and also the diversity of their functions. When analysing these indicators that are contained in Figure 3.25, large differences between States and entities can be observed. For example, **France** has nearly the lowest number of prosecutors in Europe (3,0 per 100 000 inhabitants) and must simultaneously cope with a very high number of cases received (6,6 per 100 inhabitants), while having to fill a record number of different functions (13). In the light of these indicators, prosecutors in **Austria, Italy** and **Luxembourg** also have a rather large workload. Conversely, many 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 cases received (less than 3 cases per 100 inhabitants), even if their jurisdiction is wide (around 10 different competences).

As already stated, the average number of prosecutors per 100 000 inhabitants has significantly increased since 2010, which is an ongoing trend (2010: 11,1; 2016: 11,7; 2018: 12,2). At the same time, the number of cases received per 100 inhabitants has significantly decreased since 2010 (2010: 4,2; 2018: 3,1), as well as the average number of cases received per first instance prosecutors (2010 : 712 ; 2018 : 562) (see Figure 3.26). This may reflect an improvement in the situation of prosecutors in terms of workload. However, looking only at these numbers could be misleading. Practical experience suggests that an increase in the complexity of certain cases (organised crime, corruption, terrorism, financial crimes, cybercrimes, human trafficking, etc.) could have increased the average effort needed per case. These relationships, for which no data are collected, would require closer examination.

How many non-prosecutor staff work for the prosecution system?

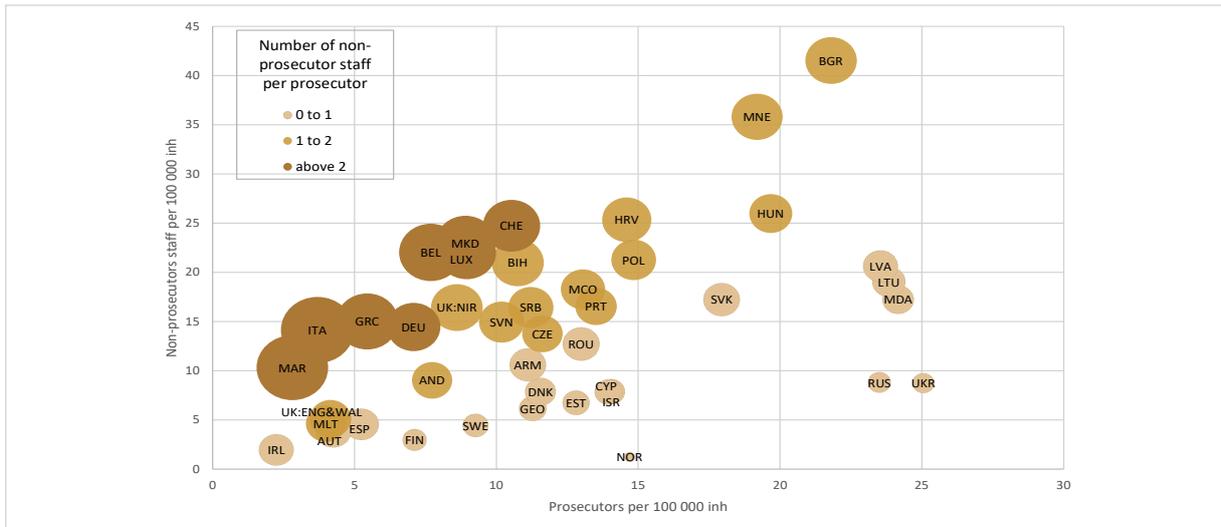
As in the case of judges, public prosecutors are assisted by staff performing widely varying tasks, such as secretariat, research, case preparation or assistance in the proceedings. The law may also entrust some functions of the prosecution services to non-prosecutor staff (*Rechtspfleger* or its equivalent). This section deals with the non-prosecutor staff working for the prosecution system, even when this staff appears in the budget of the court.

Figure 3.27 Evolution in the number of non-prosecutor staff per public prosecutor, 2010 - 2018 (Q55, Q60)



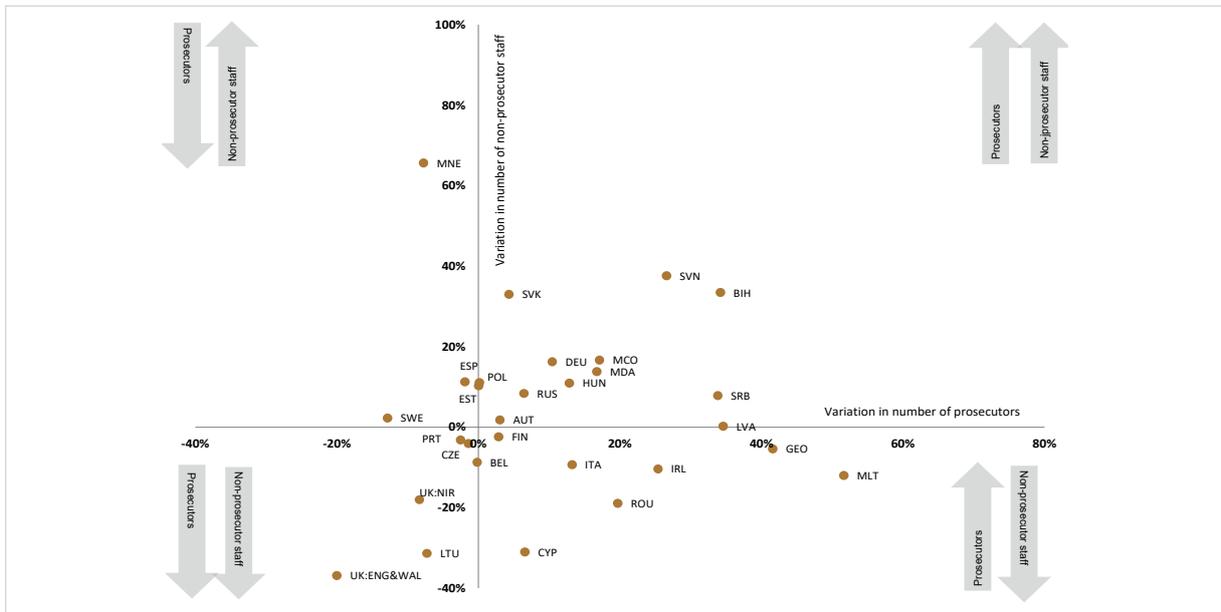
The average ratio of non-prosecutor staff to public prosecutors has decreased from 1,5 in 2010 to 1,3 in 2018, while the median decreased from 1,3 to 1,2. In 2018 the minimum ratio was given as 0,1 (**Norway**) and the maximum ratio as 3,8 (**Italy**).

Figure 3.28 Number of non-prosecutor staff per 100 000 inhabitants compared with the number of public prosecutors per 100 000 inhabitants; number of non-prosecutor staff per public prosecutor (Q1, Q55, Q60)



As can be seen in Figure 3.28 – as for non-judge staff and judges in Figure 3.13 – there is a positive correlation between the number of non-prosecutor staff per 100 000 inhabitants and the number of public prosecutors per 100 000 inhabitants, but it is not particularly strong. At the same time, the bubble sizes and colours – which illustrate the number of non-prosecutor staff per prosecutor – show some dependency between the number of non-prosecutor staff per prosecutor and the number of prosecutors per 100 000 inhabitants leading to the conclusion that in States and entities with fewer public prosecutors per 100 000 inhabitants, there tend to be more non-prosecutor staff per prosecutor. All States with more than 2 non-prosecutor staff per prosecutor have less than 11 prosecutors per 100 000 inhabitants. By contrast, 60% of the States and entities with between 1 and 2 non-prosecutor staff per prosecutor, and almost three-quarters of the States with less than 1 non-prosecutor staff per prosecutor, have more than 11 prosecutors per 100 000 inhabitants. As with judges and non-judge staff, the specific relationships are probably complex.

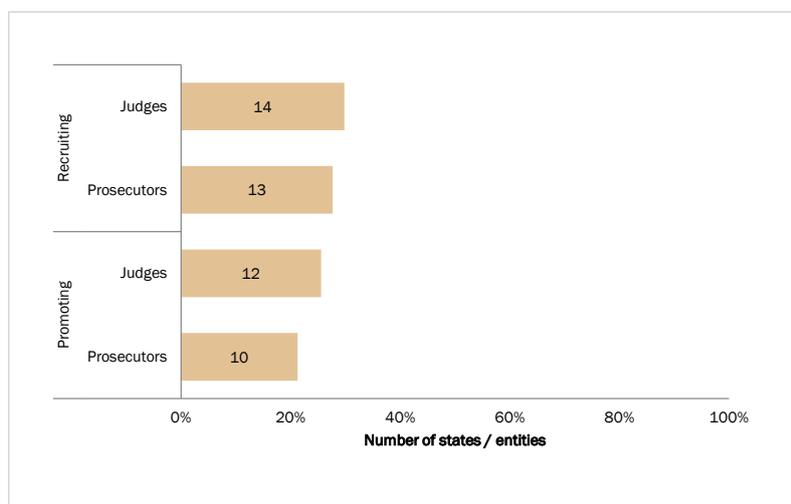
Figure 3.29 Variation in the number of non-prosecutor staff compared to the variation in the number of public prosecutors between 2010 and 2018 (Q55, Q60)



Between 2010 and 2018 there have been significant variations in the number of non-prosecutor staff and in the number of public prosecutors in many States and entities. Figure 3.29 shows that the decreased ratio of non-prosecutor staff per public prosecutor illustrated in Figure 3.27 is at least partly caused by the fact that there are States in which the number of public prosecutors increased while the number of non-prosecutor staff decreased. This seems questionable from an efficiency point of view, unless there are specific reasons that justify these developments.

» Is gender balance ensured in Europe for the recruitment and promotion of judges and prosecutors?

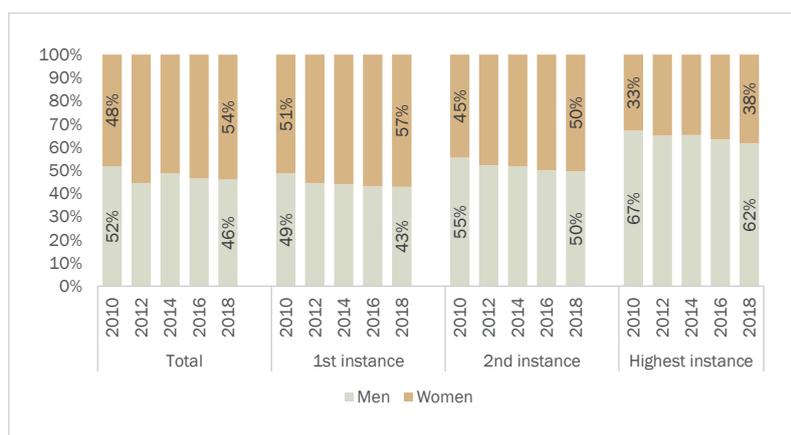
Figure 3.30 Specific provisions to facilitate gender equality within the framework of the procedures for recruiting and promoting in 2018 (number of member States and entities) (Q61-2, Q61-3)



There are still few States and entities in which specific measures in favour of gender parity in the procedure for recruiting and in the promotion procedure for judges and prosecutors have been implemented. In most cases, general provisions or mechanisms are aimed at avoiding gender discrimination. However, more and more States and entities seem to be focusing on the topic. **Austria, Bosnia and Herzegovina, Denmark, Germany, Montenegro, Spain, Sweden, Turkey, UK - Scotland** and **Israel** indicate that they have broad policies in favour of parity for the recruitment and the promotion of judges and prosecutors.

» Are there as many women as men judges and prosecutors?

Figure 3.31 Distribution of professional judges by gender and by instance, 2010 - 2018 (Q46)



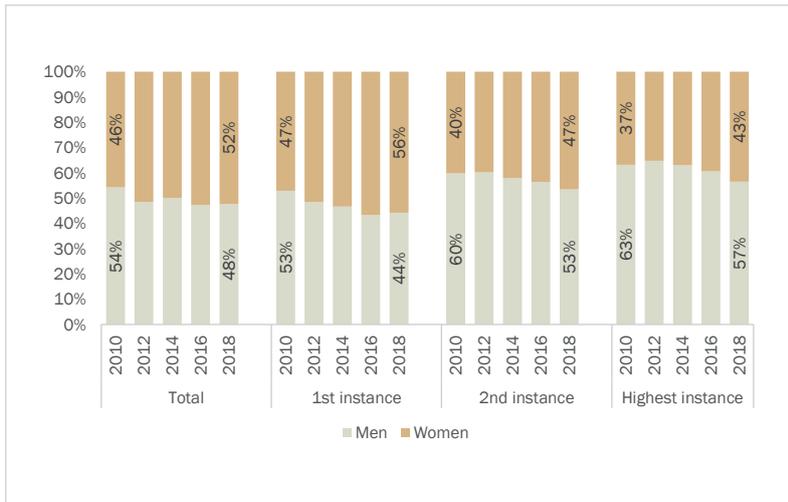
Looking at the development since 2010, there has been a general trend towards an increase in the percentage of female professional judges. In 2012, the average ratio of female professional judges was higher than that of male professional judges for the first time. From 2016 to 2018 the average proportion of women has continued to increase, but very slightly (1%).

Gender distribution still varies widely between States and entities. The States with the highest

percentage of women in the judiciary are **Croatia, Hungary, Latvia, Luxembourg, Romania, Serbia** and **Slovenia**, where more than two-thirds of all professional judges are female. In contrast, the ratio of women is still below 40% in **Armenia, Azerbaijan, Iceland, Ireland, UK - England and Wales, UK - Northern Ireland** and **UK - Scotland**. Generally, it appears that common law countries continue to present a high percentage of men in judicial office.

There is a continuing trend towards feminisation in the *Rechtspfleger* profession. The average ratio and median of female *Rechtspfleger* were 75% in 2018, which is an increase of around 2 percentage points each compared to 2012 (no data are available for 2010).

Figure 3.32 Distribution of public prosecutors by gender and by instance, 2010 - 2018 (Q55)



— A similar picture emerges with regard to prosecutors. While the gender ratio of the total number of prosecutors still favoured men in 2010 with 54% men and 46% women, it now favours women with 52% women and 48% men on average in 2018. A strong feminisation with more than two-thirds female prosecutors can be noted in **Croatia, Cyprus, Denmark, Estonia, Slovenia and Israel**. In **Armenia, Azerbaijan, Georgia, the Republic of Moldova, Turkey, Ukraine and Morocco**, on the other hand, the percentage of female prosecutors is below 40%.

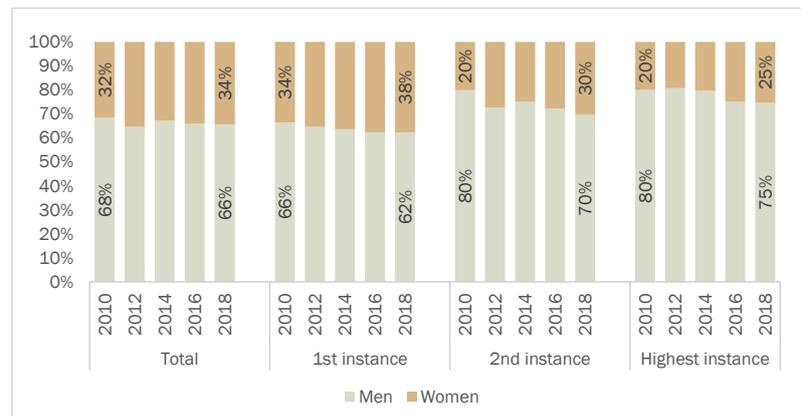
” Is the glass ceiling a reality in judicial office?

— Despite the efforts of the Council of Europe and some States, the global phenomenon of feminisation of judicial functions has a limit, a situation the CEPEJ has highlighted in its reports since 2014 and has termed the glass ceiling, meaning that the higher the hierarchical level, the more the number of women (and thus the percentage) decreases.

— Indeed, Figures 3.31 to 3.32 show that female professional judges and prosecutors are over-represented at first instance and underrepresented at second and highest instance. However, with regard to the increased overall percentage of women among judges and prosecutors and the duration of career progression, it is possible that progress in gender equality may only become noticeable with a time lag. It is therefore noteworthy that the proportion of women among second instance judges in 2014 (48,3%), 2016 (49,9%) and 2018 (50,8%) roughly matched the percentages that had been reported for the ratio of women among all professional judges four years earlier (48,3% in 2010, 49,2% in 2012 and 51,3% in 2014) and that 2010's overall average ratio of women among prosecutors (45,9%) was reached in 2018

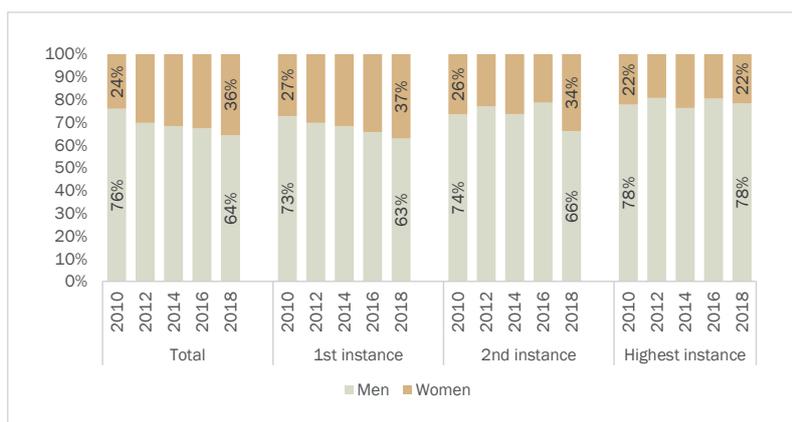
among second instance prosecutors (47%). The increase in the proportion of female judges and prosecutors at highest instance between 2010 and 2018 was stronger than the increase in the proportion of women among the total numbers of judges and prosecutors in the same period. While the proportion of women among all judges and prosecutors only increased by 11,6% and 14,4%, respectively, the proportion of female judges and prosecutors at highest instance increased by 16,8% and 16,5%, respectively.

Figure 3.33 Distribution of court presidents by instance and by gender between 2010 and 2018 (Q47)



— Women are still significantly underrepresented as court presidents. Neither in total nor in the individual instances have the average proportions of women among court presidents in 2018 reached the corresponding average proportion of women among professional judges, not even those from 2010. Nevertheless, there have been noticeable developments between 2010 and 2018. For example, the average ratio of female heads of second instance courts has increased by 10 percentage points, thus more strongly than the average ratio of female second instance judges (5 percentage points) even in absolute terms.

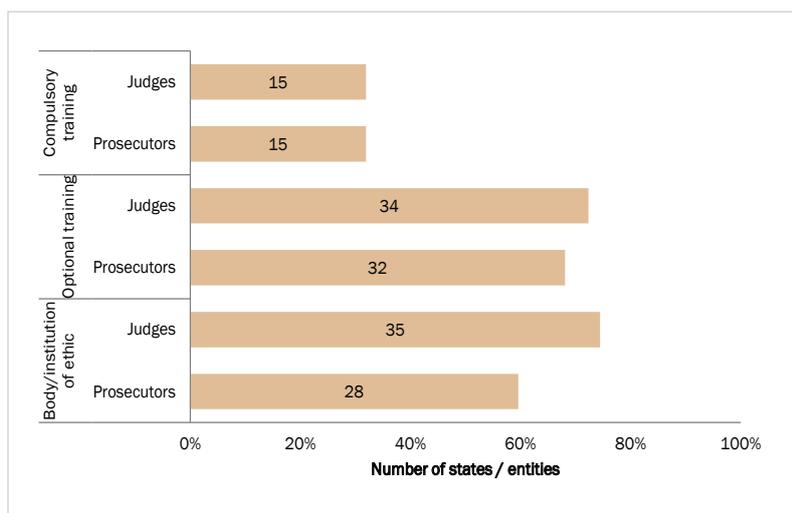
Figure 3.34 Distribution of heads of prosecution offices by instance and by gender, 2010 - 2018 (Q56)



Women also continue to be underrepresented as heads of prosecution offices. Between 2010 and 2018, there were significant improvements with regard to the average proportion of women among the total number of heads of prosecution offices, as well as at first and second instance, while the average ratio of female heads of prosecution office at highest instance stayed unchanged. Only 8 States reported to have female heads of prosecution offices at highest instance level.

How are the ethics of judges and prosecutors promoted?

Figure 3.35 Trainings on ethics and bodies / institutions in the field of ethics in 2018 (number of States / entities) (Q127, Q129, Q138, Q138-3)



Furthermore, institutions or bodies responsible for providing ethical advices to judges and prosecutors on subjects such as involvement in political life or use of social media by judges, exist in many States and entities. Namely, such authority can be found in 35 member States and entities and all observer States in respect of judges, and in 28 member States and entities and all observer States in respect of public prosecutors.

As regards disciplinary proceedings, breaches of professional ethics do not play a major role, according to the States and entities. However, it must be noted that the data seem insufficient to be sure at this point because 11 member States and entities answered that data is not available.

Ethical questions are taken into account in different ways. The majority of States and entities offer trainings on ethics for their judges and prosecutors, mostly on a voluntary basis. There are then optional trainings for judges in 34 member States and entities and for prosecutors in 32 member States and entities and in one observer State. Conversely, in 15 member States and entities and in all observer States for judges and in 15 member States and entities and in two observer States for prosecutors, trainings on ethics are compulsory.

SALARIES OF JUDGES AND PROSECUTORS

Are the salaries of judges and prosecutors comparable in Europe?

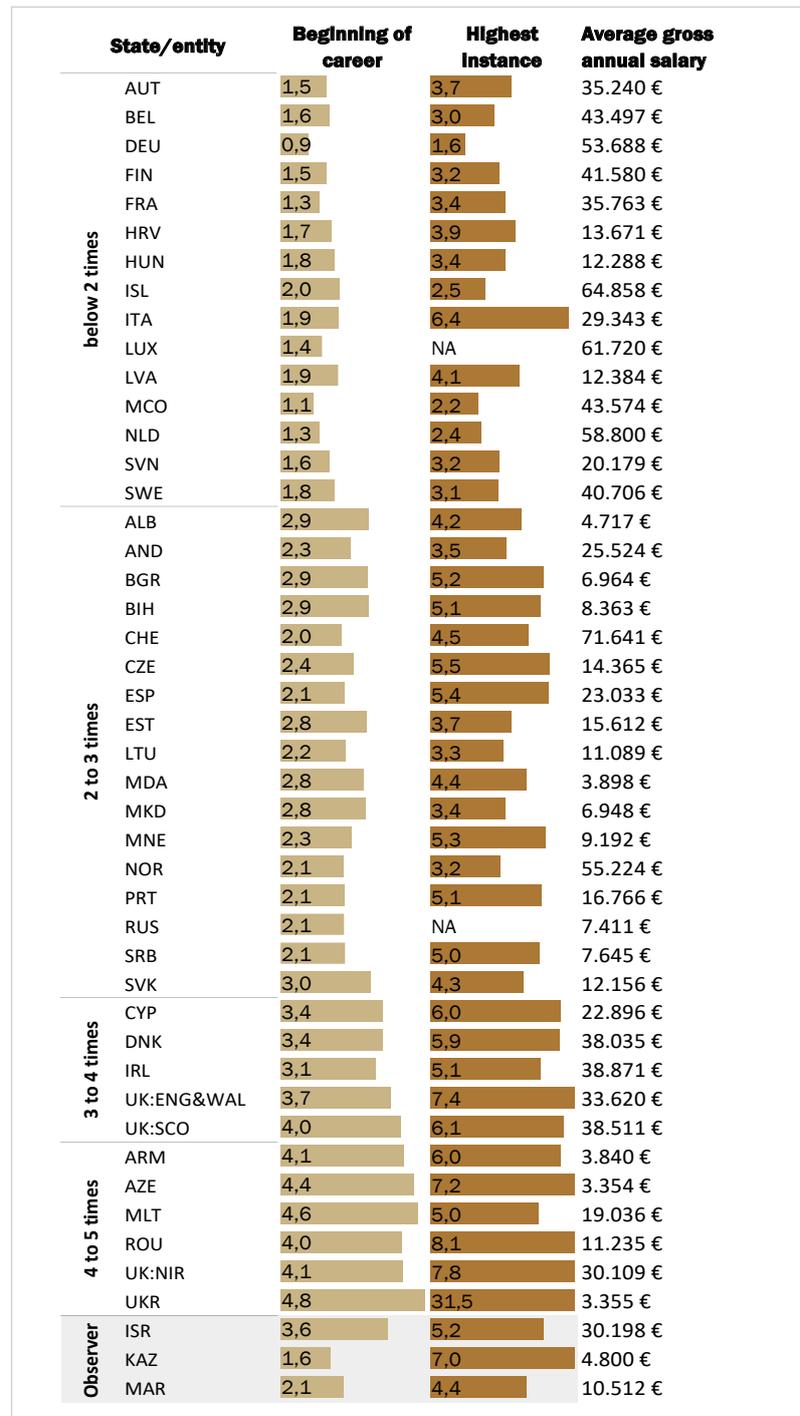
According to Recommendation Rec(2010)12 of the Committee of Ministers on “Judges: independence, efficiency and responsibilities” (§§ 53 and 54), the level of judges’ remuneration contributes to their independence. Judges should be offered a level of remuneration corresponding to their status and responsibilities.

The issue of judges’ remuneration requires a comprehensive approach which, beyond the purely economic aspect, takes account of the impact that it can have on the efficiency of justice as well as on its independence in connection with the fight against corruption within and outside the judicial system.

Justice policies should also consider the salaries of other legal professions in order to make the judicial profession attractive to highly qualified legal practitioners.

The comparisons made by the CEPEJ are based on two indicators: first, the salary of a judge/prosecutor at the beginning of his/her career, and the second indicator is the average salary of judges/prosecutors of the Supreme court who are at the top of the judicial hierarchy. It is noteworthy that the salaries of judges and public prosecutors in some systems do not depend on the position held (first court or highest instance) but rather on the experience (i.e. years of service). Thus, the salary of a judge/prosecutor working in the lowest courts can be the same as the salary of a judge/prosecutor working in the highest instance court (in **Italy** for example).

Figure 3.36 Average gross salary of judges in relation to the national average gross salary in 2018 (beginning of a career / Supreme court) (Q4, Q132)



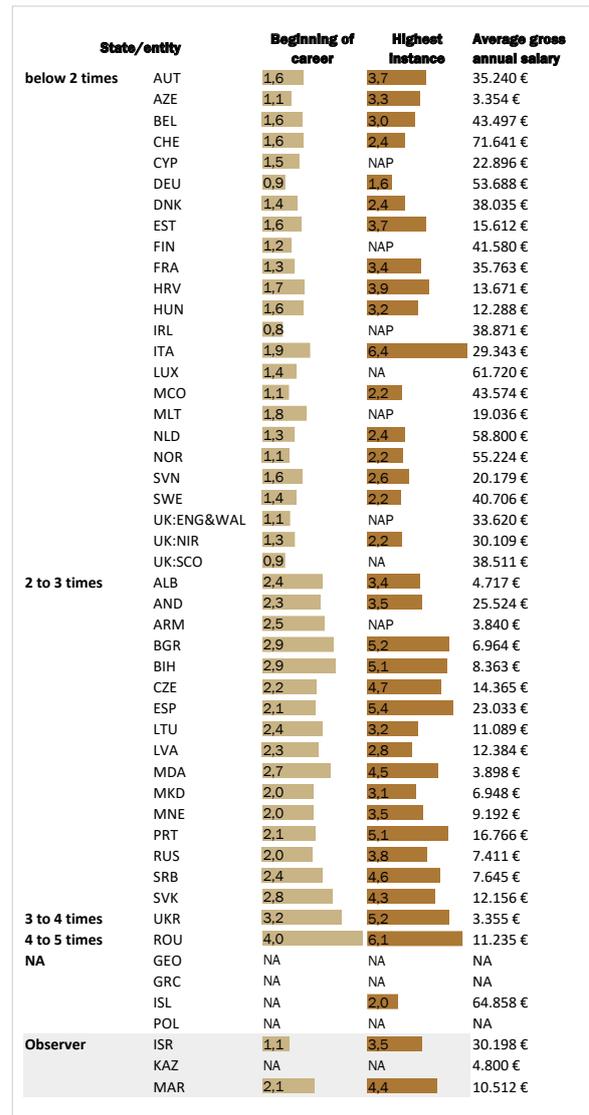
— In order to assess the level of remuneration of judges, it is important to compare it to the average salary in the State or entity concerned, taking into account the influence of the wealth of the State/entity on the level of this average salary. To analyse the remunerations at the beginning of a career, it is furthermore necessary to consider the recruitment procedure. If a judge is recruited after his/her graduation from the judicial training school following a competition, he/she will take office relatively young and his/her remuneration will be a starting salary. The situation is different for a judge recruited after a long professional experience, for whom the remuneration will necessarily be higher. In that sense, the amounts indicated in the Figure 3.36 should be put into perspective in **Ireland, Malta, Norway, Switzerland, UK - England and Wales, UK - Northern Ireland, UK - Scotland** and **Israel** as judges are recruited from among already experienced lawyers.

— The Figure 3.36 divides States and entities into four groups based on the level of ratio between judges' gross salary at the beginning of the career and national average gross salary. Large differences across Europe could be observed, from **Germany** (0,9) and **Monaco** (1,1) to **Azerbaijan** (4,4), **Malta** (4,6) and **Ukraine** (4,8).

— As regards the remunerations at the end of career, some States focus more on the seniority of the judge than on the court to which he/she is assigned. This is the case in **Italy** where only seniority counts in determining remuneration. Analysis of the data provided in Figure 3.36 shows that large discrepancies also exist for the highest instance salaries where the lowest levels are again identified in **Germany** (1,6) and **Monaco** (2,2) while the highest salaries compared to the national average are reported in **Romania** (8,1), **UK - Northern Ireland** (7,8) and **Ukraine** (31,5).

— It is worth noting that there are States and entities where salaries of judges, although lower at the beginning of the career, rise significantly during the course of career such as **Italy** and **Latvia**. On the other hand, there are judicial systems that provide consistently high salaries throughout judges' career, such as **UK - England and Wales, Azerbaijan, Romania, UK - Northern Ireland** and **Ukraine**. In these States judges earn at least 3,7 times the average salary at the beginning of the career and more than 7,2 times the average salary at the end of the career.

Figure 3.37 Average gross salary of public prosecutors in relation to the national average gross salary in 2018 (beginning of a career / highest instance) (Q4, Q132)



— As shown in Figure 3.37, public prosecutors' salaries can be divided into four different groups based on their relation with the average gross salary.

— The salaries of prosecutors are the lowest at the beginning of their career, compared to the average salary. Similarly, as with the judges, large differences could be observed from **Ireland** (0,8), **Germany** (0,9) and **UK - Scotland** (0,9) to **Ukraine** (3,2) and **Romania** (4,0).

— Data provided for the highest instance salaries also display large variations between member States and entities. The lowest levels are noted in **Germany** (1,6) and **Iceland** (2,0) while the highest salaries compared to the national average are reported in **Italy** (6,4) and **Romania** (6,1)

It is worth noting that there are States and entities where salaries of public prosecutors, although lower at the beginning of the career, rise significantly during the course of their careers. In **Azerbaijan, France, Italy** and **Spain** this increase is particularly obvious as highest instance prosecutors receive 2,5 times or higher salaries compared with the first instance prosecutors. On the other hand, there are judicial systems that provide consistently high salaries throughout public prosecutors' career, such as **Bosnia and Herzegovina, Bulgaria, the Republic of Moldova, Romania, the Slovak Republic** and **Ukraine**. In these States prosecutors earn at least 2,7 times the average salary at the beginning of the career and more than 4,3 times the average salary at the end of the career.

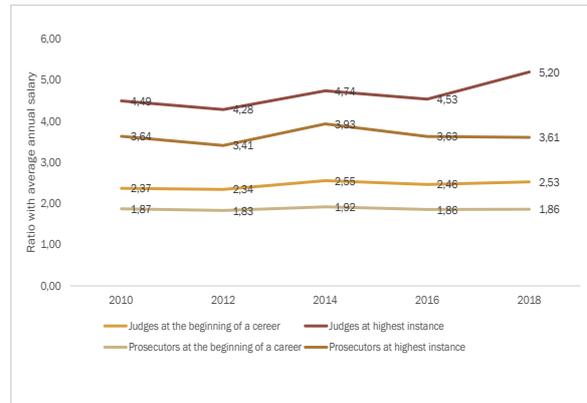
The situation for prosecutors' salaries is comparable to that for judges' salaries to a certain extent. However, prosecutors' salaries are on average lower than those of judges. The salary earned by public prosecutors is inevitably affected by the diversity characterising their statutory situation within States, entities and observers, which makes comparisons more difficult than for judges in certain cases.

In some States, generally, public prosecutors are in a similar situation to that of judges, whereas in other States, the prosecution offices' activities are fulfilled, at least partially, by police authorities. The salary levels therefore differ significantly. In **Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, France, Germany, Greece, Hungary, Italy, the Republic of Moldova, Monaco, the Netherlands, Poland, Portugal, the Slovak Republic, Spain, Turkey** and **Morocco**, the salary of judges and that of public prosecutors are nearly identical, both at the beginning of the career and at the highest instance.

For the other States and entities, generally, the salary of judges is on average higher than that of prosecutors. Nevertheless, this observation should be nuanced for the salaries at the beginning of the career by recalling that the average calculated in respect of judges includes States and entities where judges are recruited from among experienced lawyers and legal experts, i.e. among older professionals whose salary at the beginning of the career is already significant (**Denmark, Ireland, Malta, Norway, Switzerland, UK - England and Wales, UK - Northern Ireland, UK - Scotland** and **Israel**). In addition to these differences explained by the recruitment system for judges, the largest disparities (in favour of judges) can be noted in **Azerbaijan** and **Cyprus**, but also at the beginning of their careers only in **Estonia** and **Ukraine**.

How have salaries for judges and prosecutors developed?

Figure 3.38 Variation in the average ratios of gross salaries of judges and public prosecutors in relation to annual gross salaries between 2010 and 2018 (Q4, Q132)



Since 2010, the European average ratio of judges' remunerations to average gross salaries has increased by 16 percentage points for professional judges at the beginning of the career and by 71 percentage points for judges at the Supreme court. However, there is no general trend that judges' salaries have increased compared to average salaries. The main variations are as follows:

- The ratio of the salary of judges at the beginning of the career, as well as of judges at the Supreme court to the average salary, has risen significantly (by more than 50 percentage points) in **Azerbaijan, Denmark, Malta, the Republic of Moldova** and **Ukraine**. By contrast, this ratio has dropped significantly (by more than 50 percentage points) in **Andorra, Croatia, Estonia, Ireland** and **UK - Scotland**.
- The ratio of the salary of judges at the Supreme court to the salary of judges at the beginning of the career has risen significantly (by more than 60 percentage points) in **Andorra, Montenegro, Serbia** and **Ukraine**. In **Ukraine**, the ratio between the salary of a judge at the Supreme court to the average salary has even increased by 327 percentage points. **Ukraine** explains the extreme variation in judges' remuneration by reference to its judicial reform. By contrast, this ratio has dropped significantly (by more than 40 percentage points) in **Albania, Georgia, Germany** and **Monaco**.

Unlike for judges, the average ratio of prosecutors' remuneration to average gross salaries has dropped by 1 percentage point for prosecutors at the beginning of the career and by 3 percentage points for prosecutors at highest instance. The main variations are as follows:

- ▶ The ratio of the salary of prosecutors at the beginning of the career, as well as of prosecutors at the highest instance to the average salary, has risen significantly (by more than 25 percentage points) in the **Czech Republic, Denmark, Latvia, the Republic of Moldova, Portugal, the Russian Federation, Ukraine**. It has dropped significantly (by more than 25 percentage points) in **Croatia, Romania, Serbia and Slovenia**.
- ▶ The ratio of the salary of prosecutors at the highest instance to the salary of prosecutors at the beginning of the career has risen significantly (by more than 40 percentage points) in **Andorra, Azerbaijan, Georgia, Norway, Poland and Ukraine**. In **Albania, Bulgaria, France, Germany, Lithuania and Monaco**, it has dropped significantly (by more than 30 percentage points).

LAWYERS

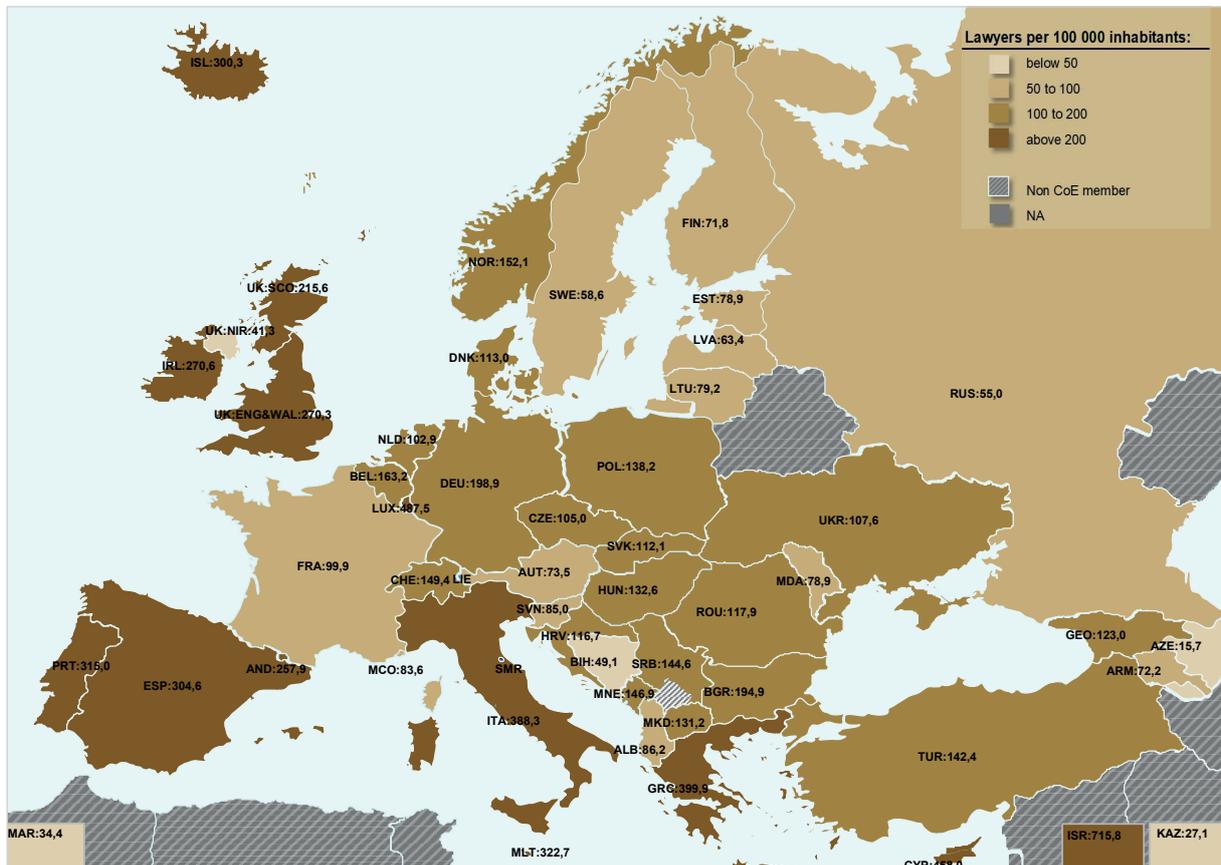
”Who is a lawyer?

Respecting the lawyer’s mission is essential to the rule of law. 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.

For the purposes of this Chapter, the term of lawyer refers to the definition set out in Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe on “The freedom of exercise of the profession of lawyer”: *“a person qualified and authorised according to 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”* (Committee of Ministers of the Council of Europe, Freedom of Exercise of the Profession of Lawyer, Rec(2000)21, 25th October 2000). Accordingly, a lawyer may be entrusted with legal representation of a client before a court, as well as with the responsibility to provide legal assistance.

”How many lawyers are there in Europe?

Map 3.39 Number of lawyers per 100 000 inhabitants in 2018 (Q1, Q146)

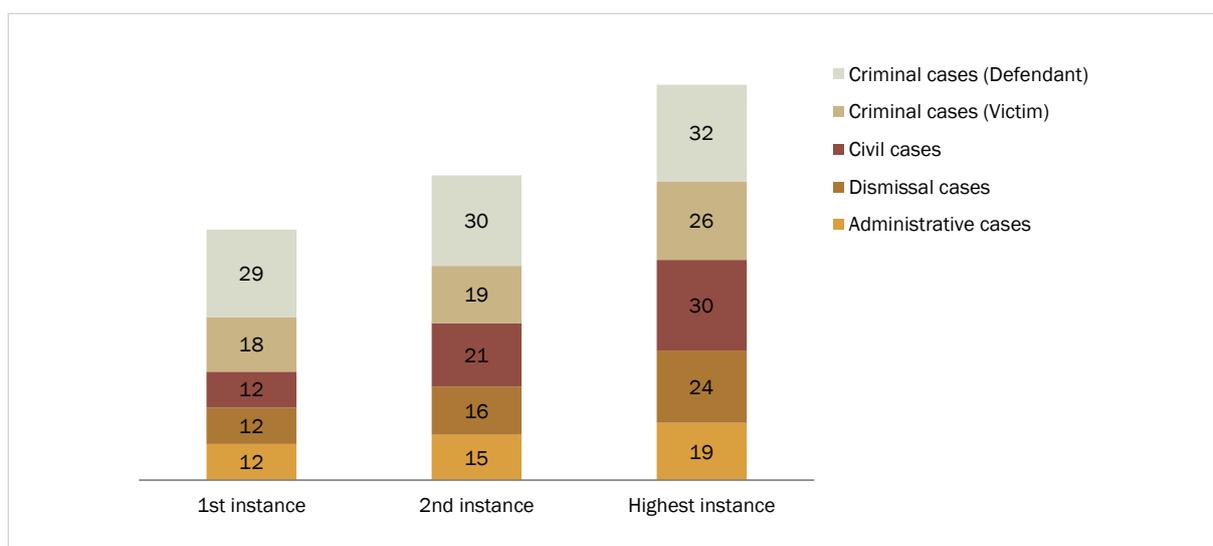


— The average number in 2018 was 164 lawyers per 100 000 inhabitants and the median was 123 lawyers per 100 000 inhabitants. However, the density of lawyers varies greatly between States. The lowest ratio in 2018 was 16 lawyers per 100 000 inhabitants in **Azerbaijan** and the highest 488 in **Luxembourg**, followed by **Cyprus** (458). **Greece** has close to 400 lawyers per 100 000 inhabitants, and **Italy** (388) is close to this number. The figures then decrease for **Malta** (323), **Portugal** (315), **Spain** (315), **Iceland**

(300), **Ireland** (271), **UK - England and Wales** (270), **UK - Scotland** (216), **Germany** (199), etc.

— The disparities can mainly be explained by the legal traditions, the definition and scope of the lawyers' competences and their exclusive rights to represent in court, as well as the implementation of justice reforms or new laws. It is interesting that particularly high numbers can be found in Southern European countries and in common law countries. In addition, an influence of economic factors can be observed.

Figure 3.40 Summary of the monopoly of legal representation in 2018 (number of member States / entities) (Q149)



— The role of lawyers in a judicial system depends on the existence of a monopoly on representation in courts. For all types of cases, that is criminal cases (with regard to victims as defendants), civil cases, employment dismissal cases and administrative cases, the number of States and entities that provide for such monopoly increases from instance to instance. Mandatory representation by a lawyer reaches logically its highest levels at highest instance.

— It is mainly the defendants in criminal cases who are represented by a lawyer (29 States at first instance, 30 States at second instance and 32 States

at last instance). For civil, dismissal and administrative cases, the monopoly exists mainly at the level of highest instance (30, 24 and 19 States and entities, respectively). Concerning representation of victims, the monopoly exists at highest instance in 26 States and entities, whereas it exists only in 18 States and entities at first instance.

— The figures have remained broadly stable since 2016. Variations are more likely to result from revisions of the data provided in earlier years than from legislative changes.

Figure 3.41 Number of lawyers per 100 000 inhabitants and the number of monopolies in legal representation in 2018 (Q1, Q146, Q149)

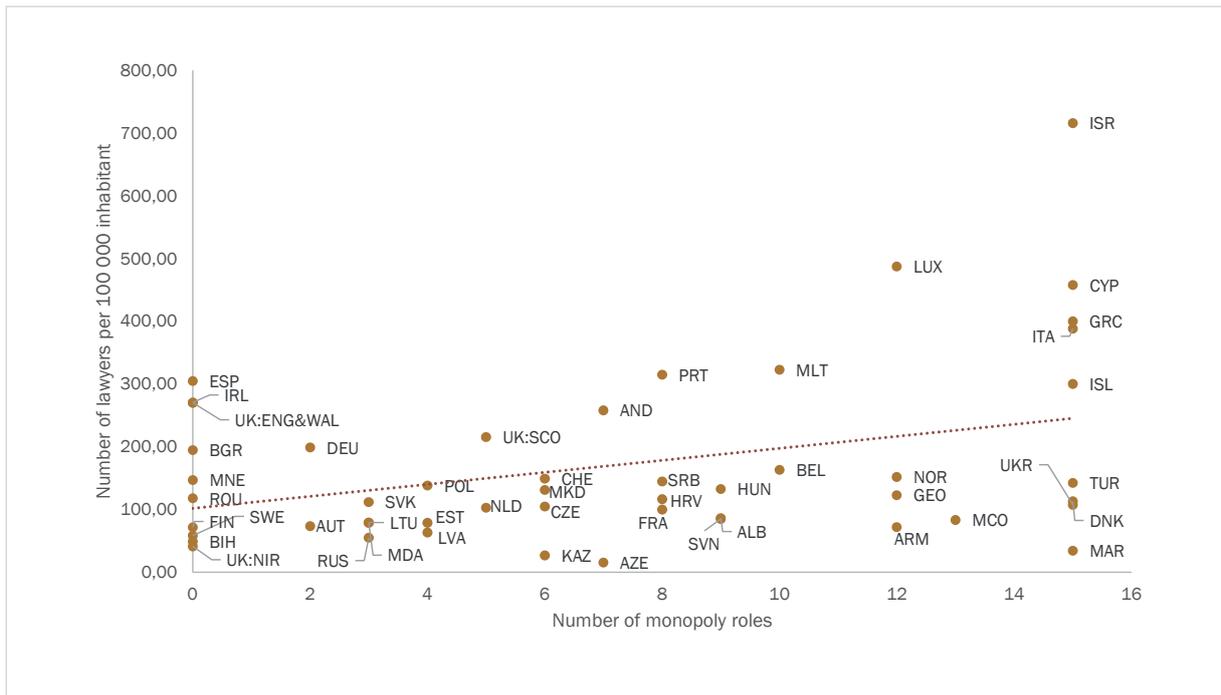
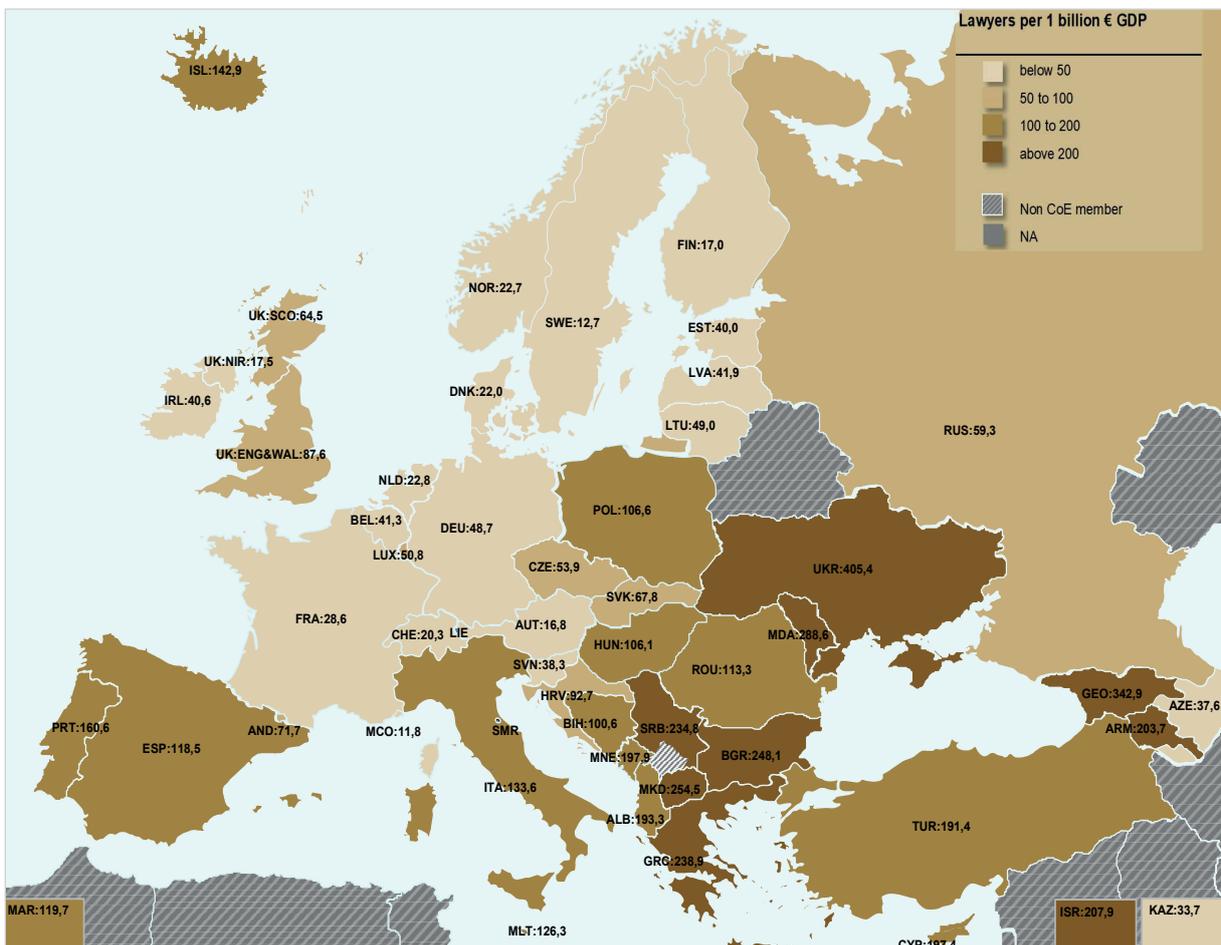


Figure 3.41 indicates that the monopoly of lawyers also has an influence on the number of lawyers: there tend to be more lawyers per 100 000 inhabitants in States and entities in which lawyers have exclusive rights.

Map 3.42 Number of lawyers per 1 billion € GDP in 2018 (Q1, Q3, Q146)



When analysing the Map 3.42, GDP seems to be of even more importance than population size concerning the absolute number of lawyers. While most States and entities of Western Europe (**Austria, Belgium, the Czech Republic, Croatia, Denmark, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, the Slovak Republic, Slovenia, Sweden, Switzerland, UK - England and Wales, UK - Northern Ireland** and

UK - Scotland) have rather low numbers of lawyers compared to their total GDP (less than 100 lawyers per 1 billion € GDP), rather high numbers of more than 100 lawyers per 1 billion € GDP can mainly be found in Eastern, Central and Southern Europe (**Armenia, Bosnia and Herzegovina, Bulgaria, Cyprus, Georgia, Greece, Italy, Republic of Moldova, Malta, Montenegro, North Macedonia, Portugal, Romania, Serbia, Spain, Turkey and Ukraine**).

” How has the number of lawyers developed?

Figure 3.43 Evolution in the number of lawyers per 100 000 inhabitants, 2010 - 2018 (Q1, Q146)

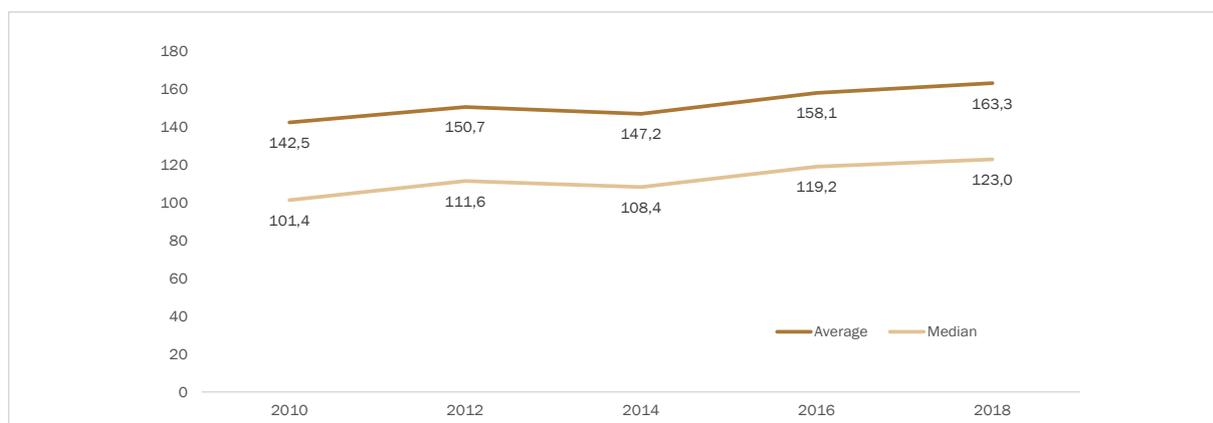
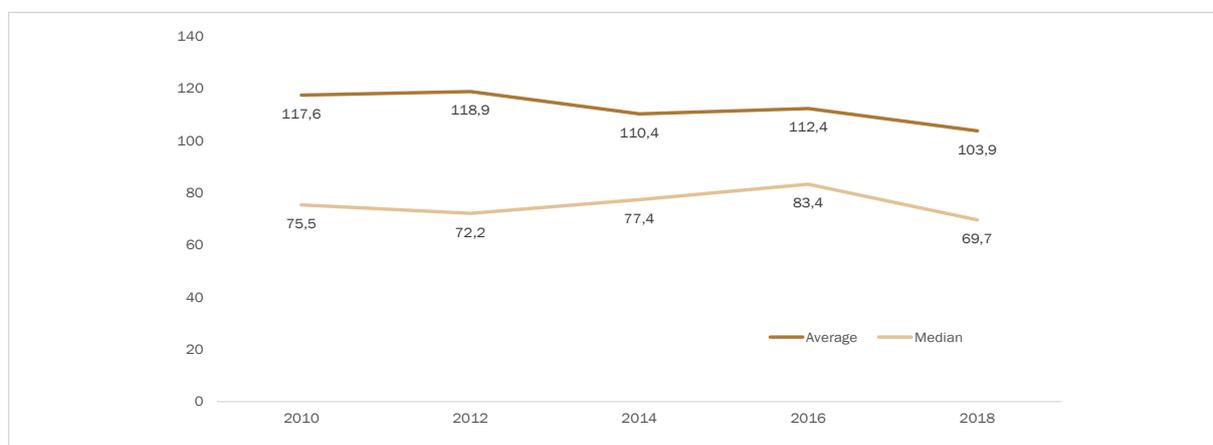


Figure 3.44 Evolution in the number of lawyers per 1 billion € GDP, 2010 - 2018 (Q3, 146)



The number of lawyers per 100 000 inhabitants has continued to increase from 2016 to 2018, as in the previous four cycles. The average increase is 7,75%, representing a strong and ongoing general trend. Between 2010 and 2018, there has been an average increase of 27%, with significant decreases only in **Malta, Ukraine** and **UK - England and Wales**. The figures in **Armenia, Finland** and **Lithuania** increased by more than 100%; the increase in **Azerbaijan, Cyprus, Georgia** and the **Republic of Moldova** was also strong at 50 to 100%. The increases in the ratios of lawyers per 100 000 inhabitants are largely due to the development in the absolute number of

lawyers, which increased between 2010 and 2018 in all States and entities except **Latvia, Malta, Ukraine** and **UK - England and Wales**. Variations in population play a subordinate role.

The reasons for the development in the number of lawyers are complex and often specific to the country. However, the increase in the number of lawyers in Europe between 2010 and 2018 is largely due to economic growth and increasing wealth. The adoption of higher democratisation standards and the implementation of legislative reforms also have an influence.

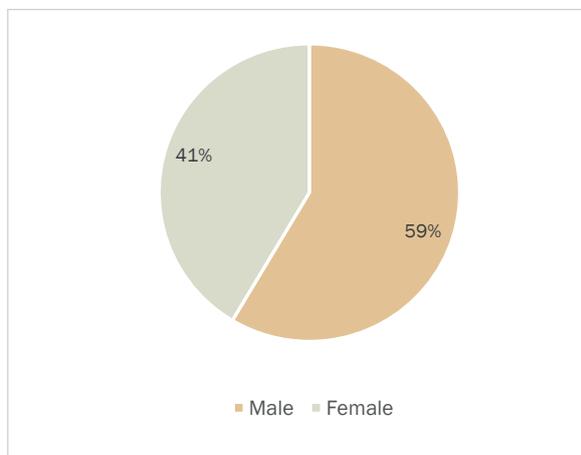
” Is gender balance ensured in Europe in the recruitment and promotion of lawyers?

There are still few States and entities in which specific provisions in favour of gender parity have been enacted and implemented for the recruitment and promotion procedures for lawyers. However, the topic seems to be coming into focus. In 2018, six countries

indicate having provisions to facilitate gender balance in both recruitment and promotion procedures for lawyers (**France, Iceland, UK - England and Wales, UK - Northern Ireland, UK - Scotland and Israel**).

” Are there equal numbers of women and men lawyers?

Figure 3.45 Average distribution of lawyers by gender in 2018 (Q146)



While the average female proportion has already become predominant among judges and prosecutors, the picture for lawyers is different. The lawyer's profession is predominantly male in all States and entities except **Bulgaria, Cyprus, France, Malta, North Macedonia, Portugal and UK - Scotland**. The average proportion of men is 59%, ranging from 44% in **France** and **UK - Scotland** to 84% in **Azerbaijan**.

Trends and conclusions

While the number of professional judges has been broadly stable, significant differences are still noticed between States and entities. They can be partly explained by the diversity of judicial organisations, use of occasional professional judges and/or lay judges. Variations over the years have not led towards harmonisation. The regional differences already observed in former reports remain valid.

More and more States and entities seem to be focusing on the topic of specific provisions in favour of gender parity in the procedures for the recruitment and promotion of judges and prosecutors. However, while the increase in feminisation among judges and prosecutors is a confirmed European trend, the glass ceiling has remained firmly in place for the highest functions. The developments in recent years encourage taking additional measures to facilitate the career development of women and to promote gender balance in the higher and highest justice functions.

Salaries of judges vary widely between States and entities, but also between instances. The changes in salaries in recent years are not uniform and do not lead to harmonisation.

There are still significant disparities in the salary levels of public prosecutors. The considerable statutory disparities concerning the situation of public prosecutors of States and entities make it difficult to draw a relevant comparison between their situation and that of judges. Nevertheless, more and more States are paying identical salaries for judges and prosecutors, at the beginning of the career as well as at the end of the career. The remaining discrepancies are to be explained by the specificity of the recruitment procedure of judges in some systems (where legal experience constitutes the core criterion of selection) and with the specificities of the public prosecution services (when prosecution functions are carried out

simultaneously by prosecutors and other specific bodies such as the police, or, on the contrary, when for historical reasons, prosecutors are granted a status of particular importance).

The number of lawyers is still increasing in Europe, with significant differences between States and entities. The increase in the number of lawyers in Europe between 2010 and 2018 is to be explained not only by legal traditions, the definition and scope of the lawyers' skills and laws/justice reforms, but also and largely by the economic growth and other factors.

The monopoly of lawyers is not a marked trend. Only for defendants in criminal cases is there a majority of States and entities that provides for compulsory representation by a lawyer already at first instance. For all types of cases examined, the number of States and entities that provide for a monopoly increases from instance to instance.

Recent developments suggest that the topic of gender balance with regard to lawyers is being taken into account by an increasing number of States and entities. Currently, however, European lawyers are still predominantly male.

ORGANISATION OF COURTS

The right to a fair trial enshrined in Article 6 § 1 of the European Convention on Human Rights implies that States shall set up a sufficient network of courts so that citizens can easily exercise the prerogatives they derive from this provision.

Admittedly, the existence of a sufficient number of courts is only one of the conditions for the realisation of the right to access to justice, which cannot be effective without a genuine comprehensive policy of access to the law. However, it is an essential element of it, as an indispensable venue for the resolution of disputes.

Moreover, since the right to access to justice should not remain a purely theoretical right, it is incumbent on States to guarantee equal access for all citizens to dispute resolution institutions, regardless of where they live or work.

The Figures in this chapter make it possible to have an overall view of the judicial institutions in Europe, in particular:

- ▶ the number of courts of general jurisdiction and specialised courts, and their respective places in each State;
- ▶ the number of courts in relation to the size of the population of each State;
- ▶ the evolution in the number of courts over the 2016 - 2018 period.

Without claiming to present an exhaustive study of the question of the organisation of the courts in Europe, the purpose of this summary is essentially to highlight the main orientations between 2010 and 2018.

To understand it well, some definitions used by the CEPEJ should be recalled:

- ▶ Courts are first considered as **legal entities**, *i.e.* institutions responsible for settling disputes submitted to them by citizens.

These legal entities consist of first instance courts (of general jurisdiction and specialised). Courts of general jurisdiction deal with all matters that are not assigned to specialised courts having competence over specific subjects. As it has been emphasised in the last report, the data provided must be treated with care as both the concept of a court and the scope of its powers may vary from one judicial system to another.

- ▶ In addition to their character of legal identities, courts can also be defined by their **geographic location**, *i.e.* by the premises in which judicial activities take place (reception of the public and legal professionals; hearings, etc.).

In this respect, several courts, *i.e.* legal entities, may be located in the same place (e.g. a civil court, a commercial court and an administrative court may be located in the same building), or, conversely, the same court may have premises in different cities.

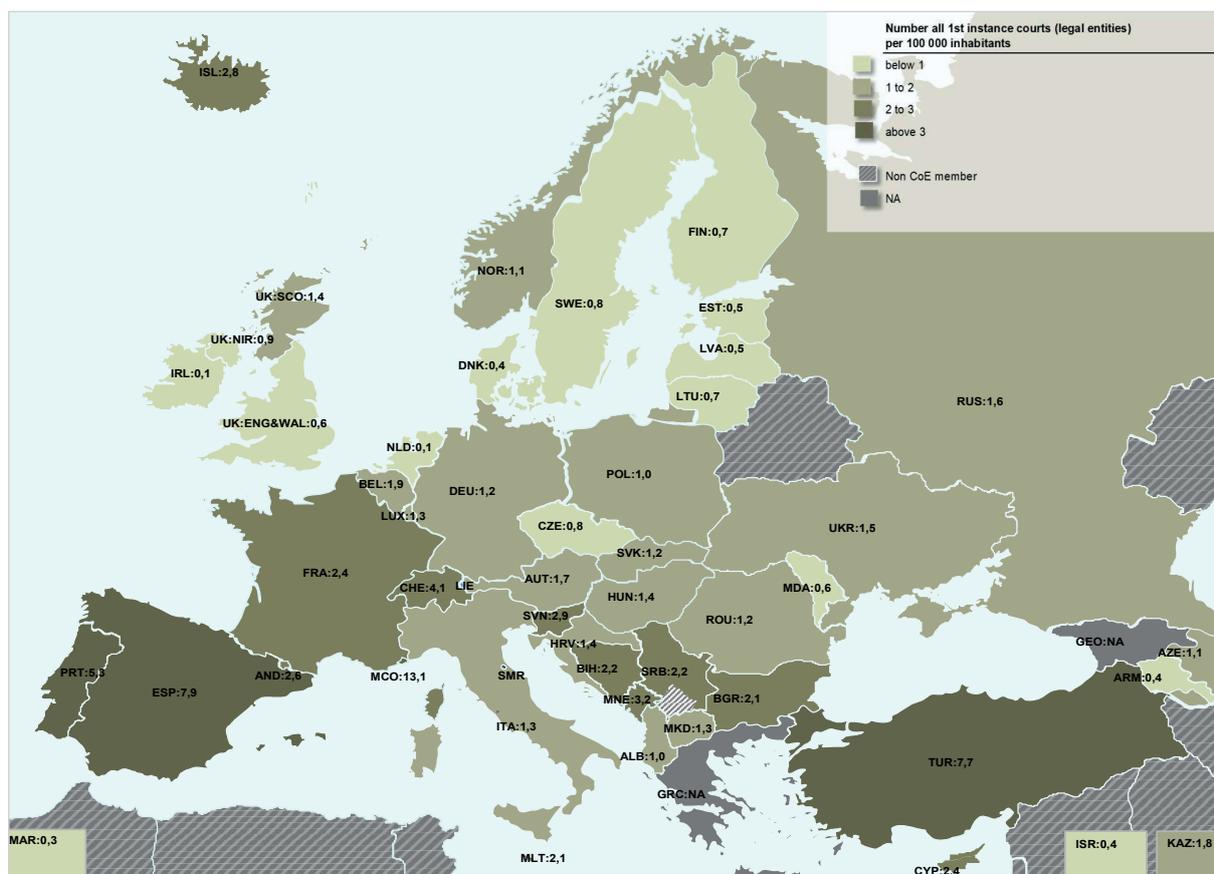
Data on courts considered as geographic locations encompass courts of first and second instance and Supreme or cassation courts in each State.

” Do users have the same access to courts throughout Europe?

Maps 4.1.1 and 4.1.2 show a very large disparity between States in terms of density of courts per 100 000 inhabitants, ranging, for legal entities, from 0.07 for the **Netherlands** to 13.05 for **Monaco** and, for geographic locations, from 0.23 for the **Netherlands** to 5.03 for **Croatia**.

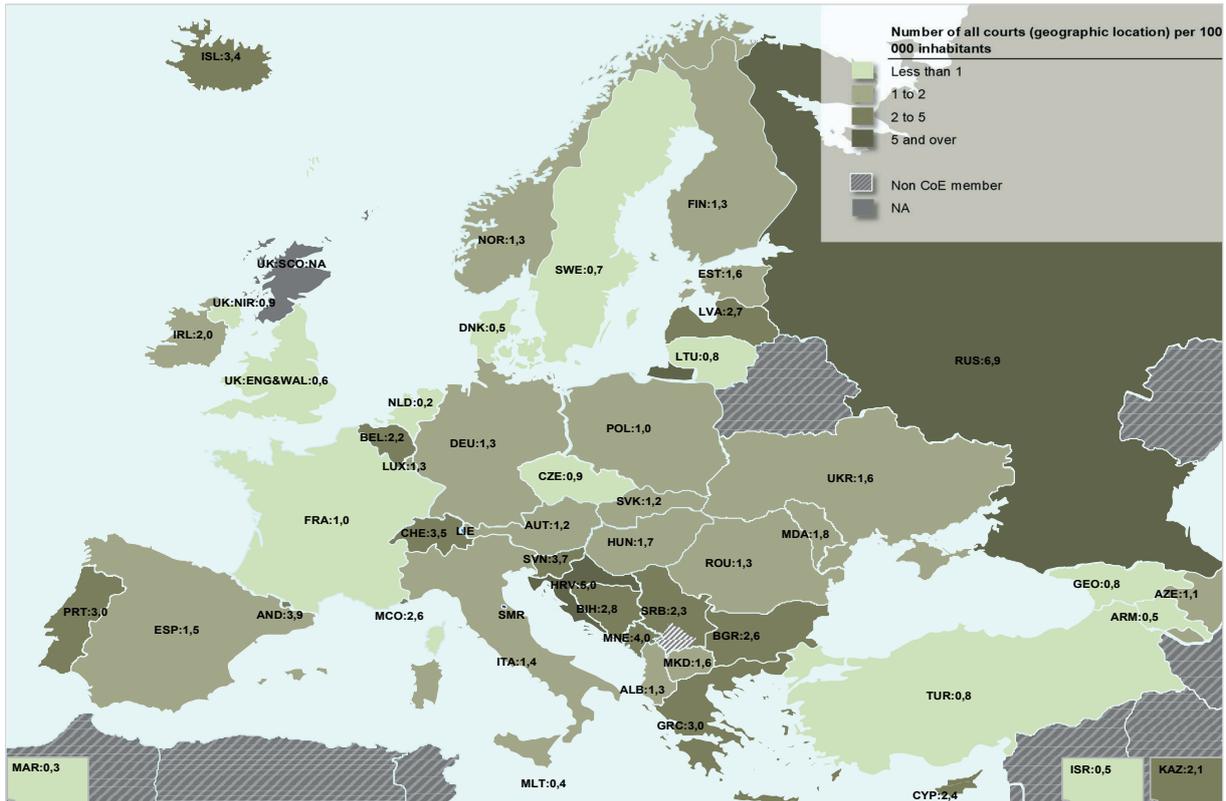
These indications must nevertheless be considered with caution, taking into account the specific features of each State, since a low density of courts does not necessarily affect access to justice. This is particularly the case for States with small geographic dimensions.

Map 4.1.1 Number of 1st instance courts of general jurisdiction and specialised (legal entities) per 100 000 inhabitants in 2018 (Q1, Q42)



*High numbers in **Spain** and **Turkey** could be explained by a different concept of the first instance courts existing in these countries (one judge – one court)

Map 4.1.2 Number of all courts (geographic location) per 100 000 inhabitants in 2018 (Q1, Q42)



*The Russian Federation uses a particular methodology for counting the number of courts (geographic locations).

■ The density of courts on national territories is one of the indicators of citizens' access to justice at a given time.

■ However, if we look at the data over a longer period of time, from 2010 to 2018, two trends seem to emerge - the decrease in the number of courts (legal entities and geographic locations) on the one hand, and the specialisation of courts on the other.

Figure 4.1.3 Evolution of the average number of first instance courts of general jurisdiction (legal entities), 2010 – 2018 (Q1, Q42)

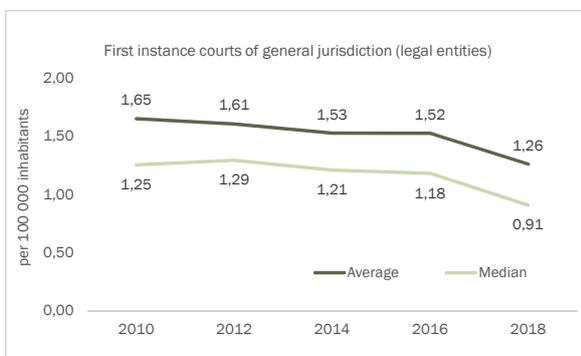


Figure 4.1.4 Evolution of the average number of all courts (geographic location), 2010 – 2018 (Q1, Q42)

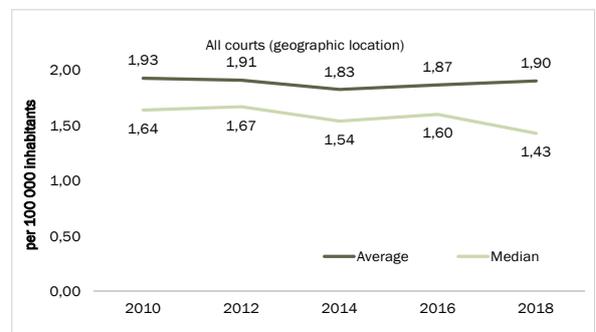


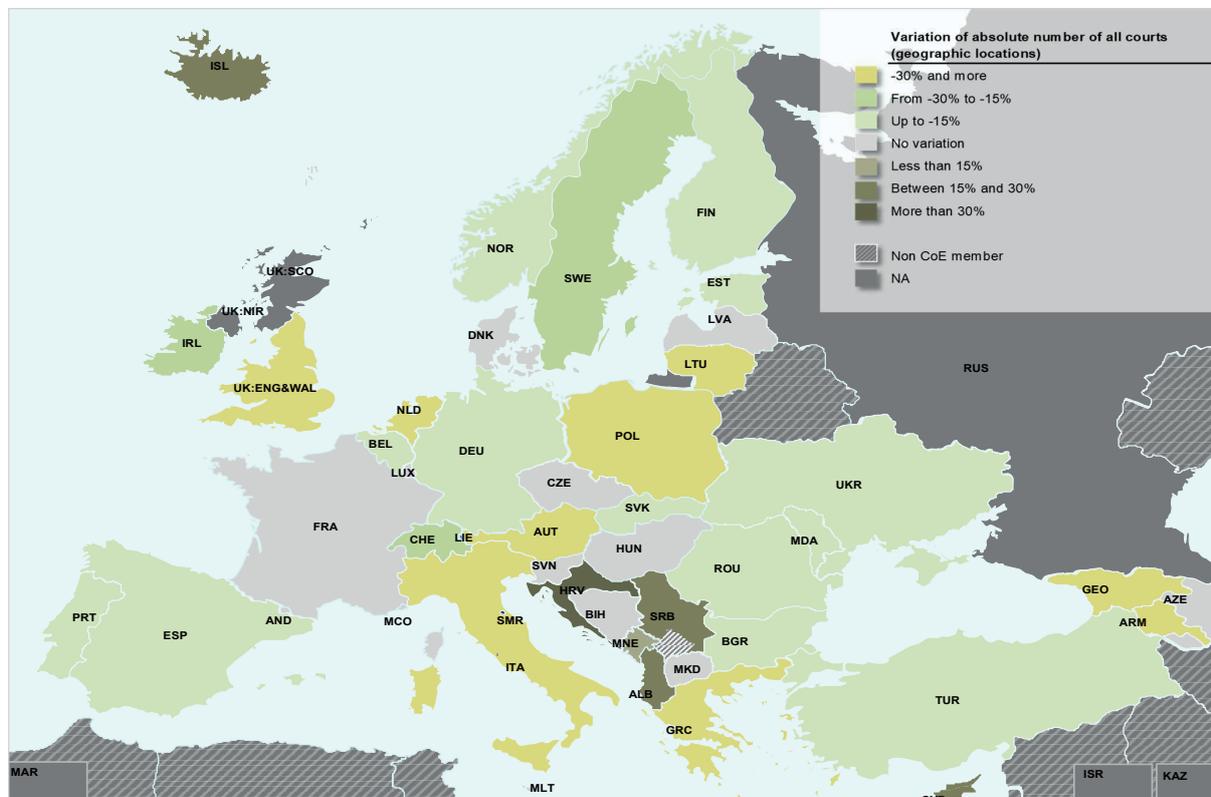
Figure 4.1.5 Evolution of the average number of first instance specialised courts, 2010 – 2018 (Q1, Q42)



Are there fewer and fewer courts in Europe?

With respect to geographic locations, the data collected show that there has been a general trend since 2010 towards their reduction (-10% overall average).

Map 4.1.6 Variation of absolute number of all courts (geographic locations), 2010 - 2018 (Q42)



However, this does not necessarily mean that there has been a reduction in the number of courts (as legal entities) in the States.

Indeed, sometimes, geographic locations have been restricted while the number of courts as legal entities has remained stable. This situation is observed in **Estonia** and the **Slovak Republic**.

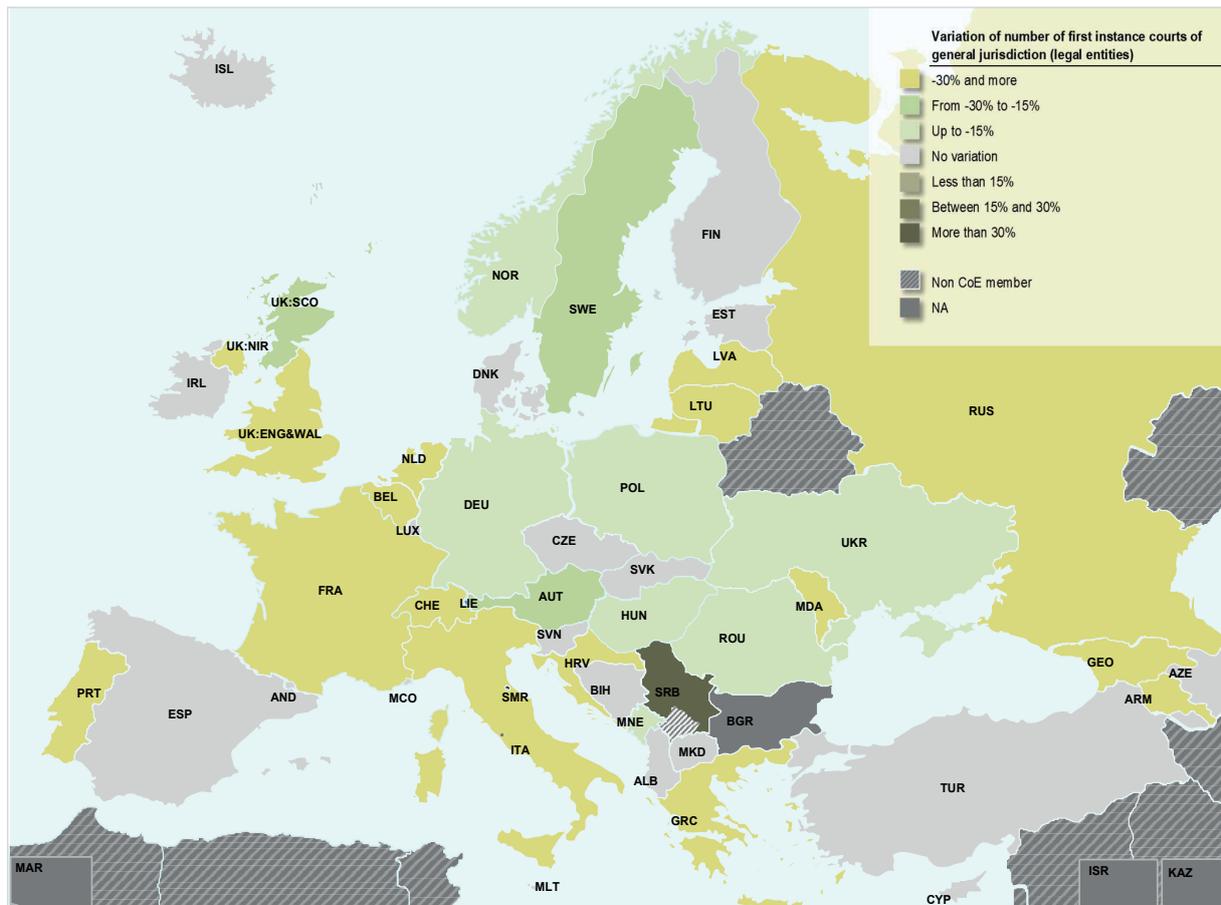
Belgium also presents an interesting example. Indeed, while the number of first instance courts of general jurisdiction has remained stable since 2014 (13), the number of first instance specialised courts has been reduced following the reform of justices of peace implemented between 2016 and 2019. Accordingly, the number of geographic locations (courts of general jurisdiction and specialised ones, all instances combined) decreased from 267 in 2016 to 253 in 2018.

Sometimes, on the contrary, geographic locations have been maintained, to facilitate access to justice in certain territories, but the number of courts, as legal entities, has been reduced. **France**, for example, has substantially reduced the number of its first instance courts of general jurisdiction between 2016 and 2018 (from 786 to 168) without this appearing to have affected the geographic locations of the courts (641). This change in the judicial map results in particular from the abolition of the proximity courts (311), whose jurisdiction have been divided from July 2017 between the courts of first instance (*tribunaux d'instance*) in civil matters and the police courts attached to the courts of first instance (*tribunaux de grande instance*) in criminal matters. This evolution between 2016 and 2018 should also be nuanced by the fact that the category *tribunaux d'instance* (307) are counted in 2018 as specialised courts, whereas they were previously counted as first instance courts of general jurisdiction.

Portugal has increased the number of geographic locations (from 253 to 312) while limiting the number of its legal entities of general jurisdiction at first instance between 2016 and 2018 (from 292 to 150). The main objective of the judicial reorganisation carried out by the law of December 2017 was to increase the number of first instance specialised courts. Thus, 20 courts that were closed in 2014 were re-created as proximity justices, new family sections were created, as well as new sections with generic jurisdiction. The purpose of these amendments was to facilitate citizens' access to courts and to combat the "desertification" of the country's interior regions.

Regarding legal entities, the overall average number of first instance courts of general jurisdiction decreased by 19% between 2010 and 2018.

Map 4.1.7 **Variation of absolute number of first instance courts of general jurisdiction (legal entities), 2010 - 2018 (Q42)**



■ In fact, Figure 4.1.8 shows that many States have reduced the number of courts of general jurisdiction since 2010 (e.g. **Armenia, Belgium, Croatia, France, Georgia, Greece, Italy, Latvia, Lithuania, Republic of Moldova, the Netherlands, Portugal, Switzerland, United Kingdom**).

■ The objectives pursued are diverse. For example, the aim can be to reduce costs and take into account budgetary constraints, to ensure greater efficiency of the courts, in particular by achieving a better repartition of the workload between courts and greater specialisation of judges, and to take into account population movements and territorial changes.

■ This trend is however not general and should be nuanced for three reasons:

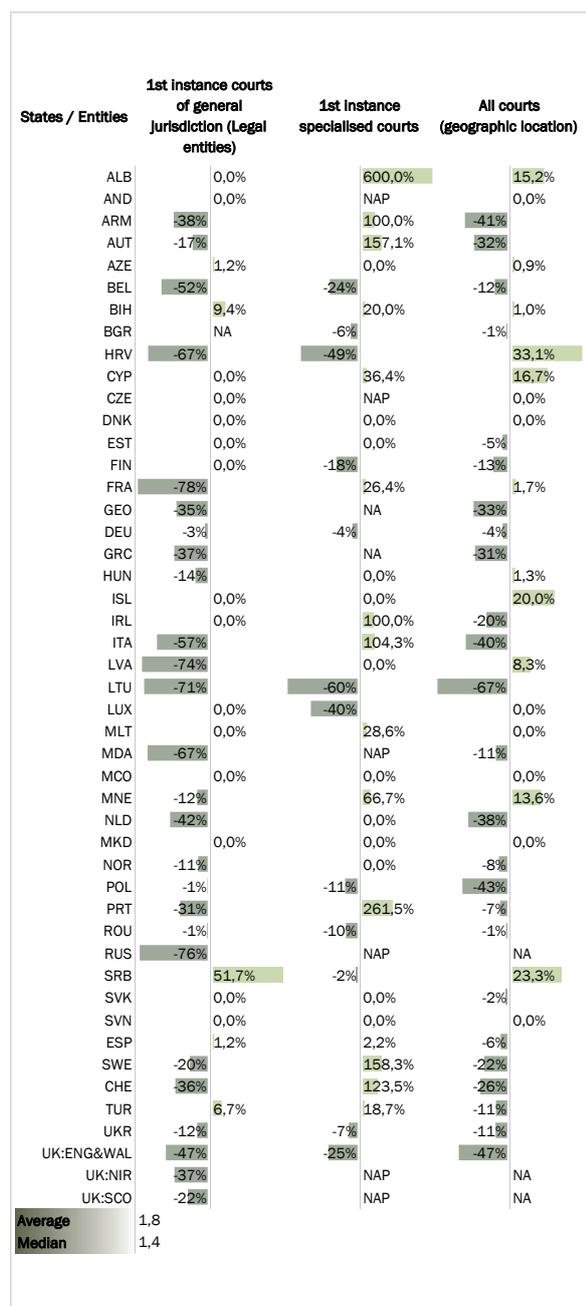
- A stability in the total number of first instance courts of general jurisdiction, as legal entities, is observed during the reference period for many countries (**Albania, Bulgaria, the Czech Republic, Cyprus, Denmark, Estonia, Finland, Ireland, Iceland, Luxembourg, Malta, Monaco, North Macedonia, the Slovak Republic, Slovenia**).

■ While the small geographic size of some States falling into this category may explain the maintenance of the number of courts, this is obviously not true for all of them.

■ Moreover, the stability observed during this period does not mean that no reform of the structure of the national judicial system has taken place or is envisaged, as some States, such as **Bulgaria** for example, referred to reform projects that were not yet implemented, or not fully implemented, by 2018.

- Sometimes -although this is rarer- some States have increased the number of their courts of general jurisdiction (e.g. **Bosnia and Herzegovina, Serbia, Turkey, Morocco**). **Bosnia and Herzegovina** referred to the need to improve access to justice on its territory. **Serbia** specified that the 2014 reform has been carried out particularly with the aim of reducing expenditure and contributing to easier access to justice.
- Finally, while the overall average number of courts of general jurisdiction per 100 000 inhabitants has decreased, this trend seems to have been offset by the establishment of specialised courts for the period 2016-2018.

Figure 4.1.8 Variation in number of courts, 2010 – 2018 (Q1, Q42)



Does access to justice require specialisation of courts?

As already pointed out in the previous report based on 2016 data, data relating to specialised courts must be put into perspective, because of the differences in understanding of the concept of specialisation, which may relate, in principle, to the court itself or, exceptionally, to a particular formation or chamber of a general court.

In its Opinion No. 15 (2012) on the specialisation of judges, the CCJE emphasised that specialised courts should only be set up when they are necessary for the proper administration of justice, because of the complexity or specificity of the law or the facts.

The trend towards specialisation of the courts, already observed for the previous evaluation cycle (2016 data), is nevertheless confirmed during the 2016-2018 reference period (Figures 4.1.9, 4.1.10): while 18 States had no specialised courts or a number of specialised courts representing less than 10% of the first instance courts in the previous reporting period (2016 data), in 2018 there are 15 States falling into this category.

The number of courts of general jurisdiction is on average 1,08 per 100 000 inhabitants in 2018, compared to 1,23 in 2016. On the other hand, the number of specialised courts has increased from 0.75 in 2016 to 0,81 per 100 000 inhabitants in 2018.

This trend deserves special attention and will be analysed in the following paragraphs.

Figure 4.1.9 Participation of first instance specialised courts within the total number of first instance courts (legal entities) in 2010, 2016 and 2018 (Q42)

States / Entities	2010	2016	2018
ALB	4,3%	24,1%	24,1%
AND	0,0%	0,0%	0,0%
ARM	5,9%	5,9%	16,7%
AUT	4,3%	12,2%	12,3%
AZE	17,5%	17,3%	17,3%
BEL	90,7%	94,5%	93,9%
BIH	7,2%	6,9%	7,9%
BGR	NA	22,1%	22,1%
HRV	51,5%	62,1%	62,1%
CYP	64,7%	71,4%	71,4%
CZE	0,0%	0,0%	0,0%
DNK	7,7%	7,7%	7,7%
EST	33,3%	33,3%	33,3%
FIN	28,9%	25,0%	25,0%
FRA	59,9%	58,0%	89,7%
GEO	0,0%	0,0%	NA
DEU	24,8%	24,5%	24,5%
GRC	0,9%	NA	NA
HUN	13,2%	15,3%	15,0%
ISL	20,0%	20,0%	20,0%
IRL	25,0%	40,0%	40,0%
ITA	8,6%	32,5%	30,9%
LVA	2,9%	3,4%	10,0%
LTU	7,8%	8,5%	10,5%
LUX	50,0%	37,5%	37,5%
MLT	87,5%	87,5%	90,0%
MDA	4,2%	4,2%	0,0%
MCO	80,0%	80,0%	80,0%
MNE	15,0%	25,0%	25,0%
NLD	5,0%	8,3%	8,3%
MKD	10,7%	10,7%	10,7%
NOR	2,9%	3,1%	3,3%
POL	7,1%	6,7%	6,4%
PRT	33,4%	43,8%	72,4%
ROU	4,1%	3,7%	3,7%
RUS	0,0%	0,0%	0,0%
SRB	50,8%	40,0%	40,1%
SVK	14,3%	14,3%	14,3%
SVN	8,3%	8,3%	8,3%
ESP	39,0%	39,2%	39,2%
SWE	16,7%	14,3%	39,2%
CHE	23,8%	51,2%	52,3%
TUR	25,1%	28,3%	27,1%
UKR	7,5%	7,5%	7,8%
UK:ENG&WAL	0,6%	0,8%	0,9%
UK:NIR	0,0%	0,0%	0,0%
UK:SCO	0,0%	1,3%	1,3%
ISR	..	47,9%	12,5%
KAZ	32,7%
MAR	..	21,2%	17,8%

% of 1st instance specialized courts			
	2010	2016	2018
Average	21,0%	24,5%	26,7%
Median	9,7%	15,3%	17,3%

The proportion of specialised courts exceeding 50% of the total number of first instance courts has also increased very slightly. In 2016, this proportion existed in seven States. In 2018, this proportion is observed in eight States.

Thus, the average share of specialised courts, as a proportion of all first instance courts, is 26,7% in 2018, compared to 24,5% in 2016. Over a longer period (2010-2018), Figure 4.1.8 confirms the observation of a decrease in the number of courts of general jurisdiction and an increase in the number of specialised courts.

An analysis of the data over a longer period (Figure 4.1.10, for the change in the number of specialised courts between 2010 and 2018) shows that the predominant trend is towards the creation of specialised courts (among the most significant examples: **Austria, Portugal, Switzerland**), the share of specialised courts among all first instance courts increasing, as shown in Figure 4.1.9.

Figure 4.1.10 Variation in the number of specialised courts, 2010 - 2018 (Q42)

States / Entities	Absolute variation 2010 - 2018	Variation in % 2010 - 2018
ALB	6	600%
ARM	1	100%
AUT	11	157%
AZE	0	
BEL	62	24%
BIH	1	20%
BGR	2	6%
HRV	34	49%
CYP	4	36%
DNK	0	
EST	0	
FIN	2	18%
FRA	306	26%
DEU	11	4%
HUN	0	
ISL	0	
IRL	1	100%
ITA	121	104%
LVA	0	
LTU	3	60%
LUX	2	40%
MLT	2	29%
MCO	0	
MNE	2	67%
NLD	0	
MKD	0	
NOR	0	
POL	3	11%
PRT	285	261%
ROU	1	10%
SRB	1	2%
SVK	0	
SVN	0	
ESP	32	2%
SWE	19	158%
CHE	100	123%
TUR	269	19%
UKR	4	7%
UK:ENG&WAL	1	25%

However, variations should be put into perspective due to the low number of specialised courts of first instance in some countries (e.g. **Albania, Armenia, Montenegro**). In addition, it should be noted that in **Italy** and **Sweden**, the variations that appear are only the result of a change in the methodology of presentation of data which remained stable.

Figure 4.1.11 shows that, present in almost all Council of Europe States, specialised courts cover a wide variety of fields of competence, the main specialised courts being, as in the previous reference period (2016 data), administrative courts, commercial courts and labour courts.

As for the previous period, an important “other” category reflects the diversity of systems and types of courts established for certain categories of disputes.

Croatia and **Serbia**, for example, have placed in this category the Misdemeanour courts, **Denmark** the Land Registration Court, **Bulgaria** the Specialised Criminal Court of the Republic of Bulgaria (competent in matters of organised crime), **Germany** the financial courts, **Finland** the High Court of Impeachment, **Iceland** the Landsdomur (these courts having jurisdiction over certain categories of persons engaged in public activities) and **Italy** the juvenile and tax courts.

Figure 4.1.11 Existence of specialised courts in 2018 (Q43, Q44)

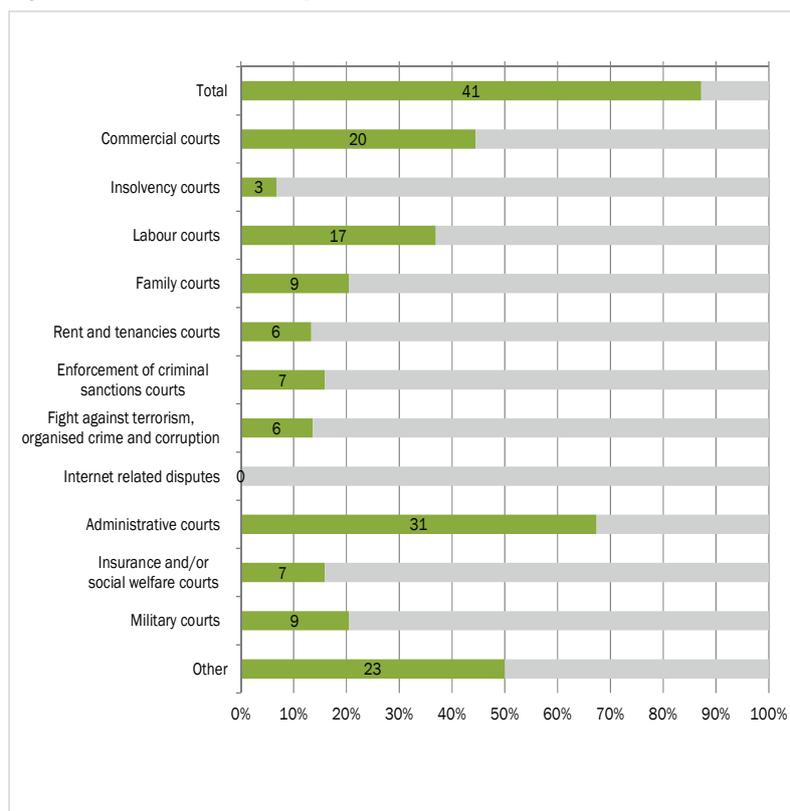
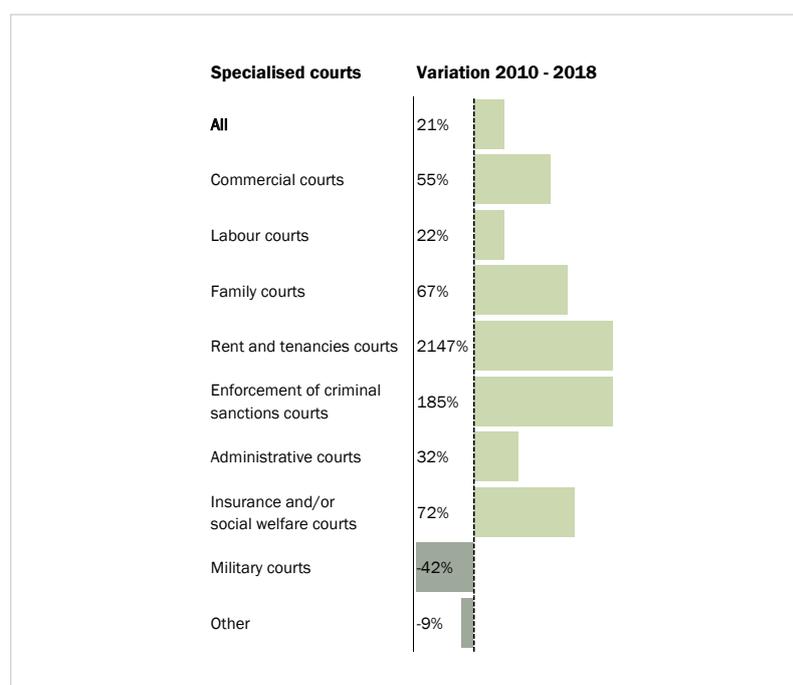


Figure 4.1.12 Variation in the total number of specialised courts by type of court (Q43)



The evolution towards specialisation of courts takes account of the increasing complexity of law and litigation (on this complexity, see Opinion No. 15(2012) of the CCJE, § 8) and of the need to guarantee correlatively both the quality and efficiency of judicial intervention.

As pinpointed in the introduction to this chapter, in a traditional judicial system, the right to access to justice essentially relies on the conditions under which citizens can, by themselves or a legal representative, appear before a judge. It therefore implies a relative proximity between the litigants and the court, at least for the first instance. Therefore, the examination of the data on court organisation raises several additional questions.

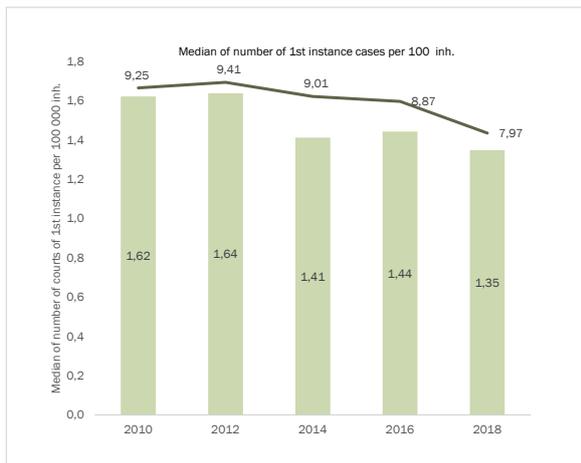
” Does the decrease in the number of courts of general jurisdiction and in the number of geographic locations of courts have an impact on the number of cases brought before courts?

— One of the arguments against abolishing courts is that the remoteness of the courts may deter some litigants from seeking justice.

— Even if it seems that the volume of cases submitted to first instance courts follows the evolution of the number of such courts, these statistical data should be analysed with caution. Only an in-depth examination of the data and a specific study of the issue, which go beyond the limits of this report, would make it possible to determine clearly whether or not changes in the number of courts have an influence on the number of cases brought to court.

— In addition, the trend towards the specialisation of the courts, which have jurisdiction over cases of a particular nature, is likely to have an impact on the nature of the cases brought before court.

Figure 4.1.13 Evolution in median of number of cases at 1st instance per 100 inhabitants and number of courts per 100 000 inhabitants (Q42, Q91)



” In such a context, do the small disputes of everyday life still have their place before the courts?

— From this point of view, the data collected do not show any major changes over the recent period (Figure 4.1.14).

Figure 4.1.14 Value of a small claim and ratio with GDP per capita (Q3, Q45-2)

States / Entities	Value of small claim	as % of GDP per capita
ALB	1.107 €	24,8%
AND	1.200 €	3,3%
ARM	NAP	NAP
AUT	15.000 €	34,3%
AZE	NAP	NAP
BEL	5.000 €	12,7%
BIH	2.500 €	51,2%
BGR	5.000 €	63,7%
HRV	1.349 €	10,7%
CYP	3.000 €	12,9%
CZE	NAP	NAP
DNK	6.704 €	13,1%
EST	6.400 €	32,4%
FIN	NAP	NAP
FRA	NAP	NAP
GEO	NAP	NAP
DEU	600 €	1,5%
GRC	5.000 €	29,9%
HUN	9.312 €	74,5%
ISL	NAP	NAP
IRL	2.000 €	3,0%
ITA	5.000 €	17,2%
LVA	2.100 €	13,9%
LTU	2.000 €	12,4%
LUX	10.000 €	10,4%
MLT	5.000 €	19,6%
MDA	3.249 €	118,9%
MCO	4.600 €	6,5%
MNE	1.000 €	13,5%
NLD	25.000 €	55,5%
MKD	9.756 €	189,3%
NOR	15.135 €	22,6%
POL	4.651 €	35,9%
PRT	15.000 €	76,5%
ROU	2.107 €	20,3%
RUS	NAP	NAP
SRB	3.000 €	48,7%
SVK	NAP	NAP
SVN	2.000 €	9,0%
ESP	6.000 €	23,3%
SWE	NAP	NAP
CHE	1.820 €	2,5%
TUR	NAP	NAP
UKR	NAP	NAP
UK:ENG&WAL	11.150 €	36,2%
UK:NIR	3.000 €	12,7%
UK:SCO	NAP	NAP
ISR	7.806 €	22,7%
KAZ	1.094 €	13,6%
MAR	457 €	15,9%

Although some States have reduced the number of courts having competence over small claims (e.g. **Belgium, France, Lithuania**), this observation is closely linked to the downward trend in the number of first instance courts (of general jurisdiction and specialised) described above. A slight downward trend in the number of these courts can also be observed in Europe (1.04 courts per 100 000 inhabitants, instead of 1.2 courts in 2016). However, globally, States seem to have maintained their procedures of judicial settlement of disputes in this category.

Similarly, the threshold below which a sum of money falls into the category of small claims continues to vary considerably from one State to another and can be as high as 25 000 € (the **Netherlands**). The average amount of what constitutes a small claim has nevertheless increased: from 4 029 € for the previous period (2016 data) to 4 836 €. Finally, it is noteworthy noticing that in 34 out of 47 member States and entities the definition of small claim is the same as the one used by the CEPEJ.

” Is this downward trend in the number of courts always accompanied by the promotion of ADR or by a policy of digital access to justice?

While the reduction in the number of courts is often on the agenda, States also frequently put in place various measures to mitigate its effects, such as alternative dispute resolution methods (ADR) and the development of information technologies for bringing cases before courts and the management of judicial proceedings.

For instance, the development of information technologies is sometimes invoked to justify the abolition of certain so-called “proximity” courts, on the grounds that these IT services enable citizens, regardless of their home residence and distance from the court, to lodge a legal procedure and follow the proceedings initiated.

In its Opinion No. 14 (2011), the CCJE nevertheless stressed that, while information technology was a useful means of helping to enforce the rights of litigants, it could not in any event justify the abolition of courts, thus showing the need, in view of the specific nature of judicial activities, to maintain a direct and concrete link between the public and the justice facilities.

The analysis, on the basis of data provided by States, of the effect of such measures on the right to access to justice and its preservation deserves further study.

Judicial institutions are constantly evolving. As the report established on the basis of 2016 data had already emphasised, it is interesting to note that more than half of the States whose judicial systems are examined by the CEPEJ still mention in 2018 the fact that reforms of these systems are under way or envisaged.

COURT USERS

” Why are court users important?

Court users are important because their opinion on the quality of the judicial system, court leadership, judges and court staff constitutes one of the key elements of the legitimacy and trust in courts and the judicial system as a whole.

In fact, even though trust in courts is a result of a complex interaction between the activities of courts and judges, on the one hand, and historical, cultural and social features of a society on the other, the legitimacy of the judicial system within the society depends largely on its capacity to systematically address the needs and expectations of the users of justice.

” How do judicial systems demonstrate their focus on court users?

Court users in a broader sense include every individual as potential court users. From this viewpoint, the attention of member States in their respect is shown by comprehensible and up-to-date information available to the general public on the functioning of the judicial system, legislation, case-law and important judicial decisions. In recent years, one can notice that the number of member States providing relevant and understandable information to the general public through an effective public relations organisation, the use of official spokespersons and media judges and proactive communication through different channels (traditional media, websites, printed materials, social media, etc.), has remained high. Furthermore, many studies show that States educate potential and future court users through a wide range of activities such as “Open Door” days within courts, mock-up court procedures, and sharing of personal experiences on decision-making by judges in schools, at events or in the media.

Court users in a narrower sense include everyone who actually accesses the court – either for personal or professional reasons. They are not

only litigants, perpetrators, victims and witnesses, but also professionals (lawyers, prosecutors, experts, interpreters, bailiffs, notaries, etc.). Judges and court staff can possibly be regarded as court users, as they are part of the court.

■ The focus on court users (in a narrower sense) is first materialised by the quality and quantity of information they receive about the physical accessibility of the court (the organisation of the judicial map, the organisation and features of the court premises, directions and signage, special arrangements for vulnerable categories of court users, etc.). It is also demonstrated through the work of judges and court staff by providing users with sufficient, timely and understandable information concerning the proceedings in which they are participating. It is further illustrated by the provision of regular training of judges and court staff on communication with the parties in general and on specific psychological aspects of interaction with parties, possible outcomes of the procedure and their consequences, etc. Lastly, the focus on court users can be demonstrated by the efforts made by courts to understand their needs and expectations through the

organisation of regular surveys, workshops, interviews, meetings and other forms that enhance two-way communication and promote quality and accountability.

■ To the extent that court users form their perception of the functioning of the system based on their user experience in other fields of life, it is noteworthy noticing that many member States use the opportunity that information and communication technologies offer in the sense of connectivity and interoperability. To achieve this, good practices in communication from other areas, both from the public and the private sector, are being implemented in the work of courts. By offering the possibility to people to be informed and communicate with the judicial system on-line and with mobile technologies, while safeguarding safety and privacy, judicial systems prove their commitment to the users and their ability to adapt and evolve. At the same time, the data collected by the CEPEJ show the efforts made by many States to devote special attention to vulnerable categories of users and those who are not familiar with new technologies, in order that equal access to justice is ensured.

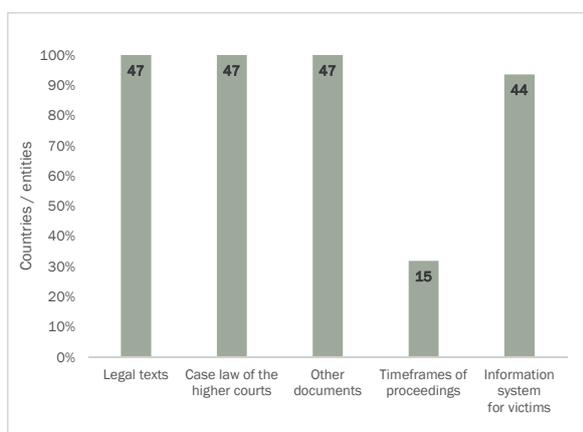
Inspiring examples

The importance that member States and the CEPEJ are placing on court users is evident from the growing number of initiatives and awarded projects within the CEPEJ's Crystal Scales of Justice Competition. Already in 2005, the Court of Appeal in Rovaniemi, **Finland**, prepared a comprehensive quality project, in different areas of judicial quality, including different stakeholders in the creation of a better, more user-focused court system. In the Regional Court of Linz - in **Austria** (2006) - they improved their service by helping court users obtain all the relevant information at one single point in court. As the judicial system is complex and rights can be enforced effectively only when users understand them, it is important to provide users with simple and useful information. The Yambol Administrative Court - in **Bulgaria** (2010) - implemented a project on how to help users better understand judicial procedures and related information, and the Supreme court of **Slovenia** (2019) addressed the needs of court users as well as judges and court staff based on extensive qualitative research on user needs. The General Council of **Spanish** Bars (2014) introduced online legal aid, while the physical conditions of court premises and solutions for how to include needs of courts and users were addressed by the High Judicial Council of **Serbia** (2015).

” What type of information should court users receive in order to guarantee them effective access to justice?

Getting correct and sufficient information is essential to guarantee an effective access to justice. The information that users receive varies according to the stage of the proceedings. Before the proceeding has started, court users can receive general information concerning the work and competences of courts, the nature of judicial proceedings, roles of different professionals involved in procedures, legal representation, possibilities of legal aid, rights and obligations of individuals, how to start a procedure, timeframes of judicial proceedings, expected costs and duration, relevant legislation, case-law, etc. Once the procedure has started, court users may receive open access to information about the procedure – the stages of the procedures, the planned hearings and expected timeframes, as well as access to the case file itself.

Figure 4.2.1 Obligation to provide information (Q28, Q29 and Q30)



Every participating State or entity has established websites making available national legislation and court case-law and practical information for court users. In some countries such information is provided by courts (e.g. **Albania, Malta, Serbia**), in others by the Ministry of Justice (e.g. **Croatia, Iceland, Poland, the Slovak Republic, Turkey, UK - England and Wales**). Access to case-law differs considerably from State to State. While most of the States emphasise that there is no obligation to provide information on expected timeframes of proceedings, different approaches to the issue are noticed (e.g. instruments for informing parties in the preparatory phase of the proceedings – **Albania, Denmark, Finland, Italy, Lithuania, North Macedonia, Romania, Serbia, the Slovak Republic,**

Slovenia, Sweden, Turkey; online tracking - **Latvia**). The IT tools enable easy and free access to information on legislation and legal procedures, accelerate the exchange of documents and information, reduce costs, increase environmental responsibility and release judicial staff from unnecessary tasks. For that reason, the CEPEJ strongly encourages the use of new technologies, in line with the CEPEJ Guidelines on how to drive change towards Cyberjustice and the Toolkit supporting their implementation (see the part on ICT).

Inspiring examples

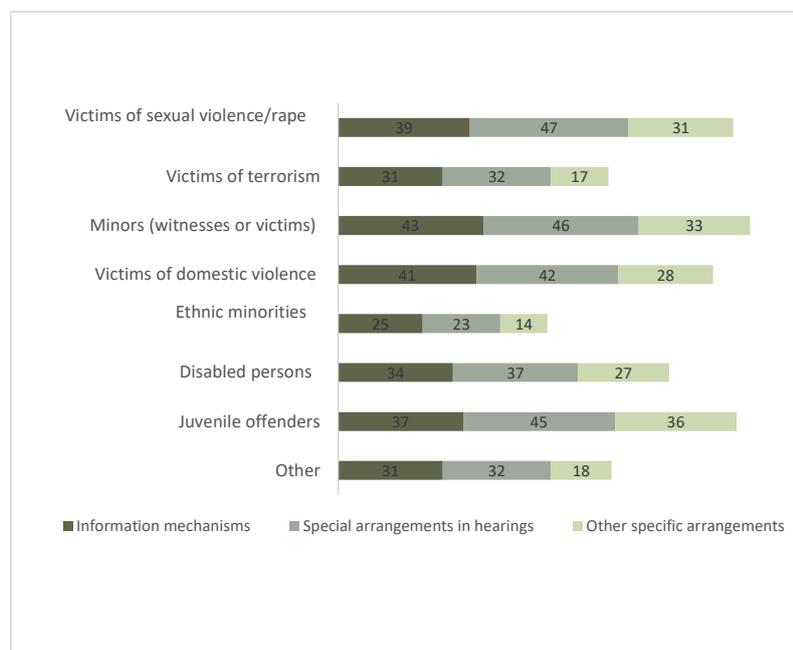
An interesting example that uses new technologies to help court users understand the judicial system better by presenting roles and functions of different persons involved in different types of proceedings is the interactive Virtual court room in **Lithuania**. Another advanced example comes from **France** which offers a user-friendly easily understandable intuitive search system for most common proceedings and legal situations (justice.fr). Similarly, **Turkey** has set up a website, addressing the most frequent questions in a simple and understandable language for national users as well as foreigners. In **Slovenia**, a special web page with user-friendly information regarding the judiciary and court procedures was set up and informative brochures are available in courts.

” Is special care given to victims of crimes and vulnerable persons?

■ A large number of States and entities report devoting special care to both victims of crimes (especially of sex crimes and domestic violence as well as resulting from human trafficking or terrorism) and the most vulnerable persons (children and juveniles, ethnic minorities, disabled persons), as recommended by international agreements and documents.

■ The care provided consists either in an accurate information system (information brochures in multiple languages (e.g. **Bulgaria, Croatia, Finland, Germany, Israel**), in specific websites and links to governmental and non-governmental organisations devoted to helping and supporting victims of crimes, in claim forms (e.g. **Belgium, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Croatia, Denmark, Finland, France, Ireland, Latvia, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Romania, Russian Federation, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, UK - England and Wales, UK - Scotland and Israel**), in victim support (e.g. **Armenia, Austria, Croatia, Hungary, France, Northern Macedonia, Ireland, Latvia, Republic of Moldova, Russian Federation, Turkey, Israel**) and special arrangements during court proceedings.

Figure 4.2.2 Favourable arrangements during judicial proceedings for categories of vulnerable persons (Q31)

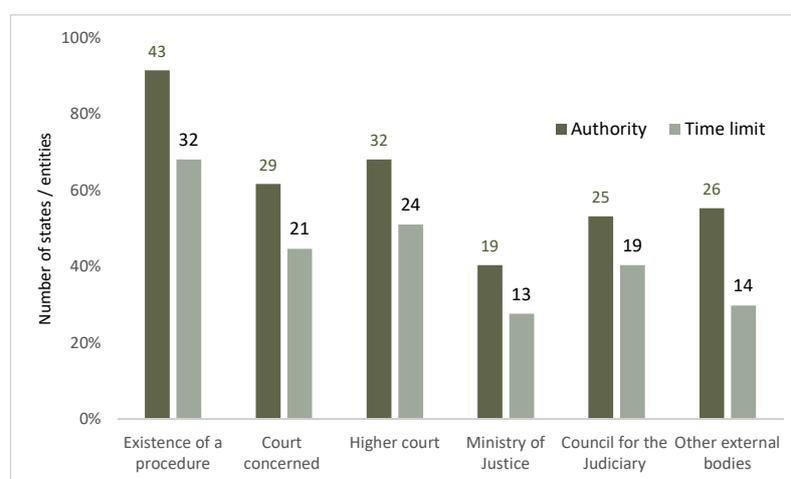


” Can users complain about the administration of justice?

■ Apart from the ordinary or extraordinary legal remedies that target individual judicial decisions, court users can challenge the administration of justice in most of the States and entities. These procedures may vary as they are started and dealt by different institutions, but special attention should be paid to preserving the independence of judges in their decision-making.

■ Most member States (43) have instituted complaints procedures as regards the functioning of justice. It may be through the judicial system itself through the court concerned (29) or through the higher court (32). Complaints can also be addressed to the Council for the Judiciary (25), the Ministry of Justice (19) or other external bodies such as the Ombudsman (26). Time limits for dealing with the complaints exist in 32 of the 43 States/entities. They are common for judicial bodies and depend on the authority responsible. Data on the number of complaints and amounts granted in compensation are very limited.

Figure 4.2.3 National or local procedure for lodging complaints on the functioning of the judicial system, the authority responsible and existence of time limits (Q40 and Q41)

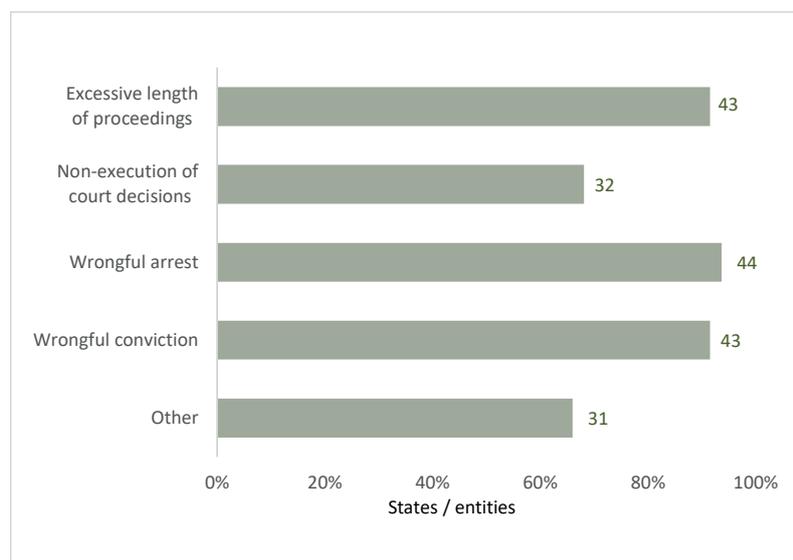


■ Data on the number of complaints and amounts granted in compensation are very limited.

Do countries have compensation systems?

All the States and entities concerned have set up mechanisms offering the possibility for court users to be compensated following dysfunctions of the court system.

Figure 4.2.4 Existence of a system for compensating court users by reason (Q37)



In the criminal law field, wrongful arrests and detentions (Article 5 of the European Convention on Human Rights) can be compensated in almost all the States. There are, however, limited data available on the number of requests for compensation made, the number of condemnations, as well as the amounts awarded as compensation, given that more than 75% of the member States could not provide such data. It is clear from the values provided by a few member States and observers that these values vary considerably, both in the number of condemnations, and in the average amount awarded per condemnation.

Figure 4.2.5 Absolute number of condemnations and average amount of compensation per condemnation (Q37)

BIH	2166	582 €
HRV	193	3.760 €
FRA	393	4.560 €
LTU	70	2.515 €
MDA	27	4.259 €
MCO	1	17.460 €
MKD	582	261 €
NOR	376	4.723 €
SVN	15	20.227 €
SWE	1713	5.183 €
MAR	9	8.214 €
Average	554	6.353 €
Median	285	4.410 €

In the majority of States and entities that provided data, excessive length of judicial proceedings and the non-enforcement of national court decisions are also subject to compensation under Article 6 of the Convention.

As in the case law of the European Court of Human Rights, member States do not set an exact time limit for the point at which the length of proceedings becomes excessive, as all circumstances of the case have to be taken into account, including the complexity of the case, the conduct of the authorities and the conduct of the applicant which might have prolonged the proceedings.

As regards the second main ground raised under Article 6 of the Convention (non-enforcement of national court decisions), this dysfunction may be the subject of compensation in more than half of the States and entities concerned.

Figure 4.2.6 Percentage of condemnations by type (Q37)

	Excessive length of proceedings	Non-execution of court decisions	Wrongful arrest	Wrongful conviction	Other
BIH	32%	29%	4%	1%	34%
HRV	23%	NAP	77%	NA	NAP
FIN	NA	NAP	NA	NA	NAP
FRA	90%	NA	NA	NA	NA
ITA	NA	NA	NA	NA	NAP
LTU	19%	0%	19%	27%	36%
MCO	0%	0%	100%	0%	NAP
MKD	98%	NAP	2%	0%	NAP
SVN	20%	NAP	73%	7%	NAP
SWE	0%	0%	100%	0%	NAP
MAR	22%	11%	67%	0%	0%

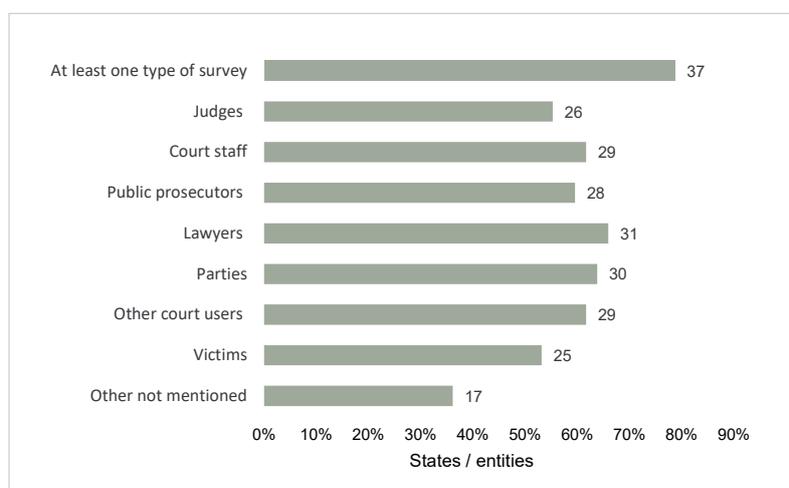
Similar to the data on wrongful arrest and wrongful conviction, only one third of the member States and entities provided data on the number of procedures and amounts granted regarding excessive length of proceedings and non-enforcement of court decisions. Some countries rely on a case-by-case examination for compensation (e.g. **Bosnia and Herzegovina, Iceland, Romania**), while others have set up a national scheme (e.g. **Armenia**). In some cases, the amounts

awarded can be fixed according to the infringements (e.g. a fixed amount per day of wrongful arrest – e.g. **Croatia**) and/or may have an upper limit (e.g. **Croatia, Germany, Greece, Lithuania**).

Do countries conduct satisfaction surveys on trust in justice and the work of courts?

Each year a larger number of member States and entities conduct court users satisfaction surveys. In 2018, 37 States and entities have in place mechanisms to assess the perception of court users of the service delivered by the judicial system. These surveys are addressed not only to lawyers, parties, public prosecutors, victims and other court users in a narrower sense, but also to judges, court staff and specific categories of stakeholders.

Figure 4.2.7 Existence of surveys to measure the trust in justice and the satisfaction with the services delivered by the judicial system (Q38)



The frequency of the surveys differs considerably – some are done periodically every few years, others are done *ad hoc* just for specific courts or topics. While national surveys are mostly regular, the surveys at court level are more frequently conducted *ad hoc*. The CEPEJ underlines that it is essential that such surveys are conducted periodically, so that the evolution of satisfaction with specific aspects of court services can be observed and specific steps for improvement can be planned based on the analyses of the results.

In order to help member States or individual courts conduct satisfaction surveys, the CEPEJ has adopted a model survey for court users and lawyers together with a methodology guide. The methods to gather information can differ considerably – from quantitative telephone interviews, on-line questionnaires, in-house printed questionnaires to various qualitative approaches such as workshops, focus groups, in-depth guided interviews, observation, analyses of social media activity, etc. Each method has advantages and disadvantages, each measuring different aspects of judicial quality.

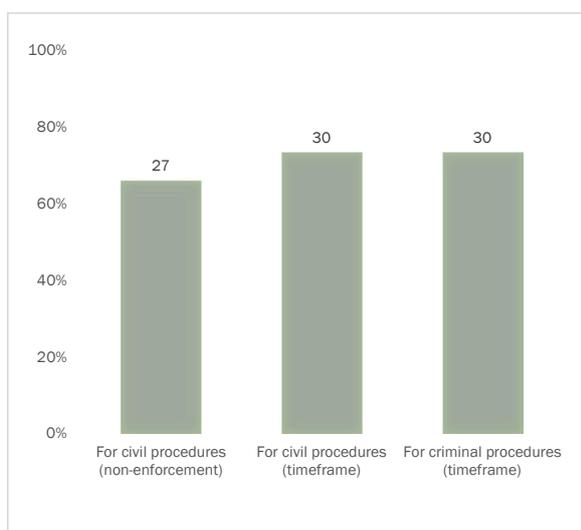
Inspiring examples

An example of a comprehensive approach to court user satisfaction research is **Slovenia**. Extensive quantitative surveys on satisfaction with the functioning of courts in Slovenia, performed by academic institutions, are planned as a bi-annual activity at national level (2013, 2015, 2017 and 2019). The surveys target the general public, court users in all courts in the country (non-professionals - parties and other people present in courts, including victims), legal professionals (lawyers, public prosecutors and State attorneys) and employees (judges and court staff). An extensive analysis and complete results of all surveys are published on the website of the Slovenian judiciary. To complement the quantitative research, a qualitative study of procedural fairness and communication activities was introduced in 2017, including workshops with different stakeholders, in-depth interviews with court users, observation within court premises as well as analyses of social media. The results of these surveys serve as a basis for specific projects and activities (such as simplified guides on court roles and proceedings, improving signage within court premises, etc.), since such research enables the court management to identify more in detail potential areas for improvement. The broader project (IQ Justice) was awarded the CEPEJ and EU Crystal Scales of Justice prize in 2019.

” Do countries monitor violations of Article 6 of the European Convention on Human Rights?

■ According to the data received, the majority of member States monitor violations of the Article 6 of the Convention. In fact, as the Council of Europe and the European Court of Human Rights pay specific attention to the respect of the “reasonable time” of judicial proceedings and the effective execution of judicial decisions, in order to safeguard the fundamental right provided for by Article 6 of the Convention. Member States are asked by the CEPEJ to provide information concerning cases brought before the Court under Article 6 of the Convention, cases brought before national courts, and measures designed to promote efficient court proceedings.

Figure 4.2.8 Existence of a monitoring system for violations related to Article 6 (Q86)



■ As one of the aims of the CEPEJ consists in preventing complaints to the European Court of Human Rights based on the poor running of judicial systems, by helping to improve the functioning of justice in member States, the measures adopted by member States to prevent such violations are key.

■ Some States have set up mechanisms in legislation to speed up the proceedings (e.g. **Republic of Moldova, Montenegro, the Russian Federation, Slovenia, Spain**) or to reopen a case, in case of other infringements of Article 6 of the Convention. While such remedies do not constitute a monitoring system *per se*, they enable persons to take steps to remedy the situation in an individual case, thus contributing to reducing the need to have recourse to the Court. Other countries present comprehensive mechanisms aimed at the general prevention of violations, such as the monitoring and dissemination of the Court’s case-law (e.g. **Austria, the Czech Republic, Portugal, Russian Federation, the Slovak Republic, Spain, Switzerland, Turkey**), its inclusion in training curricula (e.g. **Austria, Ukraine**), reporting to the national parliament or government (e.g. **France, Hungary, Italy, the Slovak Republic**), preparing systemic changes or action plans to prevent further violations, etc. In most cases, the actions are taken by the Ministry of Justice or the Ministry of Foreign Affairs. Nevertheless, in some States such activities are promoted by other institutions or special bodies (e.g. the Expert Council - representatives of different bodies - in **Croatia**, the Constitutional Court in **Malta**, the Danish Institute for Human Rights in **Denmark**, the National Institution for Human Rights in **Norway**, the inter-ministerial Commission in **North Macedonia**).

INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)

” What is ICT in the judiciary?

■ The good development and proper use of ICT is an important element of the good functioning of judicial systems as it contributes to increased transparency, efficiency, access and quality of the services delivered. ICT is no longer a novelty in European judicial systems. Judicial systems whose traditional activities and work organisation were based on paper (legal texts, case files, court registers etc.) are increasingly replacing the old tools with the digital ones. The courts are being transformed to accommodate new options and move on-line. Some hearings are taking place via videoconferencing, electronic evidence is regularly presented, while case files and court decisions are becoming digital objects with their content tagged to ease search, analysis and legal reasoning.

■ Data collected by the CEPEJ over the last years through its evaluation exercises and studies show the growing reach of digital tools. The focus of the report will therefore shift from basic well-established technologies to the more advanced areas that still represent a challenge for the judiciaries. However, significant differences remain between countries and this makes it difficult to compare them.

■ Studies have also shown that the results achieved often do not coincide with those expected. In general, large-scale ICT projects, even when successful, are the result of years long sustained efforts both at the development and implementation

level. Delays and high failure rates are a result of the complexity of the more ambitious ICT solutions and of inter-dependencies between the various hardware components, software applications and procedural requirements. Such systems need to reflect different judicial specificities and evolve in a complex network of organisations, legal rules and expectations.

■ ICT innovation in the European judicial systems has evolved through different paths because of tensions between different elements, which have led to different results in various national contexts. Examples of these are tensions between local versus centralised solutions, between the development of specialised tools versus more global and generic systems, data security versus external access by users and the public, competences between the executive power in this area and judicial power. Furthermore, institutional settings may differ, depending on the national specificities in the organisation of the judiciary.

■ It should be recalled that in accordance with Opinion No. 14 (2011), of the CCJE *“ICT should be a tool or means to improve the administration of justice, to facilitate the user’s access to the courts and to reinforce the safeguards laid down in Article 6 ECHR: access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings”* and that its introduction *“in courts in Europe should not compromise the human and symbolic faces of justice”*.

” How to read the data on ICT?

■ The ICT questions in the CEPEJ Evaluation Scheme have changed slightly since the previous exercise. Aside from improving the data collection process, the aim of this change was to enhance the examination of the new areas of research identified in the previous studies, such as court decisions’ in open data, statistical reporting or the use of electronic evidence. Furthermore, member States and entities have improved their replies, although reported situations were identical. For these reasons and due to the rapid development of these technologies, it is difficult to make comparisons since 2014.

■ As in the previous reports, it should be emphasised that a high level of development does not necessarily mean an actual use and positive impact on the courts’ efficiency or quality of the public service of justice. It is indeed easier to quantify the technology invested in and the degree of its dissemination than to measure the degree of actual use which is more subjective.

The level of development should then be compared with other indicators (such as the processing time of judicial proceedings) when drawing any conclusions.

■ It is useful to look at ICT that could be used in the European judicial systems, such as artificial intelligence and blockchain. It is also interesting to evaluate the emerging policies and technologies and to distinguish the “trendy” effect from their real potential. Data in this segment, however, do not show an actual deployment of such tools compared to the previous edition that would go beyond experimentation or automation of activities.

■ Finally, while different levels of technologies’ deployment can be assessed, other areas such as the governance structure or the need for a specific legal framework to authorise the use of ICT do not follow linear logic. For that reason, this report does not present an overall ICT index that includes the legislative framework regulating these technologies and their governance, such as the one provided in the previous edition.

” How much does ICT cost?

■ The information technology budgetary efforts may vary considerably depending on the life cycle of the technological components. Typically, the development, deployment and evolutive phases require significantly higher spending than the maintenance one. At the same time, as ICT systems age they become more intertwined with each other which makes upgrade or replacement more difficult when new protocols and standards emerge. To take into account the multiple logics driving the ICT cost, instead of comparing the ICT budgetary effort between two cycles, this edition of the report analyses the average expenditure recorded over the last three evaluation cycles.

■ An examination of the variation in the average budgets allocated to the computerisation of the courts between 2014 and 2018 (shown as a percentage of the overall courts budget) highlights the different efforts made by the States and entities. The States and entities are arranged by the budget of courts per capita from lowest to highest. The general trend (shown by the trend line in figure 4.3.2) seems to suggest that court systems with higher resources tend to invest more in ICT. This trend, however, is not very strong as shown by the example of States such as **Monaco, Slovenia and Switzerland**, with a high court budget per inhabitant but relatively low participation of the ICT budget in the budget of the court. On the other hand, an exception among States with a low court budget per capita, but a relatively high level of resources on IT, could be found in **Azerbaijan**. Surprisingly, some States experience a difference between the approved and implemented budget dedicated to the ICT in the budget of the courts, in particular **Andorra** (0,97% vs 9,25%) and the **Slovak Republic** (3,45% vs 8,88%).

■ The scatterplot and trend line show the positive correlation between implemented courts budget per capita and the courts' ICT budget per capita. As the data show, the percentage of budget allocated to ICT may vary quite considerably.

Figure 4.3.1 **Average participation of the implemented ICT budget in the budget of courts, 2014 – 2018 (Q6)**

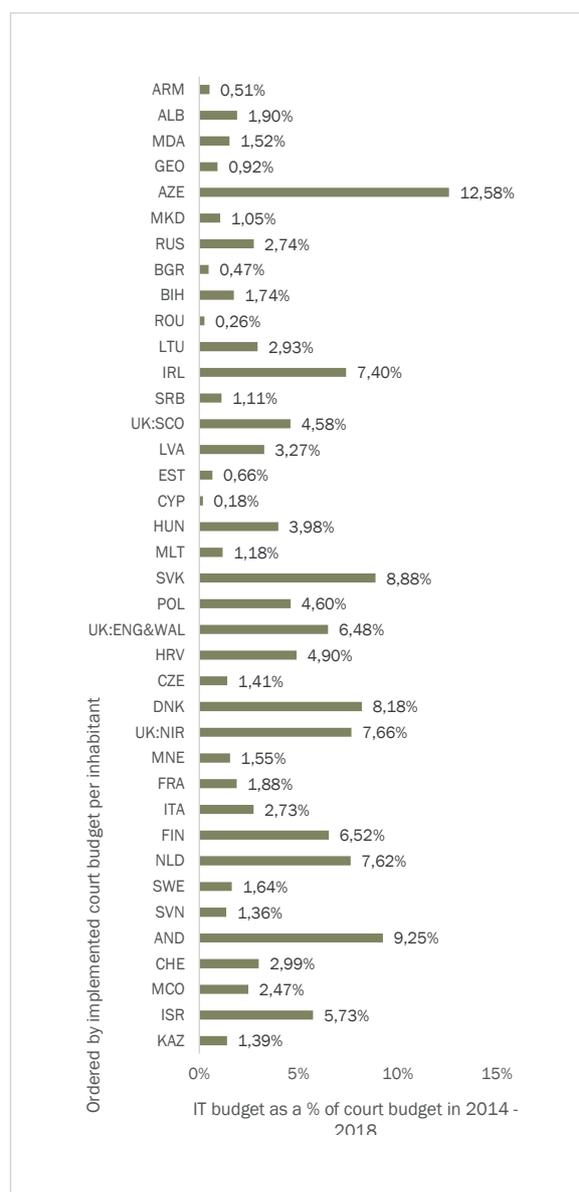
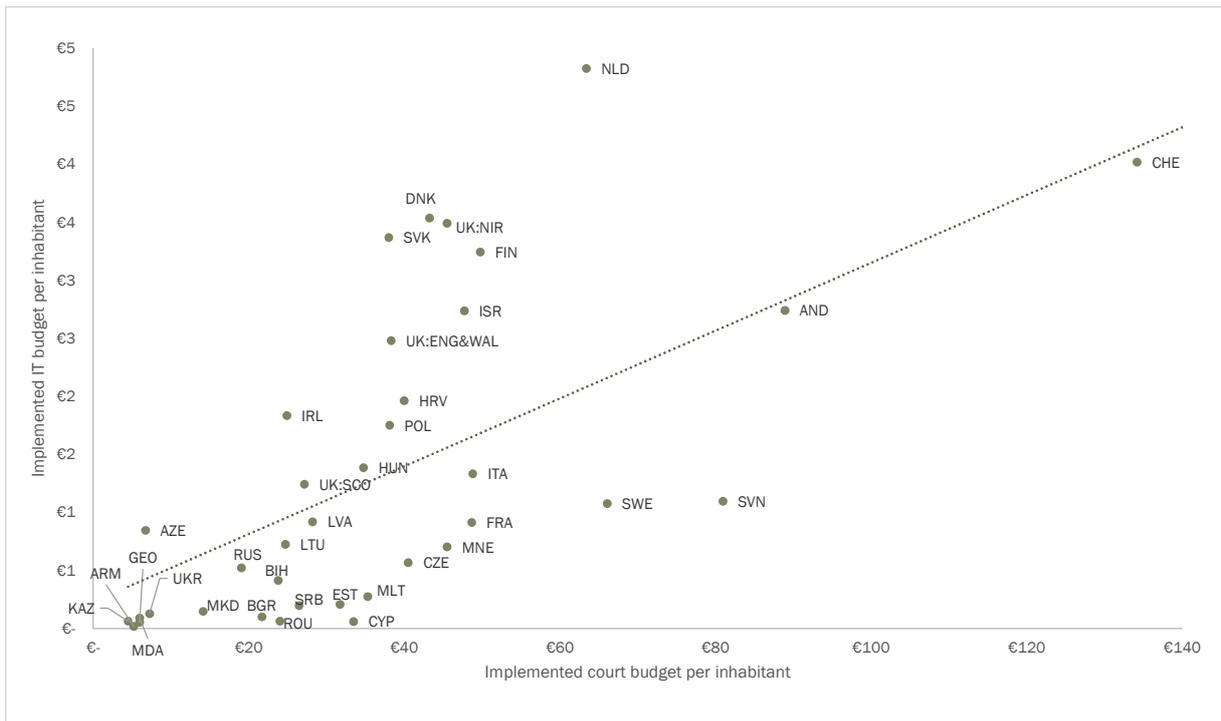
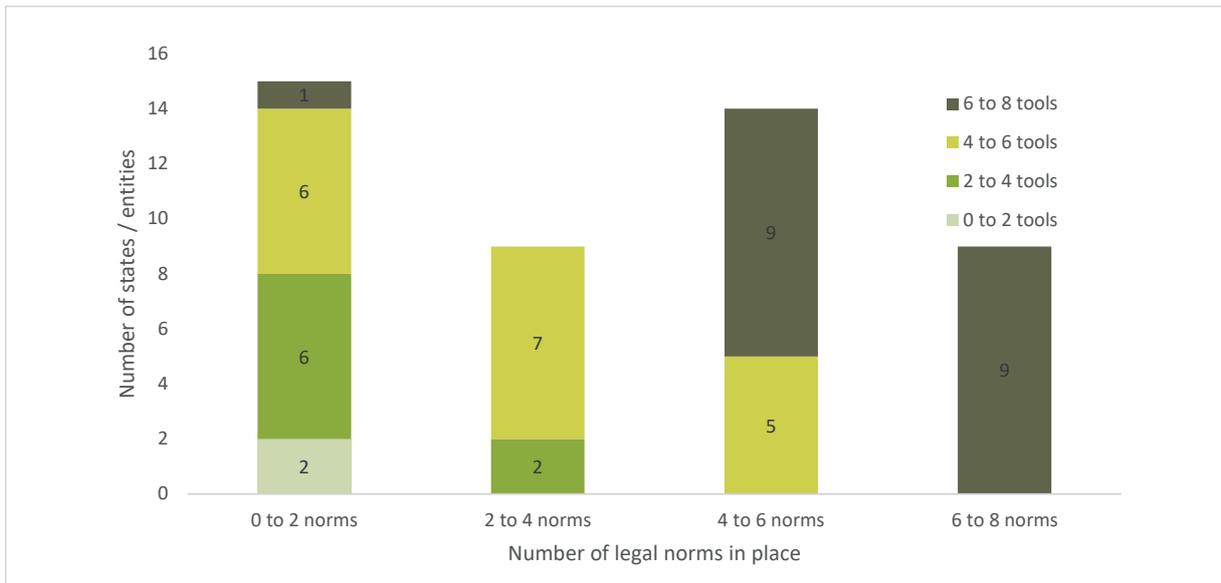


Figure 4.3.2 Implemented budget of courts per capita vs implemented budget dedicated to ICT per capita in 2018 (Q6)



Does technology need to be authorised and regulated by law to be implemented?

Figure 4.3.3 States and entities grouped by the number of ICT tools available and number of legal norms in place in 2018



With regard to the legal framework, the analysis of the States and entities responses confirms that there is a general link between the deployment of different ICT tools and the existence of specific legal frameworks to regulate their use. One can observe that in Figure 4.3.3, 23 States and entities are concentrated in the groups with 7 to 8 available ICT tools and numerous (4 to 6 and 6 to 8) legal norms in place. Of course, there are specific States where there are a high number of available ICT tools and only 0 to 2 legal norms, such as **Azerbaijan, Bulgaria, Latvia, the Netherlands, Serbia, Sweden and UK - Scotland.**

The areas investigated by the CEPEJ questionnaire relate to the possibility of:

- ▶ bringing a case to courts by electronic means;
- ▶ requesting legal aid by electronic means;
- ▶ transmitting summons to a judicial meeting or a hearing by electronic means;
- ▶ electronic communication between courts and lawyers and/or parties;
- ▶ electronic communication with professionals other than lawyers;
- ▶ videoconferencing between courts, professionals and/or users;
- ▶ the recording of hearings or debates;
- ▶ submission of electronic evidences.

There is a number of States and entities in which, although the technology is fully deployed, the legislative framework is non-existent and, on the contrary, the States and entities which, in spite of the existence of such framework, are obviously only at the stage of ICT experimentation.

Figure 4.3.4 Number of existing legislative norms by number of areas in which is possible to use ICT and the level of ICT deployment in 2018

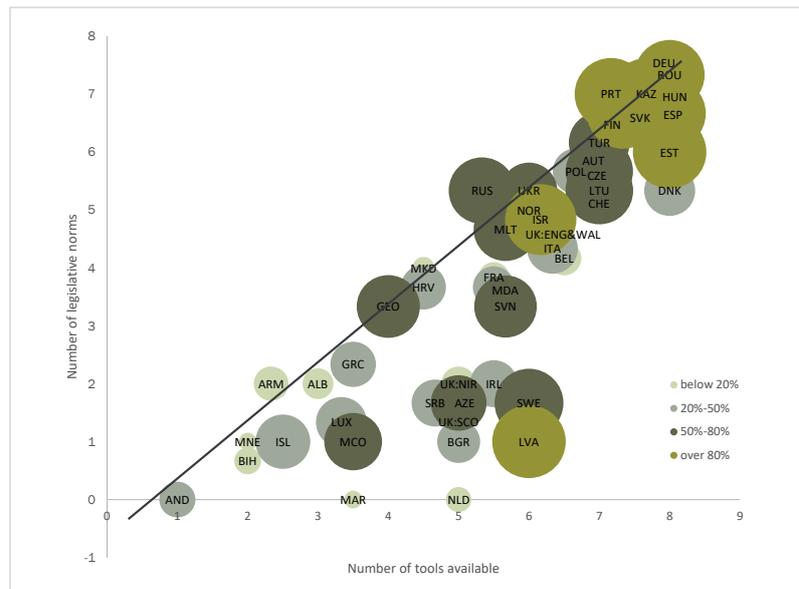
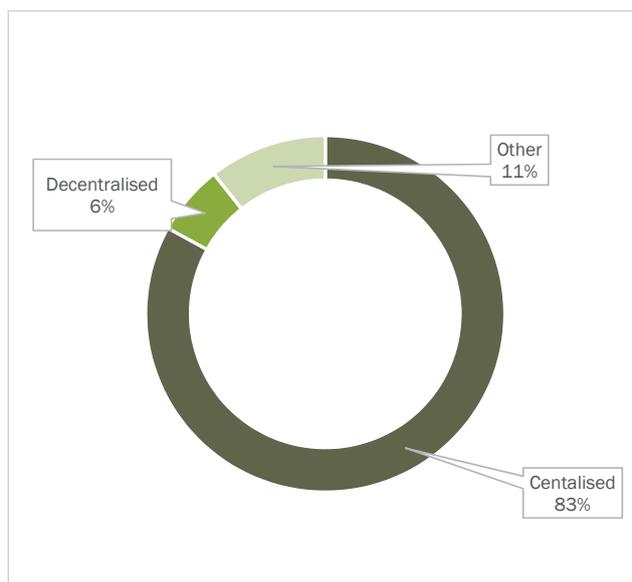


Figure 4.3.4 correlating the level of informatisation with the specific legislation shows two clusters of States and entities: one that follows the main trend line where the number of tools is proportional to the number of legal norms; the other (below the trend line) that have a low number of legal norms, probably because they still do not have all ICT tools available. The requirement of a stronger legislative framework seems to depend a lot on the deployment rate of the available ICT tools. As the level of deployment (represented by the size of the circles) shows, yellow States and entities have both a high number of available ICT tools and a high number of legislatives norms. The exception is **Latvia** which has less regulation in ICT in the judiciary.

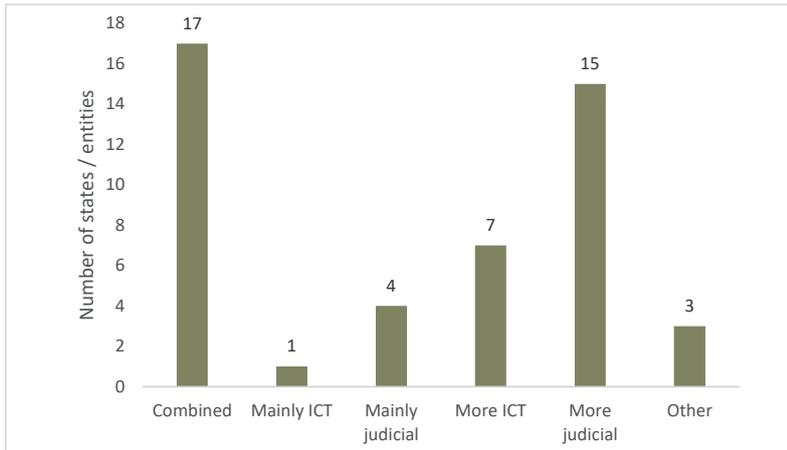
How is ICT governed?

Figure 4.3.5 States and entities by type of ICT organisation in 2018 (Q62-1)



The governance of ICT is a sensitive question as it concerns the right balancing between the deployment of ICT tools and efficiency and independence. The CEPEJ's Cyberjustice guidelines state that "Those seeking to modernise the justice system through information technology need to develop a vision of the judiciary that goes beyond a narrow, project-based approach" (Document CEPEJ(2016)13). The CCJE's Opinion No. 14 (2011) underlines how "IT should be used to enhance the independence of judges in every stage of the procedure and not to jeopardise it" and that "Regardless of which body is in charge of IT governance, there is the need to ensure that judges are actively involved in decision making on IT in a broad sense" (§ 32).

Figure 4.3.6 Leadership in the governing of ICT in 2018



■ The European landscape shows different choices in relation to the national structure in charge of ICT strategic policy-making and governance in the judicial systems. These structures should take into consideration two elements:

- 1) the centralisation / decentralisation of ICT policies, strategies and governance, and
- 2) the technical vs judicial personnel composition and coordination of these structures (e.g. these bodies can be composed of an IT department with the help of

professionals in the field, such as judges, prosecutors, non-judge staff, etc). The ICT governance should always ensure a correct dialogue which “*is absolutely necessary between those developing technology and those responsible for the judicial process*” (CCJE Opinion No. 14 (2011), § 36).

■ Another key aspect of the governance of ICT innovation is how its results are measured. This may include the improvement of business processes, a reduction in courts’ workload, a better use of human resources and others.

■ The last element to consider is whether the development and maintenance of ICT systems is carried out in-house or by outsourcing such tasks: 27 out of 40 States and entities replied that they outsource at least one part of the ICT services.

” How far have the ICT systems been deployed?

■ The CEPEJ evaluation questionnaire gathers data on the diffusion of ICT tools in the judicial systems, rather than on their actual use. The index built on these data, provides, therefore, an indication of the deployment and not of the results achieved through the use of ICT (such as improvement in the efficiency or quality of justice). Furthermore, the focus is placed on advanced developments and not on the basic ICT tools which already exist in all the member States and entities judging from the information collected in recent cycles.

■ There are three categories of tools:

- decision support technologies which include databases of court decisions, the existence of a national record of criminal convictions, writing assistance tools and voice recording including voice recognition features;
- court and case management systems, which include case management systems (including their interoperability, active case management and statistics functionalities), budgetary and financial management systems of courts, and judges and administrative staff workload assessment tools;
- communication between courts, professionals and/or court users, which includes the possibility of submitting a case electronically, carry out communication exchange within the various phases of a case between the court, parties, lawyers and other professionals, the existence of on-line specialised procedures, videoconferencing and recording of hearings.

■ The overall ICT Deployment Index (0-10 scale) reflects the different weight of the ICT tools analysed, and therefore, is not an average but a weighted average of the 3 categories (the weight of each category is 12%, 43% and 45% respectively).

■ It is possible that States that are particularly developed in one of these law areas (civil and commercial, criminal and administrative) are not achieving a high overall score as they are lagging behind in one or two of the others.

■ Finally, the replies to the ICT questions are partially a self-evaluation and could be slightly biased. As a consequence, a comparison between judicial systems should be considered with extra care and should be supported by additional qualitative data.

Figure 4.3.7 Total ICT deployment rate and per category in 2018

State/entity	General Index	Decision support	Courts and case management	Communication with courts
CYP	1,52	2,12	2,45	0,00
ARM	2,78	4,37	3,41	0,54
UK:SCO	3,06	4,32	3,64	1,15
NLD	3,13	3,65	5,23	0,47
UK:NIR	3,43	2,68	5,32	2,17
SRB	3,44	3,95	3,64	2,66
BGR	3,55	3,88	6,18	0,60
AND	3,73	2,59	7,05	1,50
UKR	3,95	3,17	4,36	4,35
GRC	3,98	2,17	5,86	3,96
IRL	4,40	5,50	4,32	3,24
ALB	4,62	5,77	7,73	0,34
UK:ENG&WAL	4,72	3,02	7,23	3,91
BIH	4,80	6,19	7,27	0,91
MNE	4,87	5,13	9,09	0,34
DNK	4,96	4,14	5,05	5,68
BEL	5,08	6,68	5,86	2,68
FRA	5,19	4,61	7,73	3,20
POL	5,27	4,63	6,36	4,78
HRV	5,48	7,83	7,05	1,49
MDA	5,48	6,83	8,23	1,36
LUX	5,54	6,83	6,36	3,42
CHE	5,55	4,36	7,00	5,24
MKD	5,68	7,28	7,95	1,78
GEO	6,21	4,71	6,82	7,07
CZE	6,33	6,53	5,36	7,02
ITA	6,42	6,11	8,05	5,10
AZE	6,79	6,90	7,27	6,17
MLT	7,09	7,04	8,09	6,15
ISL	7,09	7,78	8,77	4,71
NOR	7,66	6,83	10,00	6,13
LTU	7,66	7,51	7,73	7,73
MCO	7,70	10,00	9,32	3,77
SVN	7,71	7,88	9,55	5,68
SWE	7,74	7,88	7,27	8,04
ROU	7,95	9,29	6,91	7,63
TUR	8,14	6,83	9,09	8,48
FIN	8,16	6,83	8,41	9,22
DEU	8,30	8,77	6,50	9,64
ESP	8,50	6,83	8,41	10,24
AUT	8,62	9,51	6,82	9,51
SVK	8,73	8,31	7,55	10,33
RUS	8,81	8,24	9,09	9,09
HUN	9,08	8,41	9,09	9,72
EST	9,25	7,88	10,00	9,86
PRT	9,25	8,11	9,77	9,86
LVA	9,79	9,29	10,00	10,07
ISR	8,78	7,53	9,59	9,22
KAZ	9,23	8,94	9,09	9,64
MAR	4,76	6,83	6,59	0,86
Average	6,11	6,15	7,11	5,04

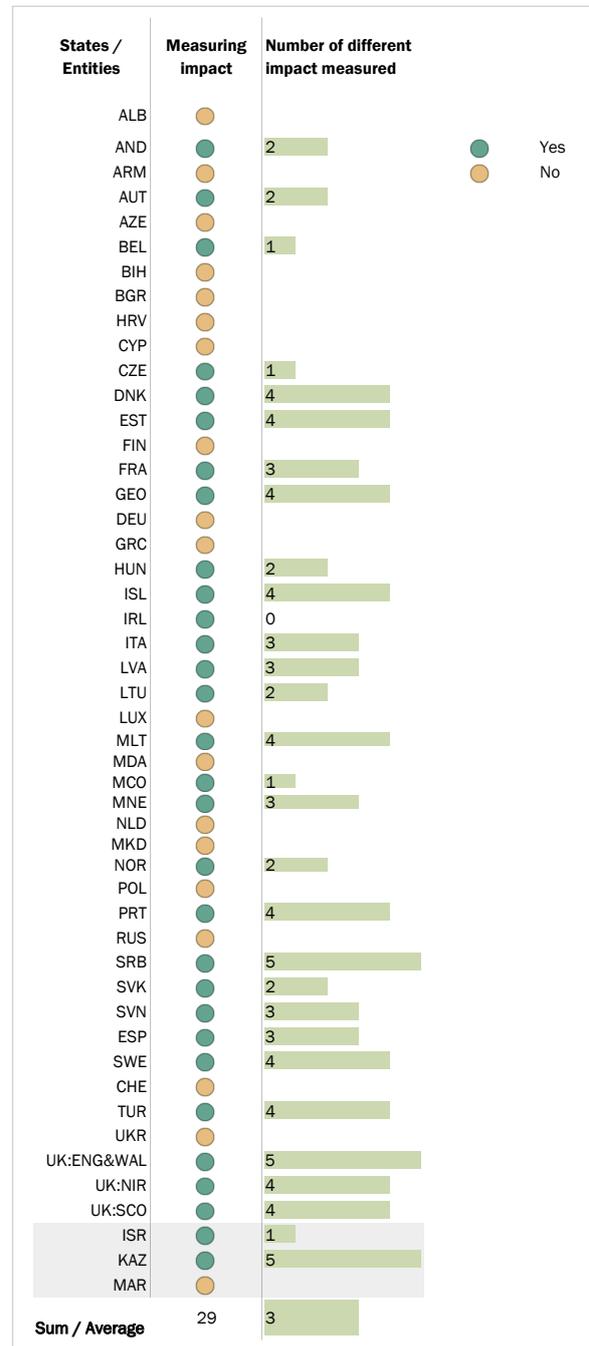
In general, States have focused their efforts more on court and case management tools, followed by decision support tools and lastly, for the communication between courts, professionals and/or court users. This, however, is not true in all cases. Among the countries with the lowest General ICT index, for example, **Armenia** and **UK - Scotland** seem to have paid relatively more attention to decision support tools than other categories. Furthermore, a number of countries, especially among those with the highest General ICT index scores, seems to have paid relatively more attention to tools for the communication between courts, professionals and/or court users than the decision support systems (**Estonia, Finland, Germany, Hungary, Portugal, Russian Federation, the Slovak Republic, Spain, Turkey**). Finally, two countries, **Spain** and the **Czech Republic**, both above the average value of the index, seem to have the opposite approach – the former has a higher index for tools for the communication with courts, while the latter has the highest index for decision support tools.

” Is the impact of ICT measured?

According to the CEPEJ’s Cyberjustice guidelines “Delivering an IT system on time, on budget and in line with the needs expressed by users throughout the life of the project is not enough to ensure success on the ground. Special attention also needs to be paid to how the tool is deployed and to supporting change at the right level of the judicial system in question”(Document CEPEJ(2016)13). All this is necessary to ensure the positive impact of ICT on the functioning of the judicial system. At the same time, the complexity of judicial systems and the number of variables affecting their performance when it comes to the number of resolved cases and the quality of the justice services provided makes it difficult to assess the impact of ICT and the related expenditures.

The use of ICT can impact different aspects of the judicial system organisation and its services. Figure 4.3.8 reflects the attempt of several States and entities to measure such impact. Overall, data show that the majority of States and entities measure in some way the actual benefits provided by one or several components of their information systems (29 member States and entities and two observer States). The area in which actual benefits are measured the most is business processes, with 23 States or entities doing it, followed by workload in 21, costs in 20, human resources in 17.

Figure 4.3.8 Measuring impact of ICT projects in 2018 (Q65-4 and 65-4-1)



” Does e-Justice help with COVID19?

■ During the COVID19 emergency, ICT has demonstrated the potential to support the functioning of judicial systems by allowing a swift adaptation to the new working requirements and challenges. Electronic case file, legally valid electronic communication between parties, public authorities and courts and videoconferencing are key elements of this potential. At the same time, having such potential may not be automatically translated into action as legal and organizational elements should be considered. For example, *“Video-conferencing may facilitate hearings in conditions of improved security or the hearing remotely of witnesses or experts. It could, however, have the disadvantage of providing a less direct or accurate perception by the judge of the words and reactions of a party, a witness or an expert”* (CCJE Opinion No. 14 (2011), § 30). Moving from a situation in which videoconferencing was used as a residual alternative to one in which it is the norm, may require a redefinition of the role and organization of the process, including for example the modalities to identify the parties or to ensure their free will.

Member State judiciaries’ COVID-19 emergency measures

■ In the light of the exceptional situation caused by the COVID-19 emergency, CEPEJ-GT-EVAL has decided to include a special part on the measures introduced to tackle the issues identified in judicial systems’ work caused by the pandemic. This section is based on the responses collected from the member States and entities through the CEPEJ Blog *“National judiciaries’ COVID-19 emergency measures of Council of Europe member States”*. This is an exception to the CEPEJ rule of using only data provided through the Evaluation Scheme.

■ The descriptions of concrete actions provided show how ICT has helped reduce the negative impact on court activities and services. This should be examined from the legal and operational level.

► Legal aspects

■ In order to reduce interaction and allow social distancing, many justice administrations changed the rules of procedure to allow written proceedings or the postponement of hearings. The proceedings (deadlines, etc.) in non-critical cases were suspended wherever possible. Some jurisdictions, such as **Norway**, temporarily changed the legislation to allow for decisions to be signed by the presiding judge only. At the same time, it was prescribed that the signature could be scanned and sent to the court for e-registration along with a confirmation from the presiding judge that the other judges in the panel had accepted the final wording of the decision.

■ In some cases, ICT tools have been used within the existing legal framework, while in others, the adoption of a specific legal regulation was required. In **Ukraine**, for example, a special law amended the Procedural Codes to allow parties’ participation in court hearings by videoconference, outside the court premises and with the use of their own technical means. Interestingly, it was prescribed that the confirmation of the users’ identity must be made via electronic signature wherever possible or in other ways in accordance with the law. In **Italy**, the Government adopted three Law Decrees containing numerous measures, one of them allowing videoconferencing, but exclusively by using the Ministry’s official application. Similar examples could be found in other member States, such as **Armenia, Bulgaria, Poland and Portugal**.

■ Finally, it should be noted that in different jurisdictions, the use of ICT was *allowed, recommended or required*. Discretion, while providing greater flexibility, also resulted in a lack of uniformity in the implementation of the various measures.

► Operational aspects

■ At the operational level, ICT has been used both to allow the continuation of the courts’ work and to enable communication between the courts and their users.

■ In order to close the courts or at least reduce the human presence while keeping the system functioning, the possibility of working from home was granted to judges and court staff. This raised the issue of making the case management systems, case files and court registers available outside of the court. While in some judicial systems this was already possible before the emergency, in others specific actions had to be taken in this regard. Examples from **Bosnia and Herzegovina** (the Cantonal Court of Novi Travnik), the **Slovak Republic**, and **Slovenia**, show that this required either special authorisation to allow the export and delivery of electronic case files or remote access to the information systems. In **Norway**, the electronic court management system had to be adapted to allow judges and auxiliary staff to work from home.

■ In **Croatia, Latvia, Russian Federation, Slovenia and Turkey** the competent authorities recommended the use of electronic communication between courts and participants in proceedings. Depending on the available resources, this communication has been organised through emails or by using advanced ICT systems that also allow parties to check the case status, access relevant information, submit documents, see court rulings, etc.

■ In some instances, the existing digital infrastructure allowed for a smoother response to the emergency which was the case, for example, in **Azerbaijan** and **Kazakhstan** where most of the case filings were conducted electronically during the crisis. At the same time, the technical possibilities may not be equally available everywhere, and therefore many States stressed that ICT tools will be used “*whenever the judicial bodies have the means to do so*” or “*if there is a technical capability*”.

Impact of ICT on human rights

■ The question of the impact of remote hearings on human rights and fair trial requirements principles has arisen. In **Greece**, it has been underlined that videoconference may take place and all other means of communication can be used as long as due process rights are respected. In **Italy**, the law decree allowing the use of videoconference states that the hearing takes place, in any case, in a manner suitable for safeguarding the adversarial and effective participation of the parties, requiring the judge to ascertain not only

the identity of the persons, but also the full free will of the parties. Among other things, ensuring private communication between the defendant in custody and her/his lawyer during a remote hearing was also raised, a complex question which if left unaddressed may pose serious concern.

Summary

■ ICT has proven valuable, even indispensable, in continuing the work of judicial systems during the COVID-19 crisis in Europe. In many cases, the use of ICT tools required amendments to the legislation but also technical improvements, and good examples of both of these aspects could be found in the member States and entities. Concerns over the use of certain ICT tools in court proceedings have been raised, but it is too early to assess the true impact on the rights of the parties. To address these issues, the CEPEJ has adopted on 10 June 2020 a Declaration on lessons learnt and challenges faced by the judiciary during and after the Covid-19 Pandemic.

Trends and conclusions

Between 2010 and 2018 there was a reduction in the number of courts in Europe, both in terms of legal entities and geographical locations. The second trend observed during this period is an increase in the specialization of courts. Indeed, the average share of specialized courts increased from 21% to 26,7% from 2010 to 2018. Finally, it can be noted that small claims were only slightly affected by the above-mentioned developments. Only the average amount of what constitutes a small claim has increased.

Furthermore, the importance of the inclusion of court users in the daily work of the judiciary cannot be stressed enough. It is therefore to be welcomed that more and more member States provide specific information to users, both on the judicial system in general and on individual court proceedings. Many examples show how States address specific information and arrangements to vulnerable categories of users, offer the possibility of complaints as regards the functioning of justice, put in place compensation systems, conduct user satisfaction surveys, and create monitoring mechanisms in respect of violations of the European Convention on Human Rights.

In order to improve further social responsibility and trust in the judicial system, the CEPEJ invites member States to devote additional resources and staff to a better communication with the primary stakeholders – the users of justice. By using the advantages of information technology, States can inform users better, adapt the availability of information and create sustainable two-way communication with users. The analyses and use of data, gathered through quantitative and qualitative research into the satisfaction of court users, increases the legitimacy of judicial systems and helps court leaders and administrations provide a better and more efficient service of justice. The use of information systems to support such activities is crucial. However, it is “interactional justice”- the human touch, the treatment of all involved in judicial proceedings with dignity and respect, that substantially helps to provide just decisions and consequently build trust in justice.

Every system is composed of individuals and the CEPEJ invites member States to train, support and invest in every person within their judicial system in order to improve the overall quality of justice. Finally, ICT has become a constitutive part of justice service provision. Data provided by member States show how European judicial systems are increasingly moving from paper-based procedures to electronic ones. This is true for the activities carried out within the courts, as well as for the communication exchanges between courts and all parties.

The economic cost of this innovation should be considered with caution as the ICT budget may vary considerably during the development, deployment and maintenance phases. Comparative analysis carried out considering the average budget for the last three evaluation cycles shows that, while court systems with comparatively higher resources generally tend to invest a higher percentage of the court budget in ICT, there are exceptions.

Data analysis carried out shows that ICT must not be considered an add-on solution but an integral component of the judicial systems, which requires alignment with the other systems' features. This is reflected both in the regulatory and governance choices implemented by the member States. Additionally, as regards the governance of ICT, while the trend is towards centralisation of ICT policies and strategies, member States and entities have set up various solutions regarding leadership in this segment. In achieving the required balance between technical and judicial components, it should be noted that most States tend to consider both of them equally relevant, with a slight prevalence of the judicial one.

As basic technologies are now generally fully deployed in member States and entities, this analysis has focused on court and case management tools, decision support tools and tools for communication between courts, professionals and/or court users, showing very high levels of deployment. In particular, the high levels achieved in the areas of decision support, e-communication and remote proceedings increase the need to monitor the impact of these tools on principles such as fairness, impartiality and judicial independence. The actual benefits provided by ICT but also of any distortive effects which its use might bring, should also be examined.

Efficiency —
and quality

■ The efficiency of courts and public prosecution services is one of the vital factors for upholding the rule of law and a critical component of a fair trial. It facilitates good governance, promotes the fight against corruption and builds confidence in institutions. Efficient courts and public prosecution services enable individuals to enjoy their economic and social rights and freedoms. They improve the business climate, fosters innovation, attracts foreign investment and secures stable state revenues.

■ This chapter demonstrates the main trends and tendencies, while also promoting the best practices among member States, entities and observers. It also provides basic facts and figures on the performance of courts and public prosecution services. It treats all jurisdictions equally and compares them without any intention of ranking them or promoting any particular type of justice system. Its approach is inspired by the fundamental principle enshrined in Article 6 of the European Convention on Human Rights – the right to a fair trial.

■ According to the CEPEJ methodology, a court case is a request submitted to the court, to be resolved by the court within its competence. However, what

is considered a court case in one judicial system, may not be so in another and for that reason, the data collected are harmonised in accordance with the CEPEJ definition. Some legal systems comprise a broader set of court services than others which is reflected in the higher number of registered cases. States and entities have provided information on criminal cases (disaggregated by severe criminal offences, misdemeanour offences and other criminal cases) and on other than criminal cases (disaggregated by civil and commercial litigious cases, non-litigious cases, administrative cases and other cases). For these categories, they reported the number of pending cases at the beginning of the year (January 1st 2018), the number of incoming and of resolved cases in 2018, and the number of pending cases at the end of the year (December 31st 2018). The reported data comprise first instance courts, second instance courts and highest instance courts (Supreme court).

■ To ensure a more precise evaluation, this Chapter analyses predominantly criminal cases, civil and commercial litigious cases and administrative cases. Nevertheless, depending on the context, other case types are included.

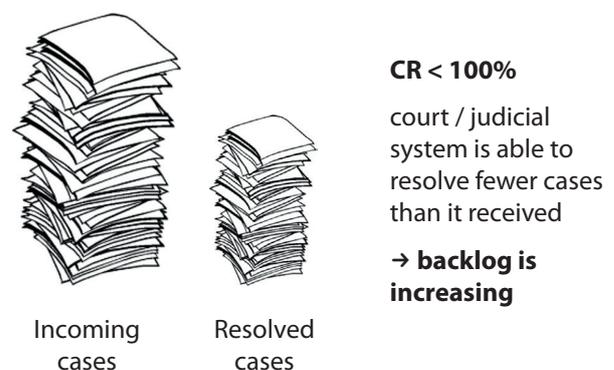
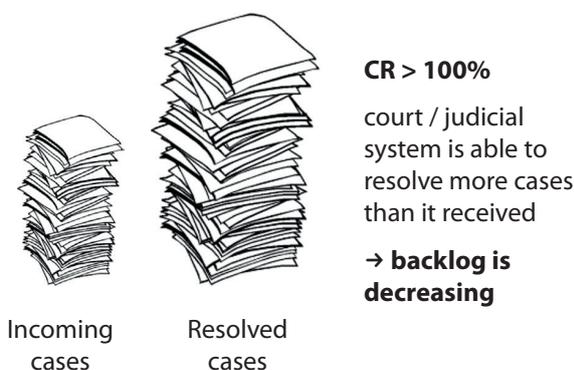
CEPEJ PERFORMANCE INDICATORS ON COURT EFFICIENCY

■ The CEPEJ has developed two performance indicators to assess court efficiency at the European level. Examined together, Clearance Rate (CR) and Disposition Time (DT) present an overall picture of the judicial efficiency in a particular judicial system. An analysis of their evolution provides a clearer picture of the efforts of the judicial system to maintain or improve its efficiency.

CLEARANCE RATE (CR)

■ The Clearance Rate (CR) is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage.

■ CR shows how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and particularities.



DISPOSITION TIME (DT)

Disposition Time (DT) is the theoretical time necessary for a pending case to be resolved, taking into consideration the current pace of work. The resulting indicator should not be taken as an actual calculation of the average value. Actual average times needed for case resolution would need to derive from judicial case management ICT systems.

$$DT = \frac{\text{Pending cases on December 31st}}{\text{Resolved cases}} \times 365$$

Since this is still unfeasible in most of the States or entities, this indicator offers valuable information on the estimated length of the proceedings. It is reached by dividing the number of pending cases at the end of a particular period by the number of resolved cases within that period, multiplied by 365. More pending than resolved cases will lead to a DT higher than 365 days (one year) and *vice versa*.

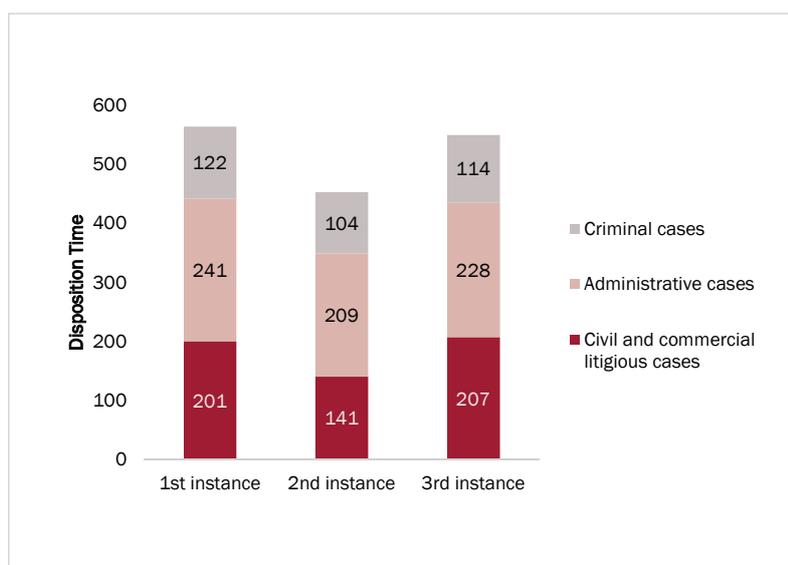
THE OVERALL EFFICIENCY OF EUROPEAN JURISDICTIONS

” What is the most efficient level of instance in Europe?

The median value of CR of European jurisdictions in 2018 is stable and close to 100% with only minor differences among instances and case types. Although only the first instance courts managed to accomplish CR of 100% or more in all three examined case categories, the variations in other instances were marginal. In general, the achieved CR in 2018 implies the ability of European jurisdictions to handle their inflow of cases. As CR demonstrates a generally positive state of play, more valuable conclusions may be drawn from the DT indicator, as shown in Figures 5.1 and 5.2 below.

As expected, among the three instances analysed, the highest DT are recorded in first instance courts, 201 days in civil and commercial litigious cases, 241 days in administrative cases and 122 days in criminal cases. Very similar results are shown in higher courts (Supreme court) - 207 days in civil and commercial litigious cases, 228 days in administrative cases and 114 days in criminal cases. The second instance courts achieve the lowest DT in each case type observed with 141 days in civil and commercial litigious cases, 209 days in administrative matters, and 104 days in criminal cases.

Figure 5.1 European median Disposition Time by instance in 2018

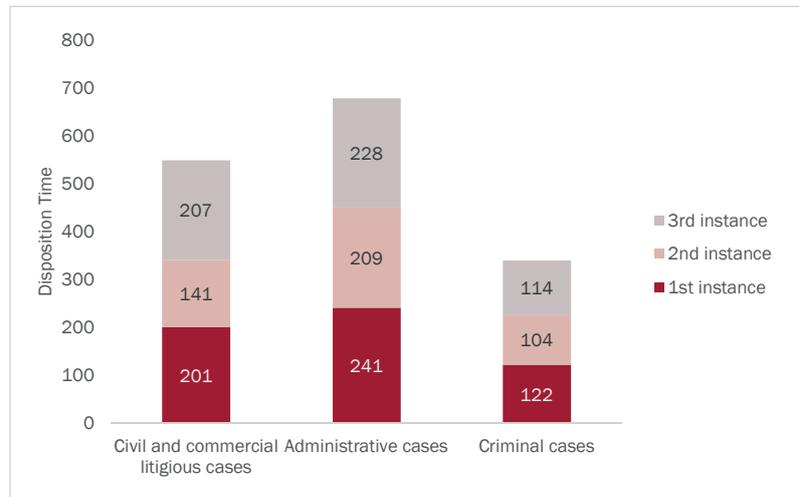


Interestingly, among higher instances, the Supreme court displays longer DT than second instance courts. Although this phenomenon is equally represented in all three case types analysed, the reason behind it is not obvious. It is most probably a combination of various factors such as the size of the courts' caseloads and the number of appointed judges.

” In which area of law are courts most efficient?

Variations in DT depend more on the case type than the court instance. The lowest DTs are recorded in criminal cases, combined for three instances at 340 days. Civil and commercial litigious matters come second with a total of 549 days, while administrative cases display the highest DT at 678 days. Tighter time limits and stricter procedural rules set out in criminal legislation, and regular professional representation of both sides, the prosecution and the defendants, may explain the significantly lower DT achieved in criminal cases.

Figure 5.2 European median Disposition Time by area of law in 2018



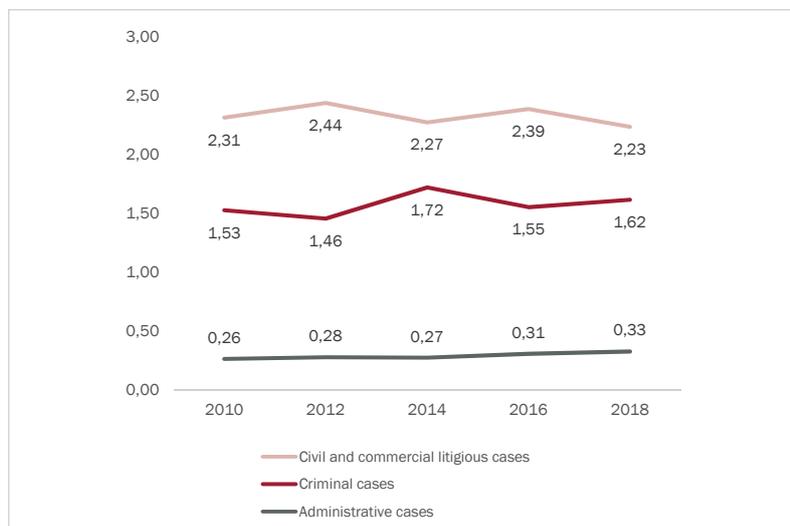
On a European level, second instance courts appear as the most efficient court instance. Criminal justice is the area of law in which all three instances were most efficient. By contrast, courts were least efficient at first instance, and in the field of administrative law.

FIRST INSTANCE COURTS

” Are first instance courts able to manage their case flow? Are there any significant differences between the case types examined?

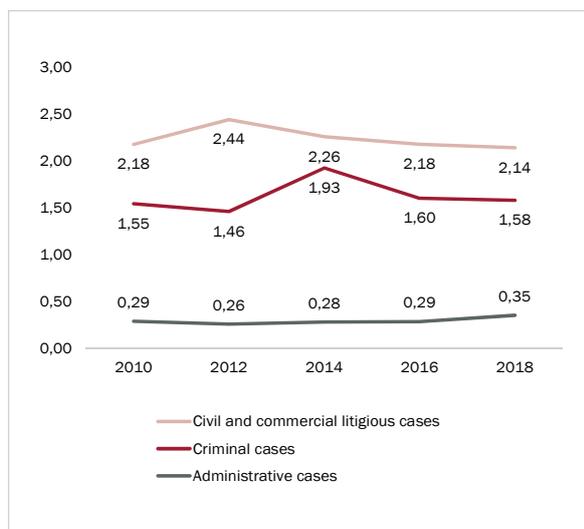
Incoming and resolved cases

Figure 5.3 Evolution of the European median of first instance incoming cases per 100 inhabitants by case type (Q91 and Q94)



In 2018, first instance courts received fewer civil and commercial litigious cases than in 2010 and 2016. Over the longer period, from 2010 to 2018, incoming civil and commercial litigious cases decreased from 2,31 to 2,23 cases per 100 inhabitants. At the same time, incoming criminal cases increased from 1,53 to 1,62. The incline in the criminal domain is partially related to the amended CEPEJ questionnaire, which for the first time asked States and entities to report on the number of so-called other criminal cases. The number of incoming administrative cases increased slightly but steadily, from 0,26 to 0,33 cases per 100 inhabitants.

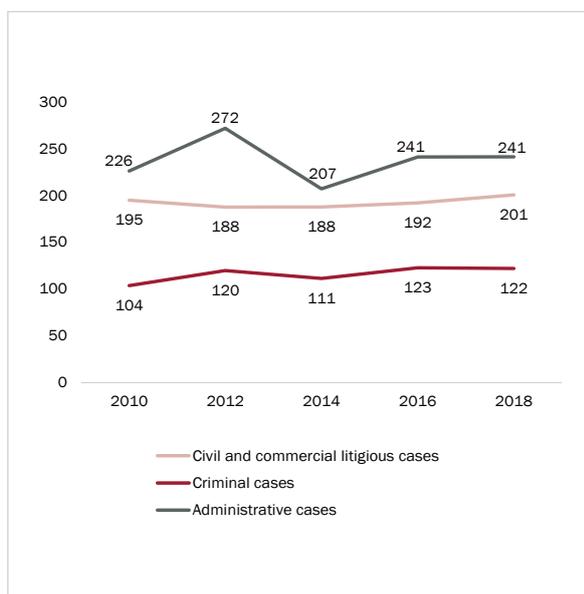
Figure 5.4 Evolution of the European median of first instance resolved cases per 100 inhabitants by case type (Q91 and Q94)



The number of resolved cases generally followed the tendencies of the number of incoming cases. Civil and commercial litigious resolved cases decreased from 2,18 in 2010 and 2016 to 2,14 in 2018. In criminal cases, the number of resolved cases per 100 inhabitants grew from 1,55 in 2010 to 1,58 in 2018. However, the already mentioned other criminal cases influenced the number of resolved criminal cases as well. In administrative cases, the number of resolved cases followed the demand, i.e. both increased slightly. Figures 5.3 and 5.4 present European medians; the averages expectedly show more variations but similar trends.

Disposition Time

Figure 5.5 European Disposition Time of first instance courts by case type (Q91 and Q94)

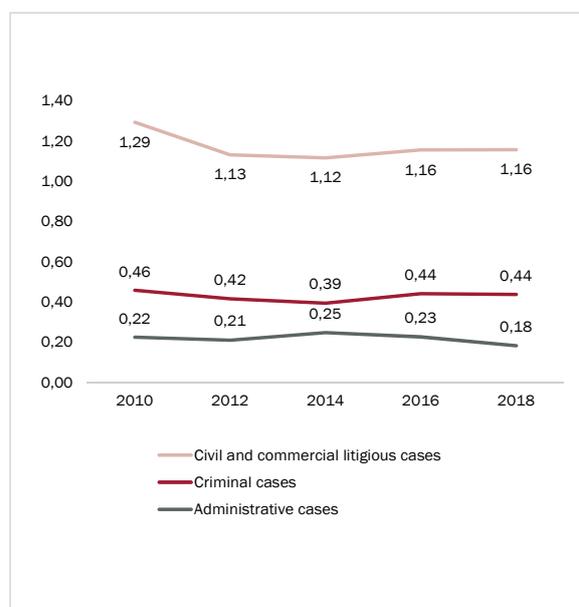


The median values of European DT were increasing to a certain extent in all case types analysed as illustrated by Figure 5.5. In civil and commercial litigious matters, a slight upward trend is recorded from 2010 to 2018, from 195 to 201 days. From 2016 to 2018 it increased by nine days. The DT of criminal cases is significantly lower throughout the period observed than in other case types analysed. However, a slightly rising trend is documented - 104 days were recorded in 2010, which grew to 122 days in 2018. In the shorter period, from 2016 to 2018, there is a slight decrease of one day. The most extensive variations and the highest DT is recorded in administrative cases. DT increased from 226 days in 2010 to 241 days in 2016 and in 2018. The inclines in the European DT described here should be monitored but are not to be deemed worrying since the achieved levels are well under one year and the inclines are not steep.

Pending cases on December 31st

Pending cases on December 31st examined here are the number of unresolved cases carried over from one year to the next, known as backlog. The existence of pending stock is not a concern since even the most efficient judiciaries will always carry over some cases. These could be the cases filed in the last part of the reporting period or cases that are too complex to be resolved within a year. However, pending cases become problematic when there are many of them and when they last too long.

Figure 5.6 Evolution of the European median of first instance cases pending on December 31st per 100 inhabitants by case type (Q91 and Q94)



■ The evolution of the European median of first instance pending cases from Figure 5.6 demonstrates a reasonably stable situation over the years, with some declines. The number of pending civil and commercial litigious cases per 100 inhabitants decreased from 2010 to 2018 from 1,29 to 1,16 cases. The lowest values were recorded in 2012 and 2014. This soon increased to 1,16 cases in 2016 and 2018. Pending administrative cases were stable at around 0,2 per 100 inhabitants over the five evaluation cycles. Pending criminal cases value remained steady at 0,4 pending cases per 100 inhabitants.

■ These decreasing and stable results of European jurisdictions imply that courts are generally able to cope with their caseloads in a timely manner without increasing their pending stock and accumulating backlog. The slightly rising European median value of the Disposition Time in all case types analysed should be monitored in future evaluation cycles.

How does the development of court-related mediation impact court services?

As in the previous evaluation cycle, only one fourth of States and entities reported data on the use of court-related mediation in the area of civil and commercial justice, family cases, administrative cases, employment dismissal cases, criminal cases and consumer cases. Yet, even among these States and entities data were not available for all case types foreseen in the CEPEJ questionnaire. The data collected are scarce, which prevents any detailed examination of the impact of court-related mediation on court efficiency. The absolute numbers are generally low and represent minuscule percentages of the caseloads, a couple of per cent at most. States often fluctuated substantially in court-related mediation procedures over the years. For instance, **Bosnia and Herzegovina** reported 1 887 court-related mediation procedures in 2016 and 778 in 2018, while **Finland** increased court-related mediations from 673 to 1 671 over those years. **Poland** stated an increasing number each cycle ending with 26 272 in 2018. It is probable that periods with increased court-related mediation activities were connected to particular efforts (projects) that were being implemented at the time.

” First instance civil and commercial litigious cases

■ As stated in the opening remarks of this chapter, when it comes to civil justice, this analysis is focused primarily on civil and commercial litigious cases. This approach has been chosen for two reasons. Firstly, the complementary category of non-litigious cases continually demonstrates substantial variations among States and entities. Since some jurisdictions include land registry or business registry cases among non-litigious cases, and in some these are entrusted to specialised non-judicial bodies, the appropriate comparison is unfeasible. Secondly, litigious cases, due to their complexity, reflect the work of judges more accurately.

■ The available data support the previous assumption relating to vast differences in civil non-litigious cases. Out of 32 States and entities which provided the number of both civil litigious and civil non-litigious cases, seven (22%) have an approximately 50:50 ratio of these two case types. In 11 States and entities (34%), the majority of cases are civil litigious cases, while there are significantly more civil non-litigious cases in 14 (44%) of them. In four States, courts are not competent in respect of non litigious cases. These are **Azerbaijan**, **Iceland** and **Ukraine** and additionally **Israel** as an observer State.

The workload for court services in civil and commercial litigious cases

Figure 5.7 Incoming first instance civil and commercial litigious cases per 100 inhabitants in 2018 (Q91)

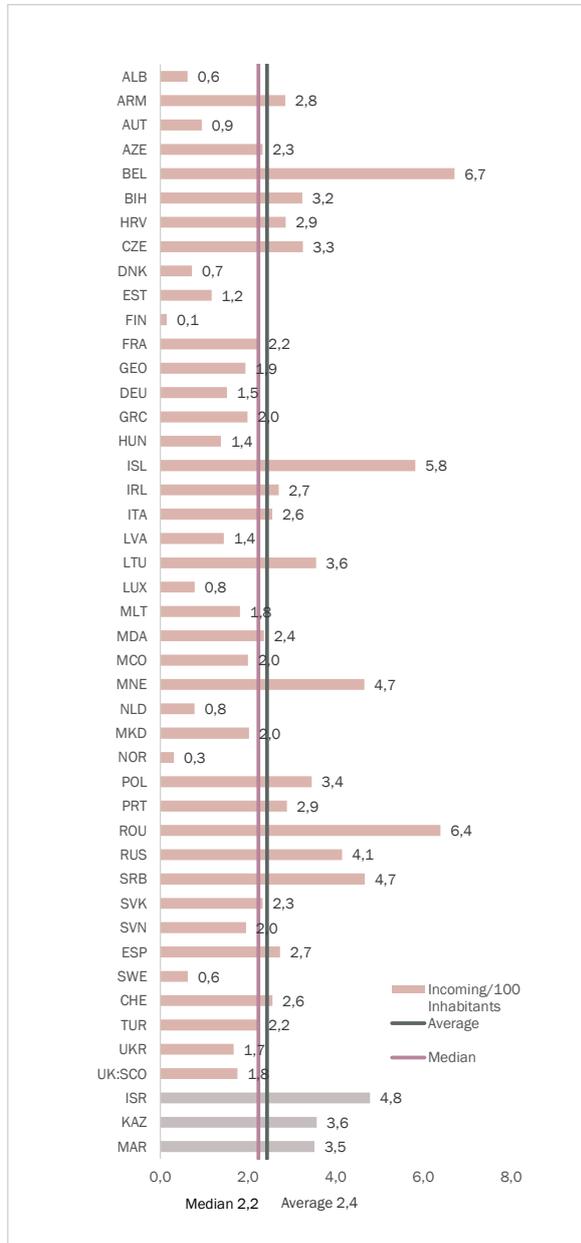


Figure 5.7 presents the number of incoming first instance civil and commercial litigious cases per 100 inhabitants in 2018. The median of incoming cases in European jurisdictions is 2,2 per 100 inhabitants, whereas the average value differs slightly at 2,4 received cases per 100 inhabitants.

The differences among States and entities are considerable. The lowest value has been recorded in **Finland** (0.1) and the highest in **Belgium** (6,7). Interestingly, there is no clear correlation between States that experience higher or lower demand than the median (geographical, economic, political, or related to legal tradition). For instance, in **Belgium**, courts faced higher than median demand for court services, while the demand of their neighbours, **Luxembourg** and the **Netherlands** was well below the median. **Belgium, Iceland, Montenegro, Romania, Serbia** and **Israel**, encountered two to three times more incoming cases per 100 inhabitants than the European median.

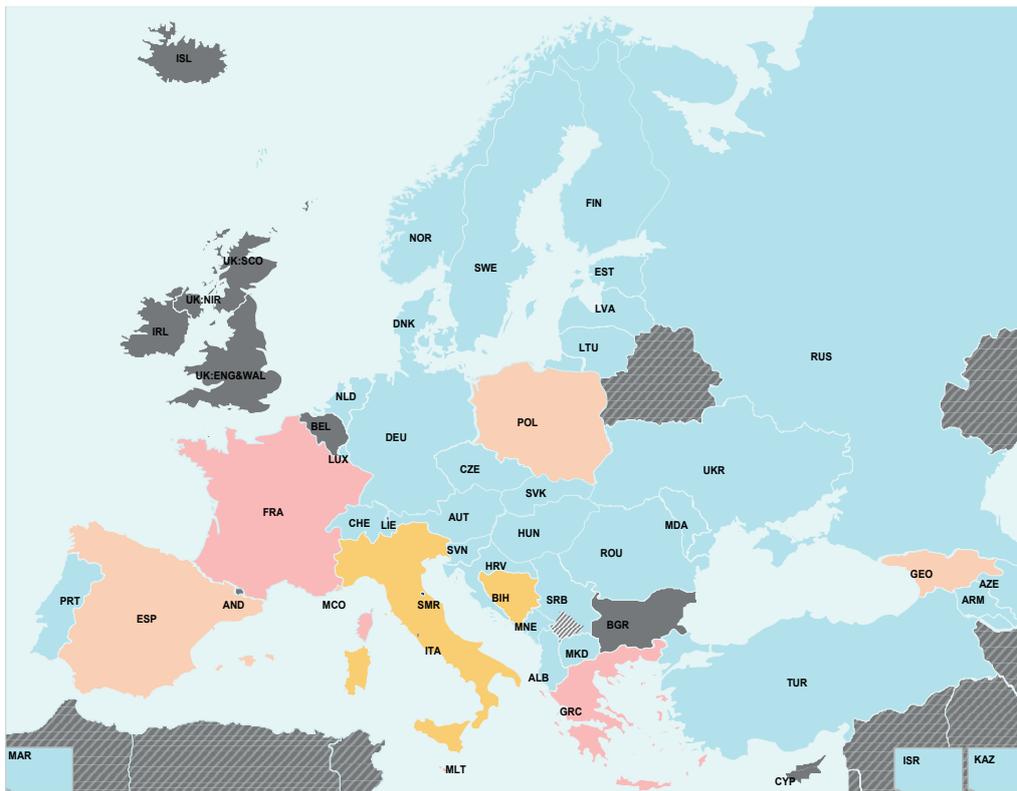
On the contrary, seven States and entities reached moderately low values, not exceeding one incoming case per 100 inhabitants. These are **Albania, Austria, Denmark, Finland, Luxembourg, the Netherlands, Norway** and **Sweden**.

Performance indicators for civil and commercial litigious cases

Map 5.8 illustrates the ability of States and entities in 2018 to handle their caseloads, reduce backlogs and ensure timeliness by combining the two performance indicators, CR and the DT. States and entities for which data are not available are indicated in grey.

The efficiency categories used in this chapter for analysing the maps, as well as in the Efficiency dashboard on CEPEJ STAT (<https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems>), are based on combined values of CR and DT. This indicator gives a more complete picture of the efficiency of judicial systems. The definition of these categories includes 6 combinations listed in the table below.

Map 5.8 Clearance Rate vs Disposition Time for civil and commercial litigious cases at first instance in 2018 (Q91)



Efficiency categories	Disposition Time	Clearance Rate
Very High DT	DT \geq 4xMedian	all values
Very High CR	all values	CR > 200%
Warning	4xMedian > DT > 2xMedian	CR < 100%
Fighting Backlog	4xMedian > DT > 2xMedian	CR \geq 100%
Creating Backlog	DT < 2xMedian	CR < 95%
Standard	DT < 2xMedian	CR \geq 95%
NA	NA	NA

The majority of States and entities, presented in light blue, are within the category of standard efficiency, meaning that their CR is higher or equal to 95%, and their DT up to two times of median value. Although the CR in **Sweden** and **Ukraine** at 97% are not in the ideal zone, their overall efficiency is satisfactory.

Two-fifths of States and entities represented in Map 5.8 produced CR of 100% or higher and DT lower than the median as the most desirable combination in which both performance

indicators are in the most positive zone. The highest CR among these States are reported in **Hungary** (116%) and the **Slovak Republic** (131%). **Lithuania** has a CR of 104% and one of the lowest DT of 84 days.

States and entities with favourable CR and above the median DT are fighting backlog but struggle with timeliness in this type of cases. **Italy** with a CR of 103% and a DT of 527 days, and **Bosnia and Herzegovina** with values of 126% and 483 days, fall into this category.

Georgia, Monaco, Poland and **Spain** are accumulating backlog in 2018 but their DT is still within the satisfactory range. The indicator is higher in **Greece, France** and **Malta** raising fears of a further backlog accumulation. In **Greece**, the CR is 86% and the DT is 559 days. **France** has a CR of 96% and a DT of 420 days, while in **Malta** the CR is 93% and the DT 440 days. Judiciaries which are facing such challenges should introduce some actionable measures in case they haven't already.

Evolution of performance indicators in civil and commercial litigious cases

■ Figure 5.9 presents the development in the CR and DT indicators from 2010 to 2018 by State and entity. Data were not available for all consecutive cycles for all participating States and entities.

■ Over the last five cycles, almost three-quarters of jurisdictions demonstrated an overall improvement in CR. The progress was slightly lower over the past two cycles when only one-half of jurisdictions achieved a growing CR. Individually, in most States and entities, CR fluctuated over time. Neither State or entity achieved a constant incline in their CR, but **Austria, Italy** and **Switzerland** kept their results equal to or above 100% throughout the period observed. **Bosnia and Herzegovina** and the **Slovak Republic** remained the jurisdictions with the most considerable improvements. Both States managed to raise their CR from negative to positive values and keep high results since then.

■ Although not desirable, values of CR in judiciaries may be low for various internal and external reasons. However, they become problematic if they are particularly low, if they have a decreasing trend, and/or if the low results repeat over the years as is the case of **Greece, Ireland, Poland and UK - Scotland**. In these cases, accumulating backlog generates increasing DT.

In **Ireland**, a substantial number of completed cases are not recorded as such because parties are generally not required to notify the court if cases have been settled or are not being pursued further. Consequently, the reported CR appears lower than the actual CR.

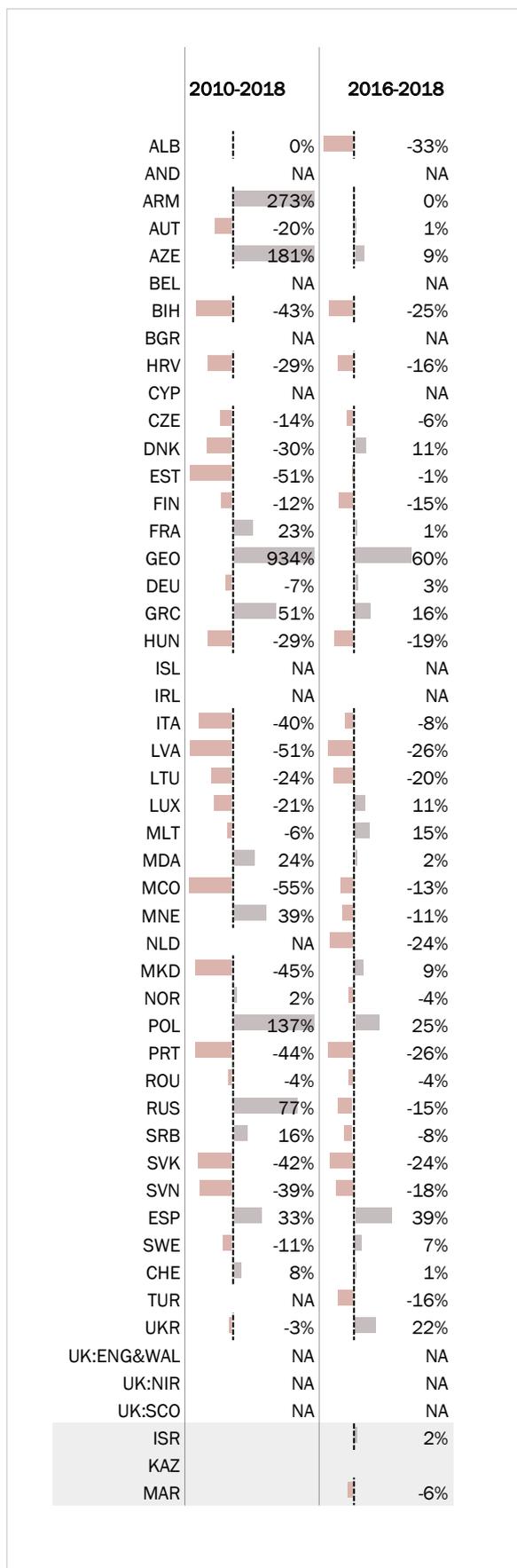
■ Specific trends are perceptible in DT. From 2010 to 2018, roughly one half of States and entities increased their DT while the other half produced decreasing results. However, over the past two cycles, more jurisdictions had their DT increased than decreased. Out of 34 States and entities which provided data, DT grew in almost three quarters.

■ **Bosnia and Herzegovina, Monaco** and **Portugal** improved their DT considerably while their CR could be considered reasonable to high. Conversely, **France** and **Italy** increased or maintained high DT although their CR are also mostly reasonable to high. There are States such as **Croatia, Malta** and the **Slovak Republic**, which produced noticeable improvements from 2010 to 2018, but over the past two cycles, their DT started deteriorating slightly. The country's change in methodology of presenting data in 2016 could partly explain the advancement in the **Slovak Republic**. Conversely, in 2018 **Greece** presented positive steps towards a lower DT.

Figure 5.9 Evolution of Clearance Rate and Disposition Time in civil and commercial litigious cases at first instance (Q91)

	2010	2012	2014	2016	2018	2010	2012	2014	2016	2018
ALB	93%	97%	100%	99%	98%	173	192	171	159	172
AND	99%	95%	103%	NA	NA	189	264	460	NA	NA
ARM	101%	103%	75%	94%	101%	163	168	230	188	194
AUT	100%	101%	103%	102%	101%	129	135	130	133	138
AZE	98%	100%	99%	98%	99%	43	52	33	25	51
BEL	NA	NA	98%	102%	112%	NA	NA	NA	NA	NA
BIH	94%	116%	114%	115%	126%	826	656	603	574	483
BGR	NA									
HRV	102%	95%	113%	118%	112%	462	457	380	364	374
CYP	84%	NA	NA	NA	NA	513	NA	NA	NA	NA
CZE	103%	99%	105%	110%	102%	128	174	163	153	149
DNK	102%	109%	102%	101%	95%	182	165	177	176	207
EST	98%	112%	104%	98%	101%	215	167	125	139	143
FIN	93%	103%	105%	125%	102%	259	325	289	252	273
FRA	98%	99%	94%	99%	96%	279	311	348	353	420
GEO	96%	102%	93%	77%	91%	94	62	100	242	274
DEU	102%	100%	100%	103%	97%	184	183	198	196	220
GRC	79%	58%	113%	99%	86%	190	469	330	610	559
HUN	102%	105%	104%	98%	116%	160	97	144	159	151
ISL	NA	NA	NA	NA	54%	NA	NA	NA	NA	NA
IRL	NA	NA	56%	59%	63%	NA	NA	NA	NA	NA
ITA	118%	131%	119%	113%	103%	493	590	532	514	527
LVA	86%	118%	98%	107%	103%	315	241	255	217	236
LTU	102%	101%	97%	98%	104%	55	88	97	88	84
LUX	139%	173%	97%	100%	101%	200	73	103	91	94
MLT	89%	114%	101%	107%	93%	849	685	536	432	440
MDA	95%	100%	97%	97%	104%	110	106	127	140	143
MCO	76%	117%	109%	99%	93%	743	433	347	372	372
MNE	92%	102%	84%	98%	105%	271	254	298	267	229
NLD	NA	NA	99%	101%	101%	NA	NA	132	121	110
MKD	95%	131%	117%	95%	101%	259	175	132	223	179
NOR	101%	100%	97%	102%	101%	158	160	176	161	176
POL	95%	89%	99%	99%	92%	180	195	203	225	273
PRT	102%	98%	NA	112%	109%	417	369	NA	289	229
ROU	90%	99%	109%	102%	103%	217	193	146	153	157
RUS	100%	99%	98%	102%	100%	13	40	37	42	50
SRB	92%	116%	92%	94%	110%	316	242	359	315	225
SVK	98%	82%	92%	132%	131%	364	437	524	130	157
SVN	99%	101%	109%	106%	110%	315	318	270	280	283
ESP	93%	100%	98%	103%	87%	314	264	318	282	362
SWE	98%	99%	104%	99%	97%	187	179	157	164	166
CHE	100%	100%	101%	101%	100%	132	127	116	107	111
TUR	NA	115%	96%	86%	98%	NA	134	227	399	307
UKR	104%	106%	102%	97%	97%	52	70	68	96	129
UK:ENG&WAL	NA									
UK:NIR	NA	NA	NA		NA	NA	NA	NA	..	NA
UK:SCO	NA	85%	85%	79%	81%	NA	NA	NA	NA	NA
ISR		101%	102%	97%	100%		340	334	333	315
KAZ					98%					32
MAR				103%	101%				86	75
Average	98%	104%	100%	101%	99%	267	243	238	232	233
Median	98%	101%	100%	100%	101%	195	188	188	192	201

Figure 5.10 Variations in the number of the first instance civil and commercial litigious cases pending on December 31st (Q91)



The evolution of cases pending at the end of the year reveals how courts' case resolutions have influenced the backlog causing its accumulation or reduction. Figure 5.10 shows pending cases variations from 2010 to 2018 and from 2016 to 2018. In total, 49% of States and entities reduced their backlog consistently over both periods observed, while 28% increased their backlog over the years examined. The remaining States and entities have no data available to observe.

Besides **Georgia** as an outlier, specifically high increases (higher than 100%) are recorded in **Armenia, Azerbaijan** and **Poland**.

According to comments provided by **Georgia**, the main reason for such high figures was increasing incoming cases not followed by increases in the number of judges. As a result of numerous justice sector reforms, the number of incoming cases increased fivefold from 2010 to 2018 (from 0,43 to 1,94 cases per 100 inhabitants). In **Armenia**, incoming caseload tripled and in **Azerbaijan**, it doubled. Nonetheless, neither of these States generated backlog significantly higher than the European median of 1,2 pending cases per 100 inhabitants. 1,3 cases per 100 inhabitants was left pending at the end of 2018 in **Georgia**, 1,5 in **Armenia** and 0,3 in **Azerbaijan**.

However, there are significantly more States and entities with noticeable improvements in backlog reduction in both presented periods. These are **Bosnia and Herzegovina, Croatia, the Czech Republic, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Monaco, Portugal, the Slovak Republic** and **Slovenia**. The other States and entities produced mixed but generally satisfactory results such as **Denmark** which reduced the number of pending cases by 30% from 2010 to 2018. Still, an increase of 11% was reported from 2016 to 2018. Likewise, **North Macedonia** had a reduction of 45% over the longer period, while over the past two cycles pending cases increased by 9%.

Litigious divorces, employment dismissals and insolvency cases as specific categories of first instance civil and commercial litigious cases

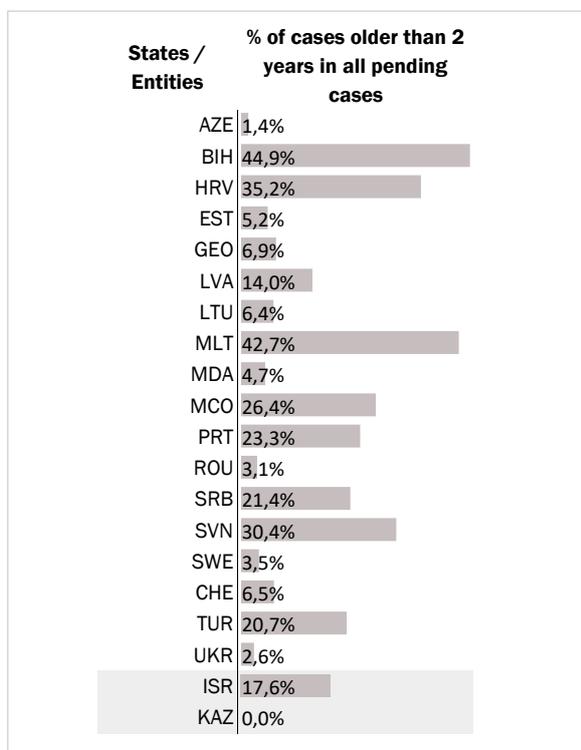
Data concerning three specific categories of civil cases, litigious divorces, employment dismissals and insolvency cases, allow for a better understanding of the caseload of European courts, as well as for a more practical comparison of the figures.

European first instance courts maintained mostly stable DT of litigious divorce cases over the past five cycles. Disposition Time calculated for 2018 is 162 days or 39 days shorter than the overall civil and commercial litigious cases median. Employment dismissal cases

Disposition Time increased considerably from 2010 to 2018, from 223 to 276 days or 75 days longer than the civil and commercial litigious cases median. Nevertheless, 2018 results come as an improvement after 285 days in 2016. Conversely, the Disposition Time in insolvency cases decreased by 26 days in 2018 compared to 2010 - it reached 297 days or 96 days above the median for civil and commercial litigious cases.

Pending first instance civil and commercial litigious cases older than two years

Figure 5.11 First instance, percent of cases older than 2 years in all pending cases 31 December (Q91)



Although increasing backlog is a matter of concern, there is another significant aspect: the ratio of pending cases older than two years from the date the case came to the first instance court. Data on this matter are available in 19 States and entities and two observer States. In eight States and entities, **Bosnia and Herzegovina, Croatia, Malta, Monaco, Portugal, Serbia, Slovenia** and **Turkey**, cases older than two years take up over one-fifth of the pending cases.

The lowest percentage of cases older than two years is 1,4% in **Azerbaijan**. In **Kazakhstan** it seems there is no case older than two years.

The share of cases older than two years is increasing in some States and entities, such as **Croatia, Estonia, Georgia, Monaco, Slovenia** and **Serbia**. Unsurprisingly, as the pending stock increased in **Georgia**, for all States and entities the share of pending cases older than two years increased from 1,9% in 2016 to 6,9% in 2018. However, a lack of data concerning the case categories in question prevents any more in-depth analysis.

Still, the available data do not reveal much. Jurisdictions with high CR may be resolving many new cases rather quickly and passing the older and possibly more complex ones to that part of their workload that may take very long to be resolved. To identify if that is the case, the structure and age of these cases, and how courts select the cases for resolution should be investigated.

Interesting examples

Serbia launched its inaugural Court Rewards Program designed to motivate first instance courts to improve their efficiency and productivity in processing cases in 2016. In the inaugural year, two categories of awards were conferred: the most considerable improvement in backlog reduction and the largest improvement in the number of resolved cases per judge. By focusing on “most improved player” awards, the programme aims to motivate lower-performing courts to increase consistency of justice services and lift average performance across the judiciary. **Azerbaijan** integrated scientific principles in court operations covering time, cost efficiency/productivity and quality in 2017. One of the effects of these efforts was an improvement in court management, resulting in a proactive role of the court president and judges. In 2017, the Municipal Court in Sarajevo, **Bosnia and Herzegovina**, adopted a set of guidelines for the harmonised application of litigious procedural rules. These guidelines were based on the analysis of existing problems in the application of the Law on Civil Procedure of the Federation of Bosnia and Herzegovina.

” First instance administrative cases

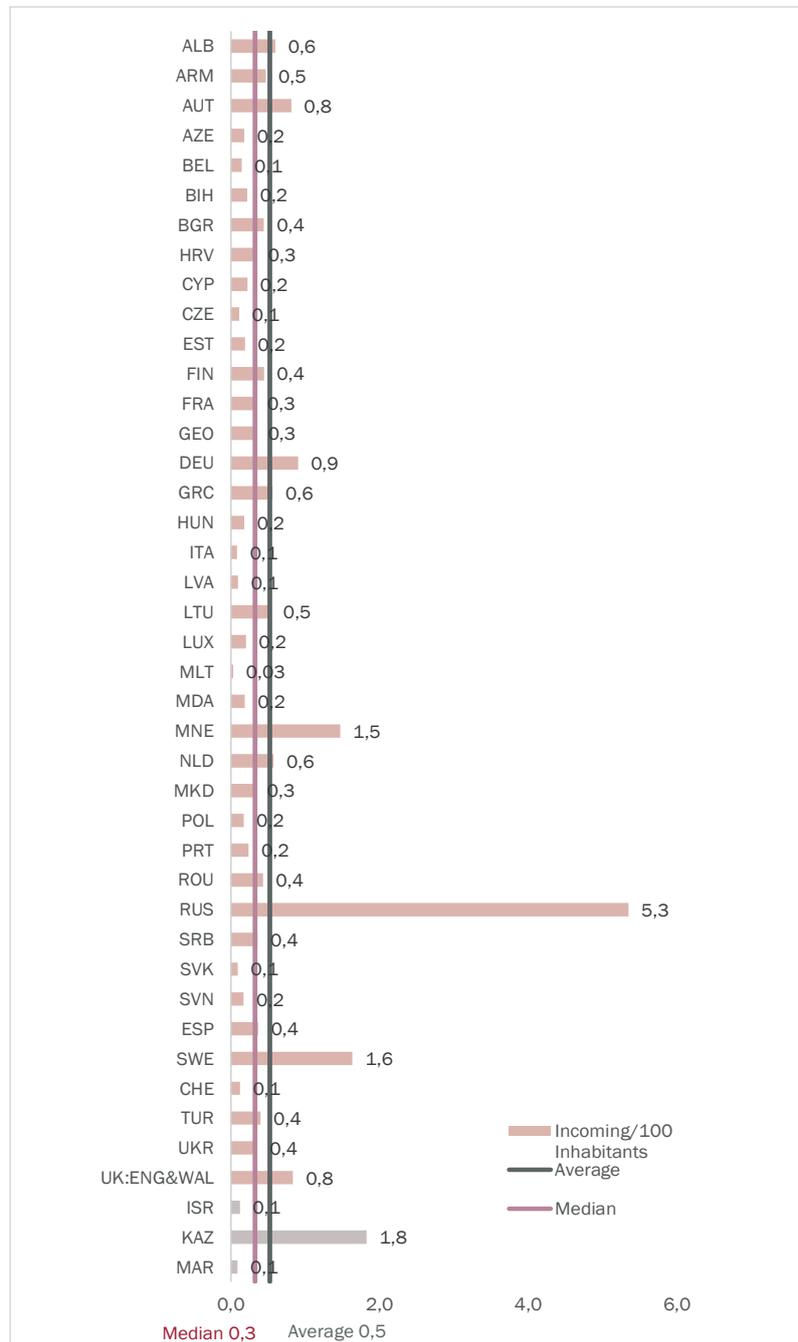
In administrative cases, one of the parties to the dispute is always a public authority. In many States administrative law is dealt with separately, in specialised administrative law tribunals or units within courts of general jurisdiction.

The workload of court services in administrative cases

The number of incoming administrative cases per 100 inhabitants is typically far lower than in other case types examined in this chapter. Out of 37 States and entities that provided data, only **Montenegro, Russian Federation** and **Sweden** reported more than 1,0 incoming cases per 100 inhabitants. Interestingly, **Montenegro** and **Sweden** faced a significant increase compared to the previous cycle, by more than 50% in **Montenegro** and almost 100% in **Sweden**. **Montenegro** reported that the increase was caused by specific lawsuits filed by mothers of three or more children after the government decided to terminate their rights to monthly compensation. At the same time, **Sweden** stated that all administrative cases are increasing, specifically cases related to asylum seekers and the right of entry and stay for aliens. Six States and entities reported from 0,5 to 1,0 received cases, while the remaining 29 received less than 0,5 administrative cases per 100 inhabitants in 2018.

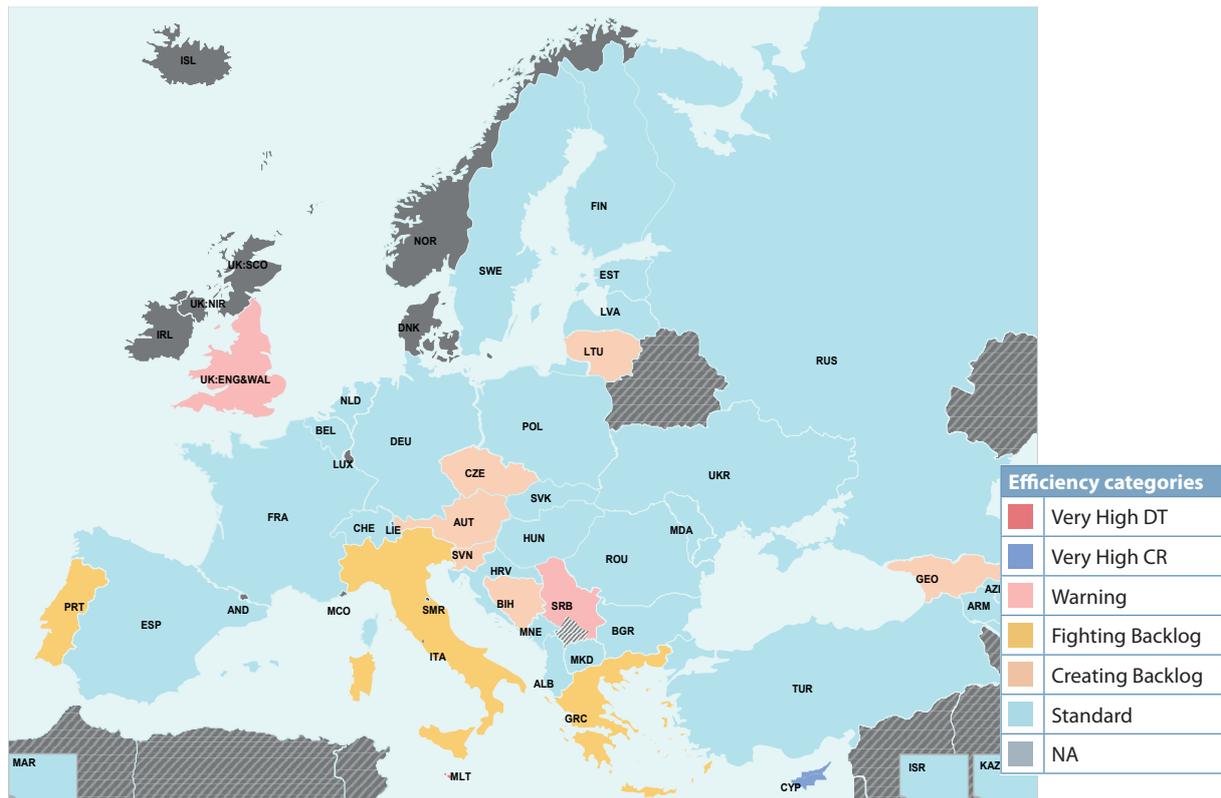
Performance indicators in administrative cases

Figure 5.12 Incoming first instance administrative cases per 100 inhabitants in 2018 (Q91)



In total, 38 States and entities provided data based on which it was possible to examine both CR and DT in 2018. By confronting these performance indicators in Map 5.13, it is feasible to assess if the States and entities are able to cope with the size of their incoming administrative caseloads timely. States and entities for which the data are unavailable or in which administrative cases are not dealt with by first instance courts are coloured grey.

Map 5.13 Clearance Rate vs Disposition Time for first instance administrative cases in 2018 (Q91)



Almost three-quarters of States and entities fall into the category of standard efficiency, depicted in Map 5.13 in light blue, meaning that their achieved CR is between 95% and 200% and their DT does not exceed two median values.

Approximately one-third of States and entities produced the most favourable CR of 100% or higher and DT below the calculated European median of 248 days. Among these 12 States and entities there are no significant deviations or extreme values of the indicators analysed. Satisfactory CR, but to some extent higher DT (still under the value of two medians), are reported in **North Macedonia** (281 days), **Spain** (331 days), **Belgium** (370 days) and **Montenegro** (401 days).

Greece, Italy and **Portugal** produced CR above 100% but their DT is particularly high, 601, 889, and 982 days, respectively. Nevertheless, compared to the previous cycle and 2016 data, only in **Portugal** is the DT increasing. The other two States achieved significant progress in DT reduction.

Austria, Bosnia and Herzegovina, the Czech Republic, Georgia, Lithuania and **Slovenia** were creating backlog but still managed to achieve acceptable DT. Although this situation is still not distressing, if the backlog accumulation continues, it is likely that the DT of administrative cases will only grow. For instance, in **Austria**, a CR of 90% will most probably cause the DT of 449 days to rise further. **UK – England and Wales** reported

a combination of low CR (89%) and a high DT (497 days) making its overall efficiency unfavourable. **Malta** reported the highest DT of 1 057 days. Although this is particularly high, the falling trend over the years implies considerable progress, as clarified in the following section.

Evolution of performance indicators in administrative cases

Figure 5.14 illustrates the evolution of the CR and DT indicators for administrative cases from 2010 to 2018 by State and entity depending on data availability.

One half of States and entities (52%) has improved their CR in both periods analysed, from 2010 to 2018, and from 2016 to 2018. Concurrently, the CR of 29% of States and entities varied, while 19% saw a reduction in CR.

Individually, CR changed over the years in most of the States and entities, and these variations were every so often considerable. For instance, in **Lithuania**, 89% was reported in 2014, 144% in 2016 and 88% in 2018. In **Romania**, 78% in 2012 increased to 161% in 2014 and then decreased to 92% in 2016, while in **UK – England and Wales** 85% achieved in 2012 jumped to 192% in the following cycle and then decreased again to 90%. By contrast, the **Russian Federation** and **Israel** maintained their CR stable at 100% from 2012 to 2016 (data for other years were unavailable).

■ **Armenia** reduced its DT by 47% over five cycles, reaching 119 days in 2018, **Cyprus** and **Greece** improved their CR significantly causing considerable reductions in DT, by 64% and 77% respectively. **Italy** reported very high CR ranging from 316% in 2010 to 136% in 2018, which did cause the DT to decrease but not as substantially as one could expect – from 1,037 days in 2010 to 889 days in 2018.

■ In 15 States and entities, CR and DT are steady and presenting satisfactory results consistently over the past five cycles. These are **Azerbaijan, Bulgaria, Estonia, Finland, France, Georgia, Germany, Hungary, Republic of Moldova, the Netherlands, Poland, Sweden, Switzerland, Turkey** and **Ukraine**. The **Russian Federation** reported the lowest DT, ranging from six to 13 days.

■ **Croatia** and **North Macedonia** demonstrated significant improvements in DT – 825 days reported in **Croatia** in 2010 fell to 197 days while 797 days in **North Macedonia** declined to 281 days. By contrast, **Portugal** and **Serbia** reported a rather high DT of over 900 days and over 700 days, respectively, but data for **Portugal** was unavailable for all cycles.

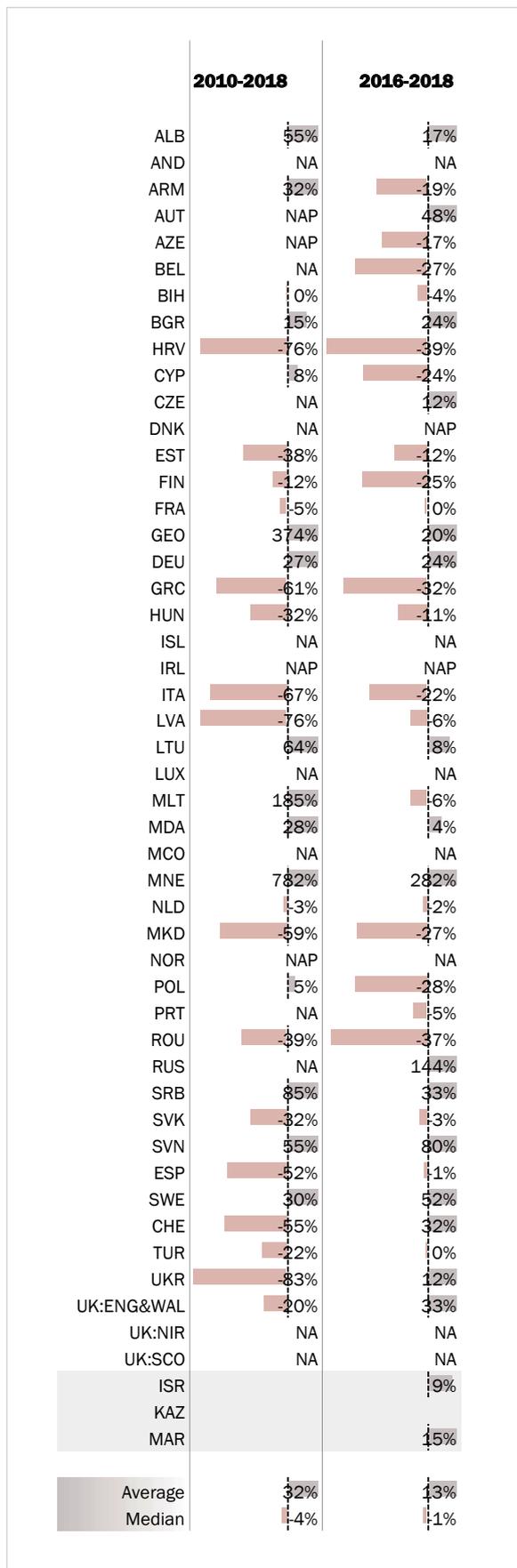
■ **Montenegro, the Slovak Republic, Slovenia** and **UK – England and Wales**, increased their DT noticeably over both periods examined, exceeding 400 days in 2018.

■ For more precise conclusions, the trends in the evolution of CR and DT of administrative cases should be examined in combination with the volume of pending cases.

Figure 5.14 Evolution of Clearance Rate and Disposition Time of first instance administrative cases (Q91)

	2010	2012	2014	2016	2018	2010	2012	2014	2016	2018
ALB	83%	91%	88%	98%	99%	264	287	74	115	90
AND	131%	93%	90%	90%	NA	222	429	517	NA	NA
ARM	89%	94%	155%	109%	118%	223	294	128	242	119
AUT	NAP	NAP	NAP	91%	90%	NAP	NAP	NAP	380	449
AZE	NAP	96%	102%	91%	98%	NAP	103	75	105	76
BEL	NA	NA	88%	121%	119%	NA	NA	625	429	370
BIH	83%	105%	90%	118%	94%	380	326	379	339	393
BGR	98%	92%	101%	104%	100%	113	150	124	108	112
HRV	108%	41%	86%	109%	116%	825	523	426	319	197
CYP	74%	74%	103%	113%	219%	1.340	1.270	1.775	1.582	487
CZE	NA	NAP	91%	80%	88%	NA	NAP	415	421	412
DNK	NA	NAP	NAP	NAP	NAP	NA	NAP	NAP	NAP	NAP
EST	91%	106%	90%	106%	100%	146	108	141	108	119
FIN	99%	101%	97%	79%	112%	238	248	280	279	235
FRA	107%	107%	96%	99%	98%	338	302	305	314	285
GEO	108%	113%	102%	108%	94%	36	213	130	101	185
DEU	96%	102%	100%	92%	97%	373	354	367	375	435
GRC	80%	143%	NA	148%	164%	2.003	1.520	NA	1.086	601
HUN	96%	108%	92%	100%	102%	202	147	148	109	109
ISL	NA	NA	NA	NA	NAP	NA	NA	NA	NA	NAP
IRL	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
ITA	316%	280%	156%	153%	136%	1.037	886	984	925	889
LVA	103%	130%	144%	95%	105%	439	300	155	228	248
LTU	83%	98%	89%	144%	88%	160	144	310	72	129
LUX	93%	70%	94%	98%	86%	172	NA	NA	NA	NA
MLT	29%	40%	149%	114%	91%	2.758	1.457	1.408	1.464	1.057
MDA	92%	105%	104%	104%	106%	165	126	186	155	205
MCO	NA	NA	NAP	NA	NAP	NA	NA	NAP	NA	NAP
MNE	99%	87%	91%	88%	104%	119	210	202	240	401
NLD	107%	98%	99%	95%	95%	159	163	171	178	200
MKD	65%	112%	113%	94%	114%	797	317	347	370	281
NOR	NAP	NAP	NAP	NA	NA	NAP	NAP	NAP	NA	NA
POL	95%	100%	97%	103%	105%	121	112	139	143	118
PRT	NA	NA	NA	112%	111%	NA	NA	NA	911	928
ROU	71%	78%	161%	92%	118%	269	272	179	170	117
RUS	NA	100%	100%	100%	100%	NA	11	7	6	13
SRB	86%	81%	104%	89%	73%	535	497	440	539	745
SVK	102%	47%	125%	112%	96%	66	733	397	203	401
SVN	114%	110%	103%	87%	91%	139	130	112	282	406
ESP	101%	124%	113%	112%	100%	473	427	361	312	331
SWE	88%	105%	103%	94%	97%	190	126	114	115	146
CHE	105%	107%	100%	101%	101%	229	217	225	180	203
TUR	91%	127%	97%	98%	98%	187	132	212	150	177
UKR	96%	130%	99%	87%	101%	65	33	51	138	122
UK:ENG&WAL	85%	85%	192%	90%	89%	384	446	169	383	497
UK:NIR	NA	NA	NA	NA	NA	NA	NA	NA	..	NA
UK:SCO	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
ISR		100%	101%	100%	98%		117	99	101	107
KAZ	0%	0%	0%	0%	100%					1
MAR				100%	98%				89	80
Average	99%	102%	108%	103%	105%	446	372	336	357	323
Median	95%	101%	100%	100%	100%	226	272	207	241	241

Figure 5.15 Variation in first instance administrative cases pending on 31st December (Q91)



In both periods displayed in Figure 5.15, 12 States and entities reduced the volume of pending cases, while ten reported an increase. Among the latter, **Georgia** and **Montenegro** reported a significant increase, implying that the efficiency of their jurisdictions in administrative matters is deteriorating. However, the number of pending administrative cases in these States provides a much better understanding of their situation. Despite the increases, **Georgia** is, with 0,16 pending administrative cases per 100 inhabitants, still well below the European median of 0,18. In **Montenegro**, ten times more cases than in Georgia were pending – 1,68 per 100 inhabitants.

An increasing backlog is also an issue in **Germany**, **Slovenia** and **Sweden**. In **Austria**, the increase was 48% over the past two cycles. In **Austria**, eleven administrative courts, one for each of the nine states (*Länder*), one for review of the decisions of federal agencies and one for the review of administrative decisions in tax matters, were established in 2014 which explains the growing pending stock. Except for **Slovenia**, all these States finished 2018 with double or triple the number of pending cases per 100 inhabitants compared to the European median. **Germany** and **Sweden** faced a significant workload of administrative cases related to asylum seekers and the right to entry and stay for aliens which most probably contributed significantly to the increase in pending cases.

By contrast, **Croatia**, **Greece**, **Italy**, **Latvia**, **North Macedonia**, **Spain**, **Switzerland** and **Ukraine** performed particularly well and more than halved the volume of their pending cases from 2010 to 2018.

Another group of States and entities are the ones with varying results. Among those, **Armenia**, **Cyprus** and **Poland** increased their backlog over the longer period but improved in the past two years. In **Switzerland**, **Ukraine** and the **UK – England and Wales** the situation was the other way around. The comparison of the number of pending cases in 2016 and 2018 demonstrates an increase of 32%, 12% and 33% respectively.

Bosnia and Herzegovina, **France** and the **Netherlands** displayed almost negligible variations with 0,2 to 0,3 pending administrative cases per 100 inhabitants pretty much in line with the European median.

Pending first instance administrative cases older than two years

Figure 5.16 Pending first instance administrative cases older than two years at first instance (Q91)

States / Entities	% of cases older than 2 years in all pending cases
AUT	24,5%
AZE	0,9%
BIH	17,9%
EST	3,7%
FRA	16,6%
GEO	7,9%
ITA	51,0%
LVA	4,6%
LTU	2,1%
MLT	63,7%
MDA	6,6%
ROU	4,5%
RUS	NA
SRB	13,7%
SVN	0,4%
SWE	0,2%
CHE	8,4%
TUR	1,7%
UKR	0,7%
KAZ	0,0%

For a better understanding of the composition of pending cases, valuable information can be obtained from the assessment of cases that are older than two years. In this evaluation cycle, 19 States and entities and one observer State provided such data - two more than in the last cycle when the corresponding data was collected for the first time.

The most substantial volume of administrative cases older than two years is pending in **Austria, Bosnia and Herzegovina, France, Italy and Malta**.

Most of the countries for which data were available for both 2016 and 2018 did not show any significant changes in the pending administrative cases older than two years. The exceptions are **Malta and Switzerland**, which both decreased their pending stocks of cases older than two years - **Malta** from 71,2% to 63,7%, and **Switzerland** from 21,2% to 8,4%.

Cases relating to asylum seekers and the right to entry and stay for aliens

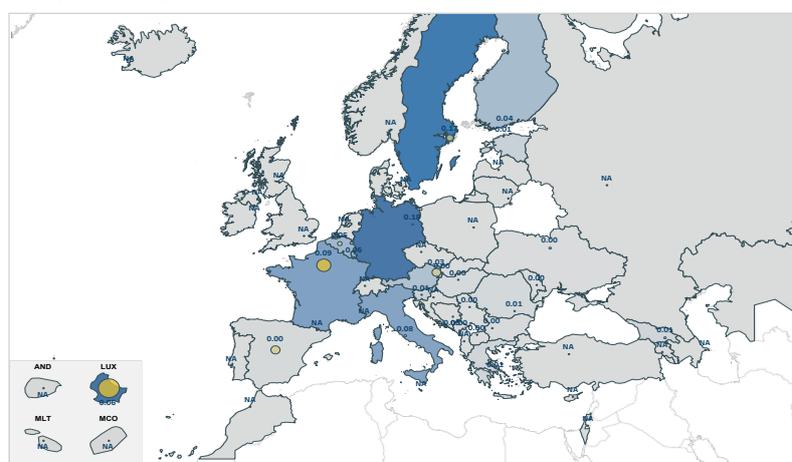
Due to the rising significance of this topic, in the previous evaluation cycle, CEPEJ started collecting data to measure the specific impact of disputes concerning asylum seekers and the rights of aliens (entry and residence) on judicial systems.

- **Cases relating to asylum seekers** (refugee status under the 1951 Geneva Convention and the protocol of 1967). Cases for which an appeal has been lodged or a decision of a judge has been issued against the decision whether or not to grant refugee status.
- **Cases relating to the right of entry and stay for aliens**. Procedures ending with a court decision whether or not to grant the right of entry and stay for aliens. Depending on the national system, this could be the first instance decision of the judge or an appellate procedure against the decision of the state administration (before coming to court).

In this evaluation cycle, 27 States and entities provided data on cases relating to asylum seekers and right of entry and stay for aliens. Unlike in 2016, **Switzerland** did not provide data in this cycle, but **Bulgaria, Montenegro, the Russian Federation and Ukraine** replied for the first time.

In 2018, the participating jurisdictions received 291 443 cases relating to asylum seekers or 8% fewer than in 2016. 183 920 incoming cases relating to the right of entry and stay for aliens represent an increase of 84%.

Map 5.17 Incoming cases relating to asylum seekers and the right of entry and stay for aliens (Q101)



As illustrated in Map 5.17, the most affected States, with over 5 000 cases of both case types combined, continue to be **Austria, Belgium, France, Germany, Italy, Sweden and Spain**.

The highest incoming caseload of asylum seekers is 149 593 cases recorded in **Germany** while the number of right of entry and stay for aliens cases is not available. The second highest inflow is in **France** which received 58 671 asylum seekers cases and 79 807 right of entry and stay for aliens cases. **Italy**, then, received 48 891 asylum seekers cases and 2 224 right of entry and stay for aliens cases.

In the majority of States that provided data for the 2016 – 2018 comparison, the combined number of asylum seeker cases and of right of entry and stay for aliens cases grew. As for the most affected States, the incoming caseload jumped in **Austria** (51%), **France** (102%), **Spain** (51%) and **Sweden** (42%), while it dropped in **Belgium** (17%), **Finland** (62%) and **Germany** (18%).

■ In 2018, European CR median of cases related to asylum seekers is 94%, and of the right to stay for aliens cases 96%. These rates declined compared to the results from the previous cycle by 1 and 4 percentage points, respectively.

■ Individual results in terms of CR and DT varied significantly among States and entities, and among the two case types within a State. Still, it appears that, in general, cases of the right of entry and stay for aliens were being resolved somewhat more efficiently, producing higher CR and lower DT.

Figure 5.18 Absolute numbers and performance indicators for cases related to asylum seekers and right to stay for aliens in 2018 (Q101)

States / entities	Absolute number of incoming cases		Clearance Rate		Disposition Time	
	Cases relating to asylum seekers	Cases relating to the right of entry and stay for aliens	Cases relating to asylum seekers	Cases relating to the right of entry and stay for aliens	Cases relating to asylum seekers	Cases relating to the right of entry and stay for aliens
AUT	3.030	31.560	95%	74%	62	588
AZE	NAP	4	NAP	75%	NAP	122
BEL	5.496	7.741	113%	131%	203	520
BIH	29	13	79%	77%	95	110
BGR	217	103	216%	89%	44	79
EST	182	140	98%	101%	14	0
FIN	2.332	2.412	223%	71%	163	431
FRA	58.671	79.807	81%	94%	284	NA
GEO	301	1.809	99%	96%	104	57
DEU	149.593	NA	121%	NA	442	NA
GRC	861	1.281	82%	605%	453	242
HUN	370	611	104%	110%	46	77
ITA	48.891	2.224	86%	128%	534	NA
LTU	NA	502	NA	104%	NA	67
LUX	370	57	100%	96%	NA	NA
MDA	40	155	83%	85%	619	67
MCO	-	-	-	-
MNE	22	NAP	77%	NAP	107	NAP
MKD	39	1	95%	400%	296	183
ROU	992	90	91%	103%	88	777
RUS	NA	793	NA	82%	NA	87
SRB	40	8	68%	63%	460	219
SVK	97	NAP	94%	NAP	48	NAP
SVN	299	54	94%	135%	72	435
ESP	2.030	33.252	47%	87%	1091	226
SWE	17.006	19.312	103%	96%	275	90
UKR	535	1.991	90%	99%	218	11
KAZ	NA	44.405	NA	100%	NA	0
Average	12.143	7.663	102%	130%	260	219
Median	370	557	94%	96%	183	116

■ A very high CR indicating that there is substantial backlog reduction in cases of the right of entry and stay for aliens is to be noticed in **Greece** (605%) and **North Macedonia** (400%). By contrast, a low CR in both the case types concerned are noted in **Bosnia and Herzegovina, Republic of Moldova, Serbia** and **Spain**.

■ The judicial system in **Spain** seems to be particularly distressed with the increasing caseload, low CR and a DT of 1 091 days in asylum seekers cases.

■ Germany, as the most burdened State, improved its Clearance rate from 59% in 2016 to 121% in 2018

but its DT increased by 68 days and reached 442 days. In France, the double caseload caused the CR to decrease, but there were no data in 2016 to evaluate the change in DT.

Inspiring example

In 2016, the Court in Catania, **Italy**, as one of the most affected courts in terms of asylum proceedings, implemented a set of efficiency raising measures. An analysis was conducted focused on critical management issues, best practices were disseminated and resources strengthened. As a result, the CR was significantly improved and DT shortened.

■ The individual States and entities displayed vast differences in DT of the two case types. DT in **Romania** for asylum seeker cases is 88 days while 777 days are recorded for cases of the right of entry and stay for aliens. Interestingly, there are ten times more incoming asylum seeker cases (992) than cases of the right of entry and stay for aliens (90). Similarly, **Slovenia** received 299 asylum seeker cases for which it produced a DT of 72 days while 54 cases of the right of entry and

stay for aliens has a DT of 435 days. From these results, it seems that cases concerning the right of entry and stay for aliens are much more complex than those relating to asylum seekers, although it is not clear exactly why.

■ **Estonia, Georgia, Hungary, Lithuania** and **Ukraine** reported satisfactory CR and DT for both asylum seekers cases and cases of the right of entry and stay for aliens. All other States have less satisfying results.

” First instance criminal cases

■ Criminal cases are, in this section, considered as all cases for which a sanction may be imposed by a judge even if this sanction is foreseen in an administrative code. In that case, they will only be counted once as criminal cases. Offences sanctioned directly by the police or an administrative authority are not counted as criminal cases.

■ To differentiate among different types of criminal cases and to ensure better comparability among different legal systems, criminal cases are classified as severe criminal cases (severe offences), misdemeanour and/or minor criminal cases (minor offences) and other criminal cases. In minor criminal cases, it is not possible to pronounce a sentence involving deprivation of liberty. Contrariwise, severe criminal cases are those punishable by deprivation of liberty (arrest and detention, imprisonment). Common examples of severe criminal cases include murder, rape, organised crime, fraud, drug trafficking, while minor offences, among others, include specific categories of driving offences, public order offences.

■ The prosecution of criminal suspects is an integral part of any criminal justice system. The status and organisation of prosecution services differ widely

across Europe. Nevertheless, all prosecution services are empowered to prosecute a case in court. This section covers not only the performance of courts but also of public prosecution as an essential part of criminal justice.

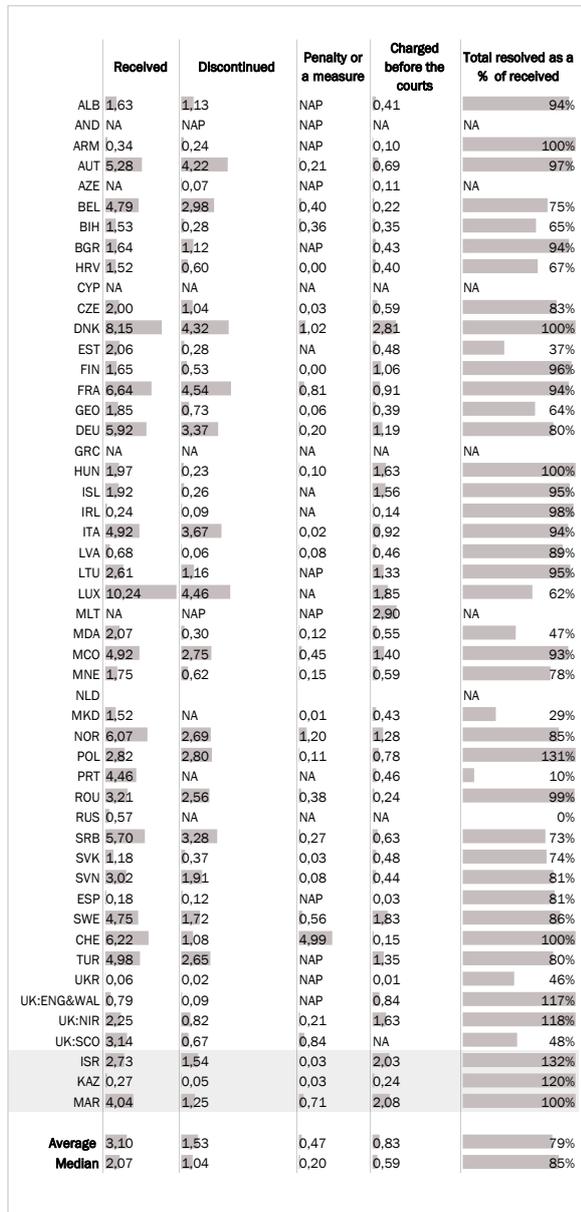
■ In this cycle, 24 States and entities were able to distinguish between severe and misdemeanour criminal cases. Among them, only **Austria** and **Poland** showed approximately the same share of both particular case types. There were more misdemeanour cases in 14 States and entities (58%), while eight States and entities (33%) reported a higher percentage of severe criminal cases.

■ Severe criminal cases are more complex and therefore time-consuming, while misdemeanour cases are generally simpler and quicker to resolve. Consequently, performance indicators can be somewhat enhanced in those jurisdictions where the share of misdemeanour cases is significantly higher than that of severe cases. However, this impact on the overall performance of courts in the criminal domain should be taken cautiously because large volumes of even simple cases may, on the contrary, cause system congestions.

Cases handled by public prosecutors

■ Is the volume of public prosecutions' caseload the same everywhere in Europe?

Figure 5.19 Cases handled by public prosecutors per 100 inhabitants in 2018 (Q107)



■ In this CEPEJ evaluation cycle, the median of cases received by public prosecutors per 100 inhabitants is 2,07. The public prosecutors discontinued 1,04 cases per 100 inhabitants, concluded a penalty or a measure imposed or negotiated by the public prosecutor in 0,20 of them and charged 0,59 before the courts. The averages are somewhat higher than the medians due to States and entities with very high ratios of these cases such as **Luxembourg** with 10,24 received cases per 100 inhabitants and **Denmark** with 8,15.

■ Trends displayed at European level, median and average, show almost unchanged numbers compared to 2016 data indicating a steady situation in the majority of States and entities. In terms of received cases, participating States and entities reported very similar numbers over the past two cycles. Only **Denmark** almost tripled the incoming caseload per 100 inhabitants, from 3,01 in 2016 to 8,15 in 2018. This high rise in 2018 has been explained by a change in methodology of presentation of data compared to earlier cycles.

■ The European median for the total number of cases resolved by the public prosecutor against cases received is 85% while the average is 6% lower. Both figures represent a decrease of 9 and 17 percentage points, respectively, compared to 2016.

■ There are two reasons for these trends. Firstly, there are fewer States and entities in this evaluation cycle with a total percentage of resolved cases higher than 100%. Only **Poland** (131%), **UK – England** and **Wales** (117%) and **UK – Northern Ireland** (118%) delivered such results. Secondly, there are more States and entities with quite low resolved against received ratios. In 2018, **Bosnia and Herzegovina**, **Croatia**, **Georgia**, **Republic of Moldova** and **Ukraine** achieved under 70%, while in 2016 this occurred in **Bosnia and Herzegovina**, **Republic of Moldova** and **Slovenia**. **Croatia** reported a change in its methodology of presentation of data as of 2018, which could partially explain the achieved result.

Figure 5.20 Number of cases for guilty plea procedures brought to court by the prosecutor per 100 inhabitants (Q107-1)

	Total	Before the court procedure	During the court procedure
ALB	0,02	0,02	NA
AND	1,52	NAP	NAP
BIH	0,04	0,01	0,03
BGR	0,31	0,15	0,15
HRV	0,01	NA	NA
CZE	0,00	NA	NA
DNK	0,07	NA	NA
EST	0,25	NA	NA
FRA	0,14	NAP	0,14
GEO	0,26	0,17	0,09
HUN	0,06	0,03	0,03
LVA	0,08	0,07	0,00
LTU	0,67	0,67	NAP
LUX	0,00	NA	NA
MDA	0,02	0,01	0,01
MNE	0,05	NAP	NAP
MKD	0,01	0,01	NAP
NOR	0,39	0,39	NAP
POL	0,11	0,11	NA
ROU	0,01	0,01	NAP
SRB	0,09	0,07	0,02
SVK	0,02	0,02	0,00
SVN	0,02	NA	NA
ESP	0,38	0,20	0,18
CHE	4,99	4,99	NAP
UKR	0,00	NA	NA
ISR	0,91	NA	NA
KAZ	0,02	0,01	0,01
Average	0,37	0,43	0,07
Median	0,07	0,07	0,03

Guilty plea procedures are an important efficiency instrument in criminal justice. Still, the data shown in Figure 5.20 needs to be examined with particular caution.

During this evaluation cycle, 26 States and entities and two observers provided data on guilty plea procedures.

The European medians displayed in Figure 5.20 show the very similar total number of cases per 100 inhabitants compared to the 2016 data (0,08). For the category before the court procedures decreased by 0,01 cases and during the court procedures decreased by 0,03 cases.

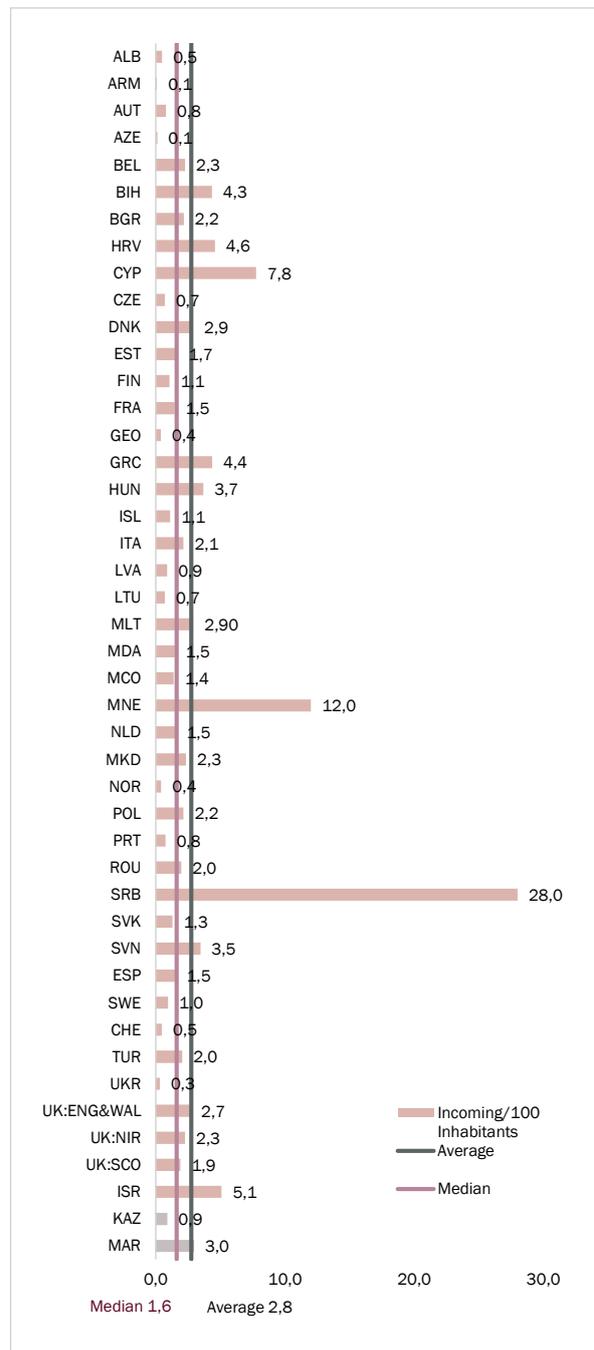
Switzerland remained the State with the highest number of guilty plea procedures (4,99 cases per 100 inhabitants) which is approximately five times higher than in **Israel**, the State with the second-highest ratio (0,91). The explanation lays in the generally low crime rate in **Switzerland** and the general inclination of defendants to deal with the procedure quickly

and avoid trial. **Andorra, Lithuania, Norway** and **Spain** reported noticeable but not as high numbers, 1,52; 0,67; 0,39 and 0,38 cases per 100 inhabitants, respectively.

By contrast, 16 States and entities reported a very low number of guilty plea procedures, less than 0,1 case per 100 inhabitants. Among them, the **Czech Republic** and **Ukraine** reported 0,001 cases, **Luxembourg** 0,003 cases, **Croatia, North Macedonia** and **Romania** 0,1 cases, and **Serbia** 0,09.

Court caseload in criminal cases

Figure 5.21 Incoming first instance criminal cases per 100 inhabitants in 2018 (Q94)



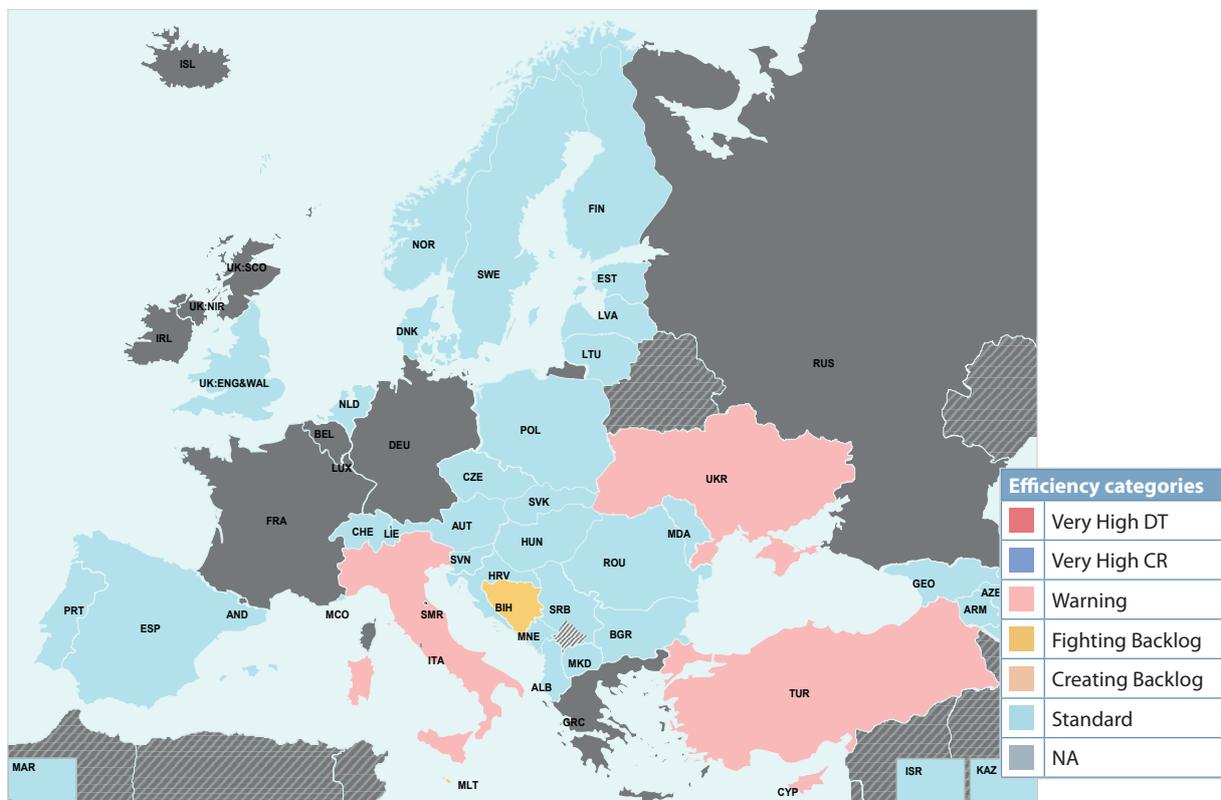
■ In 2018, the median of received criminal cases of first instance courts is 1,6 per 100 inhabitants same like in 2016. The majority of States and entities (63%) reported from 1,0 to 5,0 received criminal cases per 100 inhabitants, while in 12 of them this ratio is below 1,0.

■ The highest rates are reported in **Cyprus** (7,8 cases), **Israel** (5,1 cases), **Montenegro** (12,0 cases) and **Serbia** (28,0 cases). In this cycle, **Montenegro** included misdemeanour cases for the first time, which caused the high jump in the incoming criminal caseload from 6,2 to 12,0. **Serbia** added cases in the new category "other" that increased the total from 7 to 28 cases per 100 inhabitants. By contrast, **Armenia** (0,1 cases), **Azerbaijan** (0,1 cases) and **Ukraine** (0,3 cases) have the lowest number of received cases per 100 inhabitants.

Performance indicators in criminal cases

■ Map 5.22 differentiates States and entities according to their ability to cope with the criminal caseload and resolve cases in a timely manner. Depending on the two performance indicators, CR and DT, States and entities are divided into six colour-coded efficiency categories.

Map 5.22 Clearance Rates vs Disposition Time for criminal cases at first instance in 2018 (Q94)



■ Over four-fifths of the 34 States and entities that provided data needed for the calculation of both performance indicators in 2018, fall under the standard efficiency category shown in light blue colour on the Map 5.22. These are States and entities with CR ranging from 95% to 200% and DT not higher than 244 days (two times median value). Among this group of States and entities, the highest CR of 107% is reported in **Monaco**, where 80 days are needed to dispose a first instance criminal case. Most of these States and entities provided CR slightly over or under 100%. However, variations are higher in DT. In **Armenia**, 216 days are reported, while 35 days are required in **Estonia**.

■ **Bosnia and Herzegovina** and **Malta**, with 102% and 103% CR enter the fighting backlog efficiency category, but both States face higher than adequate DT, 293 and 299 days, respectively. The situation is more complicated in **Ukraine**, where the CR is 85% whilst DT reached 271 days. The achieved DT in **Ukraine** is above the value of two European medians but still well below one year. However, the low CR makes it likely that the DT will grow in the coming years.

Evolution of performance indicators in criminal cases

Performance indicators of first instance criminal cases, in general, demonstrate CR closer to 100%, lower DT and fewer variations in both indicators compared to civil and commercial litigious cases or administrative cases.

One-third of the States and entities increased their CR from 2010 to 2018 and from 2016 to 2018, as revealed by Figure 5.23. One-third reduced their CR, while in one third the achieved rates varied over the two periods.

Figure 5.23 Evolution of Clearance Rate and Disposition Time of first instance criminal cases (Q94)

	2010	2012	2014	2016	2018	2010	2012	2014	2016	2018
ALB	NA	NA	NA	100%	98%	NA	NA	NA	108	81
AND	100%	93%	101%	NA	NA	65	271	88	NA	NA
ARM	97%	100%	91%	91%	104%	78	103	135	195	216
AUT	100%	101%	103%	100%	101%	116	115	102	129	120
AZE	99%	101%	100%	99%	101%	50	56	63	70	73
BEL	NA	NA	NA	NA	100%	NA	NA	NA	NA	NA
BIH	105%	102%	101%	107%	102%	345	328	326	301	293
BGR	100%	99%	101%	100%	99%	49	62	74	48	52
HRV	106%	103%	130%	107%	100%	221	201	144	165	147
CYP	90%	91%	112%	108%	96%	254	262	246	304	273
CZE	101%	NA	100%	101%	101%	72	NA	64	67	65
DNK	106%	104%	98%	101%	99%	99	37	47	38	41
EST	144%	94%	97%	102%	98%	60	51	49	35	35
FIN	97%	98%	100%	99%	95%	107	114	121	118	139
FRA	95%	102%	95%	106%	100%	NA	NA	NA	NA	NA
GEO	147%	101%	96%	106%	101%	36	46	65	76	64
DEU	101%	101%	100%	99%	NA	104	104	111	117	NA
GRC	NA	NA	NA	NA	59%	NA	NA	NA	NA	NA
HUN	99%	91%	104%	103%	101%	104	120	62	59	59
ISL	NA	NA	NA	NA	93%	NA	NA	NA	NA	NA
IRL	NA	NA	75%	74%	NA	NA	NA	NA	NA	NA
ITA	95%	94%	94%	107%	98%	329	370	386	310	361
LVA	100%	95%	102%	97%	102%	77	133	133	135	118
LTU	98%	99%	102%	102%	101%	104	72	67	65	54
LUX	80%	NA								
MLT	96%	99%	99%	101%	103%	331	291	306	294	299
MDA	94%	91%	95%	95%	98%	103	156	102	131	171
MCO	NA	105%	110%	101%	107%	NA	78	81	117	80
MNE	110%	96%	105%	114%	97%	160	174	189	145	199
NLD	98%	95%	101%	106%	101%	89	99	117	128	104
MKD	119%	105%	100%	126%	101%	212	203	155	171	190
NOR	97%	100%	101%	98%	100%	91	60	65	73	70
POL	91%	101%	100%	105%	100%	96	88	99	95	111
PRT	105%	105%	NA	107%	102%	302	276	NA	235	205
ROU	99%	99%	101%	90%	100%	85	72	111	111	98
RUS	NA	99%	100%	101%	NA	NA	36	37	34	NA
SRB	78%	105%	96%	103%	104%	504	387	255	274	132
SVK	102%	101%	103%	106%	102%	168	145	136	63	124
SVN	106%	114%	102%	100%	102%	138	124	123	141	142
ESP	99%	103%	104%	106%	103%	162	136	125	163	170
SWE	98%	101%	100%	98%	96%	135	123	128	133	151
CHE	106%	99%	99%	100%	100%	63	137	113	96	100
TUR	91%	108%	86%	94%	94%	314	226	330	302	303
UKR	99%	103%	100%	89%	85%	95	79	81	166	271
UK:ENG&WAL	NA	102%	98%	103%	101%	NA	73	82	72	75
UK:NIR	NA	NA	NA	NA	98%	NA	NA	NA	..	NA
UK:SCO	NA									
ISR		107%	102%	102%	96%		142	115	103	114
KAZ				104%	104%					9
MAR				104%	104%				91	76
Average	101%	100%	100%	101%	99%	152	146	133	139	144
Median	99%	101%	100%	101%	100%	104	120	111	123	122

The representation of **Albania, Andora, Greece, Ireland, Luxembourg and UK - Northern Ireland** is limited to one or two cycles when data is available for CR only. DT of criminal cases are entirely unavailable. The scarce data for these States containing low CR, ranging from 59% to 80%, implies that the performance of criminal courts could be problematic. Still, there is not enough information on the systems' specificities to draw exact conclusions.

Austria, Bosnia and Herzegovina, Croatia, North Macedonia, the Slovak Republic and Slovenia produced Clearance rates of 100% or higher for five consecutive cycles. The **Czech Republic, Monaco, Portugal and Israel** also managed to provide rates that exceeded 100% but for these States data were not available for all examined years. The **Republic of Moldova** was the only State with CR below 100% all through the five evaluation cycles. One of the reasons for this could be the increase in incoming cases due to the adoption of the new Criminal Code in 2014 when new categories of offences were introduced.

Although the variations in DT were mostly not substantial, 59% of the States and entities increased their DT from 2010 to 2018, while in 41% it decreased. A similar ratio of States concerning the DT was repeated from 2016 to 2018.

Even in those States and entities that reported inclining DT, the results mostly remained well within the acceptable. **Armenia, Finland, Republic of Moldova and Montenegro** are some of the States that remained within the desirable part of the spectrum despite the rising figures. The **Republic of Moldova** remained within an acceptable DT despite CR that is constantly under 100%.

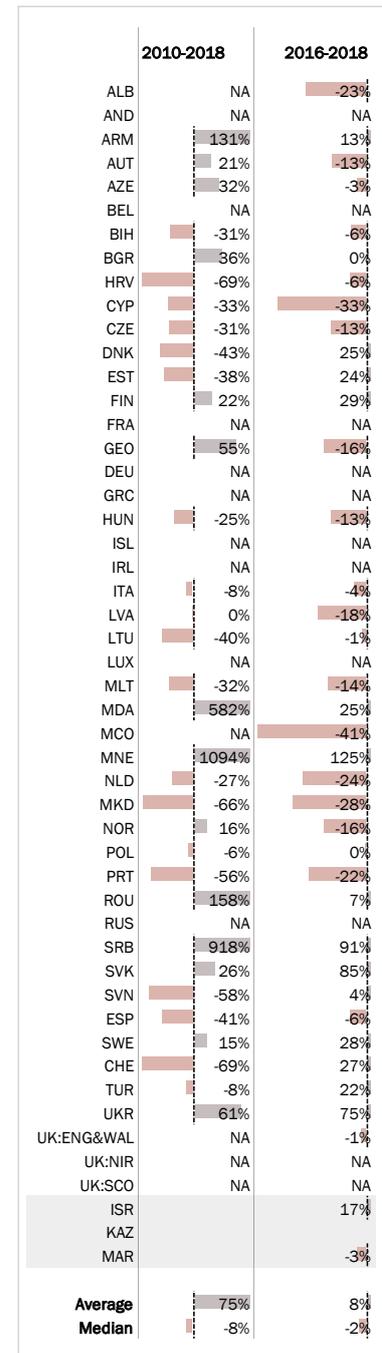
■ The highest DT with growing tendencies are reported in **Italy**. In 2018, 361 days are reported, an incline of 32 days compared to 2010, and 51 days compared to 2016. In 2016, **Italy** introduced decriminalisation measures which caused many cases to be resolved by dismissal because they were not considered to be criminal offences any longer. This led to a reduction in the number of incoming and resolved first instance cases in 2018. Subsequently, the DT in 2018 increased once the courts remained with more severe and complex cases.

■ **Malta** and **Turkey** also reported higher DT, around 300 days through the years, as did **Bosnia and Herzegovina**. **Turkey** stated that the number of judges in criminal courts had been increased and reforms introduced to tackle this problem. Consistent CR that exceeds 100% in **Bosnia and Herzegovina** caused the DT to decline slowly, but this is still one of the highest among participating States and entities.

■ The highest jump occurred in **Ukraine** where DT is 271 days in 2018, 176 days longer than in 2010 and 105 longer than in 2016. This is related to a decrease in the number of resolved cases following an outflow of judges as a result of judicial reforms noted during the previous evaluation cycle. Still, even with these steep rises, the result recorded in 2018 is well under one year.

■ As already mentioned, the figures in some States and entities may be influenced by the share of minor and other criminal cases in the total of criminal cases. **Croatia**, **Slovenia** and **Spain** displayed the highest differences between the total criminal cases DT and the DT in severe criminal cases. In 2018, **Croatia** reported 609 days in severe criminal cases and 147 in total criminal cases. In **Slovenia**, 308 days are reported in severe criminal cases and 142 days in total criminal cases, and in **Spain** 300 days in severe criminal cases and 170 days in total criminal cases. There are no such large discrepancies in other States and entities which provided data on severe criminal cases separately.

Figure 5.24 Variation of first instance criminal cases pending on 31st December



■ The evolution of pending cases reveals if the court backlog is accumulating or decreasing. Backlog accumulation leads to congestion of courts and increased duration of cases. Consequently, more cases end up older than acceptable, which could cause a violation of the right to trial within a reasonable time.

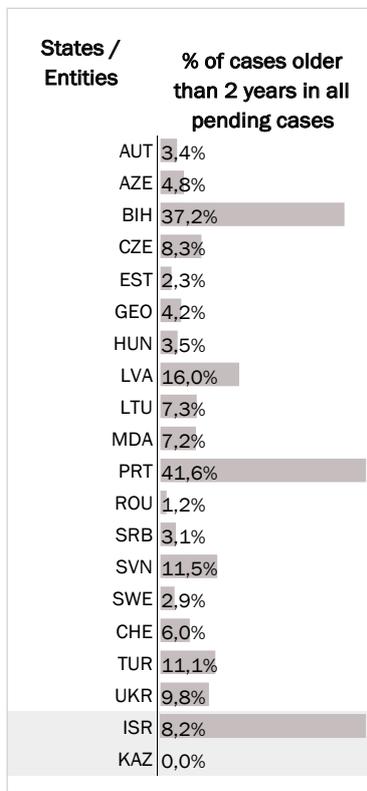
More than one half of the States and entities reduced their criminal cases backlog from 2010 to 2018. Some of the reductions are substantial like in **Croatia, North Macedonia, Portugal, Slovenia** and **Switzerland**, which have halved their pending stock. By contrast, significant increases have been witnessed in **Armenia** (131%), **Republic of Moldova** (582%), **Montenegro** (1 094%), **Romania** (158%), and **Serbia** (918%). But when put into context, a better understanding of these variations is gained. The European median of pending criminal cases per 100 inhabitants in 2018 is 0,44 (the average is 1,01), **Armenia** reported 0,06 cases, **Romania** 0,53 cases, **Republic of Moldova** 0,68 cases, and **Montenegro** 6,37 cases. As mentioned, the high figures in **Montenegro** are a result of providing data on misdemeanor cases for the first time in this cycle.

Somewhat lower, but still noticeable increases can be seen in both periods examined in Figure 5.24 in **Austria, Azerbaijan, Finland**, the **Slovak Republic, Sweden** and **Ukraine**. Yet, in each State, the number of pending cases per 100 inhabitants is not higher than the European median. Particularly accentuated are figures between 2016 and 2018 in the **Slovak Republic** (85%) and **Ukraine** (75%), but the explanations for this remained unclear.

Italy and **Poland** reported stable numbers over both periods examined with variations lower than 10%. However, this means that the backlog in **Italy** remained rather high, while **Poland** maintained much lower figures closer to the European median. **Italy** reported 2,09 pending cases per 100 inhabitants in 2018, while in **Poland** 0,65 cases were pending.

Pending first instance criminal cases older than two years

Figure 5.25 Pending first instance criminal cases older than two years (Q94)



Among States and entities that were in a position to provide data on pending cases older than two years, **Bosnia and Herzegovina** and **Portugal** reported the highest percentages. Both differed slightly from the previous evaluation cycle - decreasing in **Bosnia and Herzegovina** (by 1,5%) and increasing in **Portugal** (by 0,9%).

The most significant reduction of pending cases older than two years occurred in **Georgia**, from 11,5% to 4,2%.

There is no data in this cycle for the **Slovak Republic**, which reported one of the highest percentages in 2016 (24,0%); so examining its progress was unfeasible.

The possibility of examining the structure of pending cases reveals much about court efficiency. It gives valuable information on problematic areas and facilitates their mitigation.

Intentional homicide and robbery cases as specific categories of first instance criminal cases

The CEPEJ collects data on two specific categories of criminal cases, intentional homicide and robbery. These case types are easily comparable among European jurisdictions and thus contribute to a better understanding of the court efficiency of States and entities.

European first instance courts displayed growing Disposition Times for intentional homicide cases, from 164 days in 2010 to 249 days in 2018. However, the 2018 figure represents an improvement of 30 days compared to the previous cycle. Similar tendencies are found in robbery cases. The Disposition Times increased from 135 days in 2010 to 176 days in 2018. An increase is also recorded from 2016 to 2018, by 32 days. Disposition Times calculated for 2018 for both intentional homicide cases and robbery cases are more than double the European median for criminal cases.

SECOND INSTANCE COURTS

Do second instance courts follow the same trends as first instances? Are there any significant differences between the case types examined?

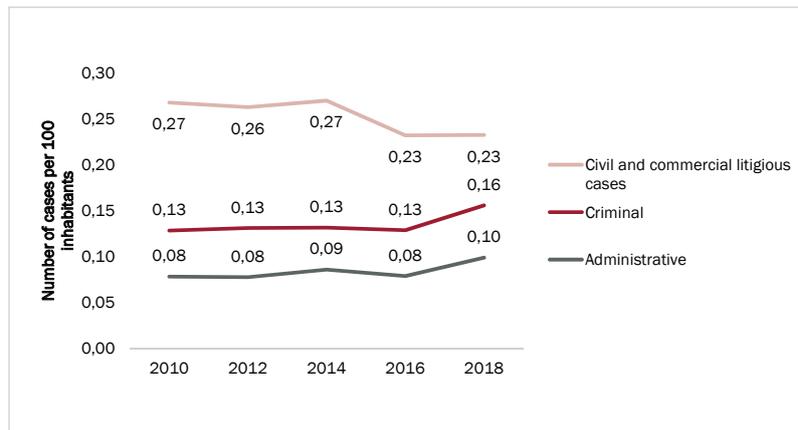
The caseloads of second instance courts depend primarily on the performance of first instance courts. Higher appeal rates in first instance cases bring more cases to the second instance. The appeal rate has not been analysed in this chapter since the available data are scarce. However, it would be beneficial to include such an analysis in the future evaluation cycles.

Clearance rates of second instance courts ranged from 95% to 102% over the past five evaluation cycles depending on the case type. In civil and commercial cases the median CR improved over the years, in administrative cases it varied, whereas in criminal cases it remained stable between 99% and 100%.

Incoming caseload of second instance courts

In 2018, the median of received cases per 100 inhabitants in second instance courts is 0,23 in civil and commercial litigious cases, 0,10 in administrative cases and 0,16 in criminal cases. As illustrated by Figure 5.26, incoming civil and commercial litigious cases declined from 0,27 in 2010 to 0,23 in both 2016 and 2018. Conversely, from 2016 to 2018, the administrative ones increased from 0,08 to 0,10 cases per 100 inhabitants while the incoming criminal caseload grew slightly from 0,13 to 0,16.

Figure 5.26 Evolution of the European median of second instance incoming cases per 100 inhabitants by case type (Q97 and Q98)



In civil and commercial litigious cases in 2018, only two States received 1,00 case or more per 100 inhabitants. These were **North Macedonia** 1,14 and **Romania** 1,00. **Bosnia and Herzegovina** and **Croatia** maintained also one of the highest incoming caseloads with 0,95 and 0,92 cases per 100 inhabitants, respectively. **Denmark, Finland, Ireland, Sweden** and **UK - Scotland** continued to receive the lowest number of under 0,1 cases per 100 inhabitants.

Many States and entities reported increasing incoming administrative caseload at second instance from 2016 to 2018. The most substantial increases expressed per 100 inhabitants have been witnessed in **Turkey** (from 0,01 to 0,27), **Sweden** (from 0,34 to 0,45), **Armenia** (from 0,08 to 0,14) and **Ukraine** (from 0,18 to 0,23). The vast increase in **Turkey** is caused by the establishment of

the administrative second instance courts in 2016, which started to work in full capacity in 2018. In **Sweden**, the likely reason for the increase is, as already mentioned, cases related to migration.

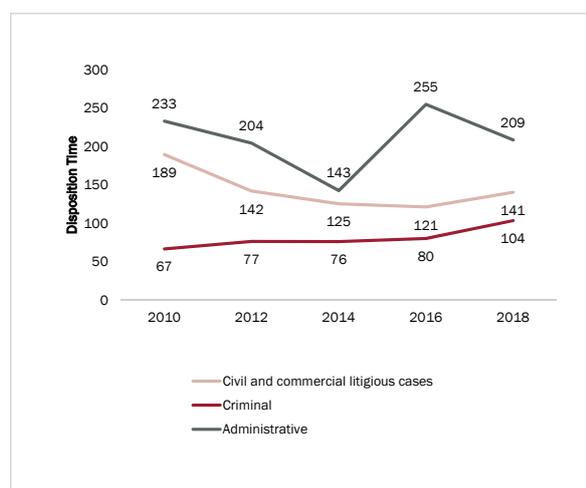
Croatia, Greece, Montenegro and **Turkey** are the only States that received more than 0,50 second instance criminal cases per 100 inhabitants in 2018. At the other end of the spectrum, with less than 0,10 cases per 100 inhabitants, are **Azerbaijan, Cyprus, France, Georgia, Iceland, Luxembourg, Malta, Norway, Sweden, Ukraine**, and **UK - England and Wales**. The significant increase in criminal cases in **Turkey**, from 0,04 in 2016 to 0,56 in 2018, is caused by newly installed appeal courts during 2016, same as in administrative second instance cases. In **Israel** and **Kazakhstan**, the incoming caseloads are just under the median, 0,12 and 0,10 cases per 100 inhabitants, respectively.

Disposition Time

DT of second instance courts examined through civil and commercial litigious cases, administrative cases, and criminal cases are generally lower than in first instance courts. As in the first instance, DT is the highest in administrative matters and the lowest in criminal cases.

The DT of civil and commercial litigious cases decreased from 189 days in 2010 to 121 days in 2016 and then increased again to 141 days in 2018. The most extensive variations are recorded in administrative cases where a DT of 233 days in 2010 decreased to 143 days in 2014, jumped to 255 days in 2016 and then reduced again in 2018 to 209 days. Tendencies in the second instance criminal cases matched the one from the first instance. A DT of 67 days in 2010 grew to 80 days in 2016 and to 104 days in 2018.

Figure 5.27 European Disposition Time of second instance courts by case type (Q97 and Q98)



In civil and commercial litigious cases, approximately one half of the States and entities kept their DT close to the median from 2010 to 2018 – **Denmark, Estonia, Georgia, Hungary, Lithuania, Republic of Moldova, North Macedonia, Poland, Slovenia, Sweden, Switzerland and Ukraine**. While neither State or entity displayed continuous improvement, **Bosnia and Herzegovina** and **Poland** displayed deteriorating DT over the past five cycles.

In administrative matters, **Azerbaijan, Bulgaria, Estonia, Georgia, Hungary, Republic of Moldova, Russian Federation, Sweden and Ukraine** never exceeded the European median value during the period observed from 2010 to 2018. By contrast, **Bosnia and Herzegovina, Cyprus, Greece, Lithuania, the Netherlands, Poland and Portugal** varied in DT, regularly with quite high values.

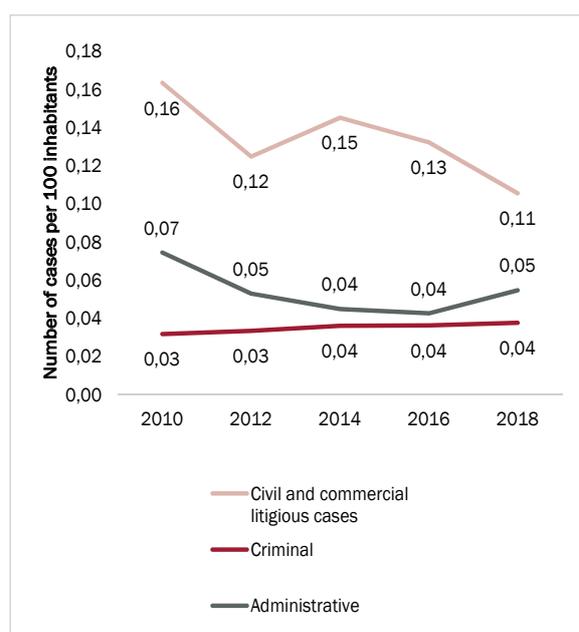
In criminal cases, approximately one half of the States and entities produced DT close to the median or lower. The other half of the States and entities varied

in results from year to year. **Belgium** increased its DT in each cycle from 2010 to 2016 (data for 2018 are not available). **Croatia** managed to overturn the high result of 624 days from 2012 and reduce it each year since, reaching 160 days in 2018. **France** increased its DT consistently over the past five evaluation cycles, achieving 310 days in the last one.

Pending cases on December 31st

Figure 5.28 shows the evolution of the European median of pending second instance cases per 100 inhabitants. The highest variation and the sharpest decline occurred in civil and commercial litigious cases, from 0,16 cases in 2010, to 0,13 in 2016, and 0,11 in 2018. Pending administrative cases declined from 0,07 in 2010 to 0,04 in 2016 only to increase again to 0,05 in 2018. Criminal cases displayed minimal variation, 0,03 cases were pending in 2010 and 2012, which increased to 0,04 in the following three cycles.

Figure 5.28 Evolution of the European median of second instance cases pending on December 31st per 100 inhabitants by case type (Q97 and Q98)



The **Czech Republic, Germany, Republic of Moldova, Slovenia and Ukraine** reported a pending stock close to the median in 2018 (0,2 cases over or below median) in civil and commercial litigious cases. The lowest pending cases per 100 inhabitants are documented in **Armenia (0,02), Finland (0,02) and Sweden (0,01)**. **Bosnia and Herzegovina (1,25)** reported the highest number of pending cases per 100 inhabitants. This result came as a slight decline after four cycles of high jumps, although pending cases are still doubled compared to 2010. **Italy** has been decreasing its figures rather consistently, from 0,84 in 2010 to 0,63 in 2016, and 0,55 in 2018.

■ Data on the share of cases older than two years reveal which jurisdictions are more burdened with older cases that are more likely to cause violations of the right to a fair trial principle. As for the first instance courts, not all States and entities were in a position to deliver such data for 2018.

■ Out of 16 States and entities and two observers that provided data for civil and commercial litigious cases, **Bosnia and Herzegovina, Italy** and **Malta** reported the highest figures. In **Bosnia and Herzegovina**, 40,2% of pending cases are older than two years, in **Italy** 44,8%, and in **Malta** 45,6%. In **Monaco** and **Croatia**, the percentage of cases older than two years is marginally higher than 10%. At the same time, in other States it is significantly lower than 10%, for instance, 0,2% are reported in **Estonia** and **Slovenia**.

■ In administrative cases, **Bosnia and Herzegovina** reported the highest percentage of pending cases older than two years at the end of 2018 – 23,7%. By contrast, the other nine States and entities that provided data reported figures that are below 10%.

■ Among 17 States and entities and one observer that delivered data for criminal second instance cases, only **Italy** reported a substantial share of 41,5% of cases older than two years in pending cases at the end of 2018. The **Republic of Moldova** and **Kazakhstan** reported zero cases older than two years.

■ The incoming caseload of second instance courts decreased in civil and commercial litigious cases, while it increased in criminal and administrative matters. CR were standard at around 100% and DT were generally lower than in first instance courts. As in the first instance, DT was the highest in administrative matters and the lowest in criminal cases. DT of civil and commercial cases and administrative cases varied, while the one of the criminal cases grew consistently. The pending stock decreased in civil and commercial litigious cases. It was stable in criminal cases, while in the administrative ones a slight incline occurred in 2018.

Inspiring example

Croatia streamlined its appeal procedure in 2015 by moving away from the territorial jurisdiction, making random assignment of cases compulsory (through the “Case Management System”) and permitting second instance county courts to decide appeals in civil and criminal cases from all municipal courts. This reform reduced the time taken to decide appeals, evened out the workload of judges and increasingly harmonised the application of case law across the court system.

HIGHEST INSTANCE COURTS (SUPREME COURT)

Are the highest instance courts more efficient than lower instances? Are there any significant differences depending on the case types examined?

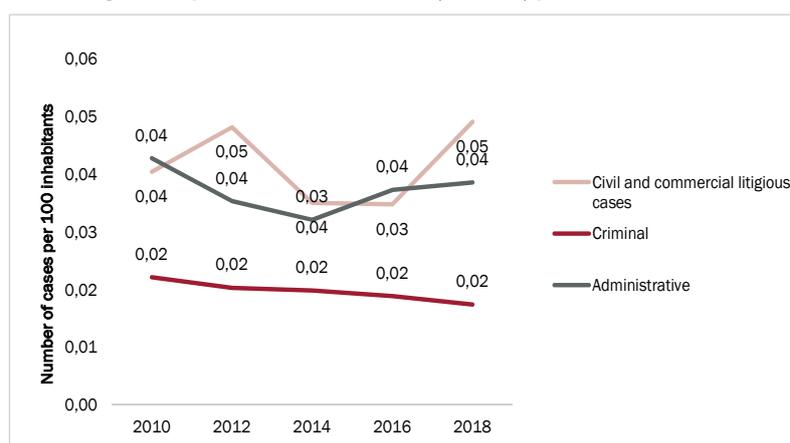
According to the CEPEJ methodology, the highest instance courts (the Supreme court) belong to the third instance. Specific jurisdictions may be organised in two instances, as is the case in **Cyprus** in **Malta**. Then, the highest instance is considered to be the second instance (examined in the previous section).

CR of Supreme courts fluctuated from 96% to 101% from 2010 to 2018 depending on the case type. In civil and commercial cases and criminal cases, the median CR varied mildly over the years. Variations were more modest in criminal matters than in civil and commercial cases. The only domain where the CR was continually slightly under 100% is the administrative law field.

Incoming caseloads of highest instance courts (Supreme court)

As expected, Supreme courts received by far the lowest number of cases per 100 inhabitants. A maximum of 0,05 civil and commercial litigious cases was noted in 2012. Unlike for the other two instances, the lowest incoming caseload was related to criminal cases. At the same time, civil commercial and litigious matters and administrative matters alternated the first and the second position as showed in Figure 5.29.

Figure 5.29 Evolution of the European median of highest instance incoming cases per 100 inhabitants by case type (Q99 and Q100)



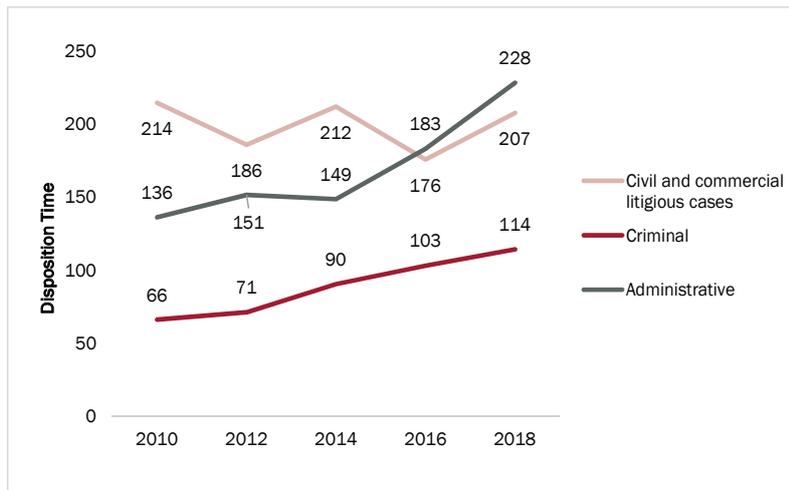
Most of the jurisdictions received under 0,10 civil and commercial litigious cases per 100 inhabitants over the evaluation cycles examined. However, in **Bosnia and Herzegovina**, **Republic of Moldova**, **Montenegro**, **Romania**, **Turkey** and **Ukraine**, this figure was roughly double that or higher. In **Bosnia and Herzegovina**, the incoming caseload rose from 0,15 in 2010 and 2012 to 0,20 in 2014 and fell again to 0,13 in 2016 and 2018. The increase in 2014 was caused by increased activity of lower instance courts in backlog reduction. As lower instances increased their resolved cases, more appeals were carried out. The decrease in the past two cycles was justified by legislative amendments which increased the financial threshold for appeal. In some national systems, the incoming caseload was rather low and stable. In **Estonia**, 0,01 cases per 100 inhabitants were received each year, in **Lithuania** 0,02, and in **Sweden** between 0,003 and 0,004. Conversely, **Montenegro** reported between 0,19 and 0,35 incoming cases from 2010 to 2018, but it is unclear what specifically caused such high figures.

Although there are significant differences among States and entities, this does not necessarily mean that the parties in some States are more litigious and prefer to take their cases to Supreme court. Much depends on the procedural rules which determine which cases are eligible to be reviewed by the highest instance court. For example, legislative amendments in **Turkey** caused the mandate of the Supreme court to shrink and the incoming caseload to decrease in all case types analysed.

Disposition Time

At highest instance courts, the DT of civil and commercial matters decreased by 7 days, from 214 in 2010 to 207 days in 2018. With regard to administrative and criminal cases, it rose practically consistently over the past five cycles as presented in Figure 5.30. In administrative cases, 136 days in 2010 increased to 183 days in 2016 and then to 228 days in 2018. In criminal cases, the DT almost doubled from 66 days in 2010 to 114 days in 2018. Although courts tend to display the most positive DT in criminal cases in all instances, the overall trend in each instance reveals a constant increase. It is at this point unclear what caused such deterioration.

Figure 5.30 European Disposition Time of the highest instance courts by case type (Q99 and Q100)



In civil and commercial litigious cases, the **Czech Republic** and **Slovenia** are the only States and entities that succeeded in improving their DT each evaluation cycle. The **Czech Republic** reduced its DT by 120 days, from 287 days in 2010 to 167 days in 2018. The remarkable improvement in **Slovenia** is attributable to the reform of the case admissibility criteria and the increase in the number of advisors appointed at the Supreme court. DT was reduced by 267 days, from 386 days in 2010 to 119 days in 2018. By contrast, in **Italy**, the DT fluctuated but remained very high - 1 266 days are recorded in 2018. The DT in **Spain** increased each year, from 273 days in 2010 to 608 days in 2018, an increase of 95 days compared to the previous cycle.

In administrative cases the **Czech Republic**, **Latvia** and **Montenegro** displayed continually inclining DT. However, the differences among these States are substantial. In 2018, the **Czech Republic** reported 262 days, **Latvia** 459 days, and **Montenegro** 79 days. The situation in **Greece** appears to be deteriorating and a DT of 893 days in 2016 jumped to 1 265 days in 2018 or almost six times more than the median. **Monaco** nearly doubled its DT from 223 days in 2016 to 438 days in 2018.

Many countries increased their DT in criminal cases. **Azerbaijan** tripled it from 38 days in 2010 to 122 days in 2018, in the same period **Germany** doubled its DT from 51 to 107 days. In **Georgia**, 76 days from 2010 turned into 200 days in 2018. A total highest instance criminal caseload in **Iceland** decreased because 75 criminal cases were sent to the Appeal Court when it was established on January 1st 2018. **Bosnia and Herzegovina**, the **Czech Republic**, **Hungary**, **Latvia**, **Republic of Moldova** and the **Slovak Republic** maintained stable DT below 100 days for five consecutive evaluations cycles. One of the lowest DT, although inclining, was reported in **Montenegro**, 13 days in 2014, 26 days in 2016 and 30 days in 2018.

Pending cases on December 31st

The European medians of cases pending per 100 inhabitants at highest instances are low and stable in all three case types analysed. In civil and commercial litigious cases, the median dropped from 0,03 in 2010 to 0,01 in 2012. In the following three cycles, it stayed at 0,02 cases. In administrative matters, 0,02 cases were pending per 100 inhabitants except for 2012 and 2014 when 0,01 pending cases were reported. Criminal cases never exceeded 0,01 pending cases per 100 inhabitants.

Some States and entities reported their pending stock to be much higher than the median or the average. In civil and commercial litigious cases, **Bosnia and Herzegovina** overturned the rising trend in 2018 when 0,10 pending cases are registered. In the same case type, **Italy** reported rather high and increasing figures, from 0,16 in 2010 to 0,18 in 2018. **Romania** reported the highest values - 0,31 civil and commercial litigious cases were pending in 2010, 0,41 in 2012 and 0,23 in 2014. Over the past two cycles, these values decreased to 0,07 and 0,09, respectively. Legislative amendments transferred some of the cases from the Court of Cassation to the appellate courts causing the pending stock of the Supreme court in **Romania** to drop so significantly.

The data concerning pending cases at highest instances older than two years is limited, similarly to the sections covering the first and the second instance. In 2018, almost half of the pending stock of civil and commercial litigious cases and administrative cases in **Italy** is older than two years. Simultaneously, 64% of pending administrative cases in **Greece** fall into the same category. In criminal cases, **Romania** and **Turkey** reported that almost one-third of their pending cases are pending longer than two years.

■ The highest courts demonstrated difficulties in coping with their caseloads in a timely manner. Their Disposition Times are high and growing over the past five evaluation cycles. The time needed for

case disposition in the highest courts corresponds to the one at first instances rather than the much lower Disposition Time produced at second instance courts.

Trends and conclusions

A number of States and entities have undergone or are currently undergoing significant justice sector reforms which have influenced the performance of their systems. The results of these States and entities need to be monitored cautiously and with an understanding of the context.

Civil justice is best represented by civil and commercial litigious cases since the comparison with the complementary category of civil non-litigious cases is unfeasible due to pronounced differences among national legal systems.

Administrative cases tend to display the highest DT albeit with significant extremes among States and entities examined.

The Criminal law area appears to be the most efficient among the case types analysed. Although the results are undoubtedly positive, they have also been deteriorating over time in many States and entities analysed.

Cases concerning asylum seekers and the right to entry and stay for aliens continue to have a strong impact on European jurisdictions. Many States and entities reported productivity problems related to these case types.

The share of cases older than two years is available for a limited set of States and entities. Within these, the shares of cases older than two years do not vary over time.

The latest edition of the report by the European Commission for the Efficiency of Justice (CEPEJ), which evaluates the functioning of judicial systems of 45 Council of Europe member states as well as three observer states to the CEPEJ, Israel, Morocco and for the first time Kazakhstan, continues the process carried out since 2002, focusing the content of the report on the analysis of European trends.

In addition, the CEPEJ has also developed, for the first time, country profiles which present in a synthetic way the main data and indicators developed by the CEPEJ for each participating state.

All the quantitative and qualitative data collected from the CEPEJ national correspondents as well as the accompanying comments are also available on the CEPEJ-STAT dynamic database (<https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems>).

Relying on a methodology which is already a reference for collecting and processing large number of quantitative and qualitative judicial data, this unique study has been conceived above all as a tool for public policy aimed at improving the efficiency and quality of justice. The objective of the CEPEJ in preparing this report is to enable policy makers, justice practitioners, researchers as well as those who are interested in the functioning of justice in Europe and beyond, to have access to the information needed to be able to understand, analyse and reform.



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<http://book.coe.int>
ISBN 978-92-871-8700-0
32€ / \$64

