

# EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

## Report on case-weighting in public prosecution services



Adopted at the 41st plenary meeting  
of the CEPEJ (Strasbourg, 4-5 December 2023)



European  
Commission  
for the Efficiency  
of Justice

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de la justice

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# Foreword

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**T**he case-weighting study, also known as case-weighting analysis, emerged in the 1970s within courts in the United States of America<sup>1</sup>. Its primary purpose was to aid courts in various capacities, such as estimating personnel requirements, realigning staff distribution, and substantiating claims for increased human resources. While it was initially developed for and used by judges, case-weighting as a technique is versatile, allowing it to be expanded to benefit other professionals such as prosecutors, police investigators, and other legal professionals.

■ In line with the European Commission for the Efficiency of Justice (CEPEJ) Study No. 28 on Case-weighting in judicial systems (2020), case-weighting provides a better and more in-depth understanding of the complexity of judicial work, which in turn facilitates informed and data-driven management of the system<sup>2</sup>. Moreover, case-weighting systems may offer significant benefits to judges by ensuring a more equitable distribution of caseloads in terms of both volume and complexity. Furthermore, these systems benefit the parties involved by ensuring that they have an equal opportunity to receive court decisions within reasonable time, irrespective of the specific court or judge assigned to their case, provided all judges have an equivalent workload.

■ Largely influenced by its successful implementation within court systems, judiciaries across Europe and the global stage have taken individual initiatives to pioneer the incorporation of case-weighting into their prosecutorial systems. Some judiciaries have also decided to implement the same system in parallel in courts and prosecution offices, for example, in Austria and Germany. Nevertheless, there is a scarcity of publicly accessible information on the subject, and there also exists a lack of comprehensive synthesis. Recognising this gap, CEPEJ has decided to examine in more detail the existing case-weighting systems in public prosecution services.

■ This report examines different approaches to conducting case-weighting analyses and measuring the workloads of prosecutors. The report's primary objective is to take stock of the case-weighting systems in the public prosecution services in Europe and beyond, and analyse their implementation to identify possible applications, good practices, and experiences. It is intended to help decision-makers and prosecution services to develop and integrate case-weighting into their operations, to strengthen managerial capacities, thereby improving prosecutorial efficiency and effectiveness. Lastly, the report outlines alternative approaches to case-weighting

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<sup>1</sup> This document was drawn up by the Working group on judicial time management (CEPEJ-SATURN), assisted by Ivan Crnčec (Croatia), Ana Krnić Kulušić (Croatia) and Alexandre Palanco (France).

<sup>2</sup> The study is available at the following website <https://rm.coe.int/study-28-case-weighting-report-en/16809ede97>.

systems together with examples from European jurisdictions.

Challenges in this analysis, stemming from the passage of time and a deficiency in institutional memory within member States, underscore the importance of consistently documenting and preserving institutional knowledge to enable more robust and comprehensive future assessments.

Within this report, the terms "case-weighting study" and "case-weighting analysis" have been employed interchangeably to denote the process of analysing data concerning the work of prosecutors. Meanwhile, the term "case-weighting system" is used to encompass the comprehensive framework established for this purpose.

The report benefited greatly from the information provided by the Council of Europe member States through a series of questionnaires and interviews<sup>3</sup>. By providing this information, it was possible to outline the current state of play around Europe in the report. Additionally, valuable perspectives were gleaned from Australia, Canada, and the United States of America, serving as sources of inspiration and further knowledge.

#### ***Case-weighting definitions from the CEPEJ questionnaire on case-weighting for public prosecution services***

***Case-weighting system*** - A tool to measure or evaluate the time required for a case to be processed. The tool assigns different weights to the case, while taking into account various prosecutor's actions and the complexity of the case. There are currently tools using different indicators for calculating weights (by point and/or by time and/or a mixed system). Case-weighting is a specific tool, among others, for assessing the caseload and improving the efficiency of justice.

***Prosecutor-day value*** - Amount of time each prosecutor has available for case-related work in a day.

***Prosecutor-year value*** - Amount of time each prosecutor has available for case-related work in a year.

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<sup>3</sup> The following countries replied to the questionnaire: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Greece, Germany, Hungary, Ireland, Israel, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, North Macedonia, Norway, Republic of Moldova, Poland, Romania, Slovenia, Sweden, Türkiye and Ukraine. In several cases replies in writing were followed by interviews. Prior to distributing the comprehensive questionnaire, a preliminary survey was circulated among the members of the International Association of Prosecutors. The aim was to gather initial insights into the prevailing case-weighting systems employed by prosecutors.



# Part I - Theory of case-weighting

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## A – Comprehensive overview

■ The CEPEJ Glossary defines the case-weighting system as a scoring system to assess the degree of complexity of case types based on the understanding that one case type may differ from another case type in the amount of judicial time required for processing<sup>4</sup>.

The fundamental concept behind **case-weighting systems** (CWS) is that not all prosecution cases are equal in terms of **complexity**, which means that different types of cases require varying amounts of time and attention from public prosecution services/offices (PPS or PPO). The exact composition of a **caseload**, and the relative percentages of different types of cases, can significantly affect prosecutors' workload.

Therefore, models that only consider the number of cases – **without weighting them based on their complexity** – may not accurately reflect the workload of prosecutors. The lack of a more precise measurement can affect the management of the resources necessary to process cases within a reasonable time and to **control prosecutorial backlog**.

By using a case-weighting system that considers the **differences in judicial workload associated with each case type**, the workload of the PPO can be assessed accurately, accounting for differences in caseload composition over time and across different jurisdictions.

## B - Objectives and practical applications

■ Case-weighting, as a specific tool **for assessing the caseload and improving the efficiency** of justice, finds practical applications in a diverse range of contexts.

As regards human resources management, CWS can be used to calculate the **optimal number** of prosecutors and staff members required to manage prosecutorial workload, to **allocate efficiently** prosecutors and staff members within the different PPOs, or to identify the needs in terms of **specialisation of prosecutors**.

The CWS can also be used to **assess the productivity** of individual prosecutors or PPOs. As regards case management, the CWS can be used to **assign cases** among prosecutors and PPOs or to assess resources required to reduce prosecutorial backlogs. On a more structural level, the CWS can be an invaluable tool to **support budgetary requests**, plan the number of PPS units, or assist in the revision of territorial prosecutorial jurisdiction.

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<sup>4</sup> Available at <https://www.coe.int/en/web/cepej/cepej-work/definitions>.

## C - Implementation methods

In order to develop a CWS for public prosecution, two main methods are usually employed: the **Time-Estimate method** and the **Time-Study method**<sup>5</sup>.

### i) Time-study methods

The Time-Study method for developing case weights is a quantitative statistical method that involves **tracking the prosecutor's activities during a specific data collection period**. This approach provides a direct measure of the amount of time spent on different prosecutorial activities.

Tracked activities can be limited to **time spent on different types of cases and administrative work** or include **other activities** such as attending meetings, attending or leading training, traveling for work-related purposes, etc. The data collected during the time study is then used to calculate a set of case weights.

This method can be **highly accurate** in assessing the time required for each prosecutorial activity in different types of cases. However, the Time-Study method **can be expensive and time-consuming**, especially for those prosecutors involved in the tracking required to record their time and activities accurately.

### ii) Time-estimate methods (Delphi method/Delphi-like method)

The Delphi method is a structured technique that relies on a **panel of experts**. This method can be used to make forecasts, to help reach expert consensus on time spent on different types of cases, or to develop professional guidelines. Used for the implementation of a CWS, the Delphi method is based on the premise that the **time estimation from a structured group of experts** is more accurate than that from individual experts or unstructured groups of experts.

Under the Delphi method, a panel of experts (e.g. prosecutors) are asked to estimate the **time required to complete different tasks or stages of procedures in different types of cases**. After compiling the initial responses, panellists revise their individual estimates by considering the group estimates, and this process is repeated until a

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<sup>5</sup> There are also other methods, such as data driven analysis or prosecutors' survey. The former is usually based on analysis of existing data in the CMS or case databases. It comprises of analysis of "case events" (e.g. number of participants in the case, number of initial submissions by parties, number of witnesses, number of hearings, number of pages in initial acts and consecutive parties petitions and number of additional exhibit, etc.). All the data is "historical" and can be used for evaluation and forecast of prosecutor's future work. This method can also include a points-based measurement where points are attributed to different events (e.g. 1 point per party to the proceedings, 2 points per expertise needed or 5 points per expected lengthy hearing). The latter (prosecutors' survey) can be considered as part of Delphi-like method. The difference is that this method is based on time estimation collected from prosecutors. This estimation is based on responses on predefined questions on each step and actions undertaken during a case procedure. The average time values are then used to establish "trends" within a PPO or prosecutorial system in general.

consensus is reached.

This method is **less accurate** than the Time-Study method, because it relies on human perception and the quality of question design. However, it is **less expensive, time-consuming, and burdensome** than a large-scale data collection based on real-time tracking.

For these reasons, the Delphi method may be employed as an **alternative** to Time-Study for States that have no sufficient budget, nor sufficient time to implement CWS through the Time-Study method or States that do not intend to put the burden of data collection on prosecutors. Moreover, the Delphi method can also be more reassuring for prosecutors who have concerns that the use of collected data is incompatible with respect for their privacy or their **independence**.

# Part II - Prosecutorial case-weighting systems - Overview

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■ This section provides an overview of CWSs used in PPSs in Council of Europe member States and beyond. The country overviews were drawn up based on replies to an online questionnaire. The analysis of replies was followed by interviews carried out online and/or in writing in 2023. This part refers only to the countries that reported using fully or partially CWSs falling within the definition of case-weighting under section 1.

## A - Austria

■ The system of weighting of prosecutorial cases in **Austria** has been developed by the **Federal Ministry of Justice** with the support of a renowned consulting company, PPOs' staff, professional representatives, and the Federal Computing Centre<sup>6</sup>.

The current CWS, known as the **Personnel Requirement Calculation (PAR II)**,<sup>7</sup> was created between 2008 and 2009 as a **new version** of the original PAR system. The update included a revision of the earlier determined processing times<sup>8</sup> and case types.

PAR II serves two main purposes: **determining the number** of prosecutors and supporting **funding and budgetary** requests. It is based on data collected using a **time study** that encompassed **five out of 16 first-instance PPOs** in which prosecutors were called to record time spent on cases and other activities for six months. Overall, about 55% of all public prosecutors were involved in the process in urban and rural Austria. Prosecutors **recorded the time spent per case** manually in standardised tables.<sup>9</sup> The aim was to obtain processing times for at least 100 cases commenced and completed in each case type. In addition, prosecutors **logged time spent on activities** unrelated to case-work (e.g. justice administration, education, staff meetings, and reports). A parallel process was conducted among courts.

Using the collected data, **average times** needed for case<sup>10</sup> resolution were calculated for predefined case types. The average times were **multiplied by the number of cases** and converted into **hours**. While this formed approximately 90% of the total time spent, another 10 % was added as time spent on activities **not related** to resolving cases. The

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<sup>6</sup> The Austrian Federal Computing Centre or Bundesrechenzentrum (BRZ) is a public information technology service provider based which develops and operates e-government services for the Federal Government, including the Federal Ministries and the Federal Chancellery.

<sup>7</sup> In German Personalanforderungsrechnung. Both PPOs and courts are covered with this system.

<sup>8</sup> Processing times refer to the determined amount of time needed for a prosecutor to dispose of a case

<sup>9</sup> Over 352,000 cards were returned during the survey period, of which 99.92% were used for the study.

<sup>10</sup> Prosecutorial cases can involve one or several perpetrators and/or can imply one or more criminal offences

sum of hours needed for case resolution and the time needed for other activities was divided **by 1,720 hours** (the determined annual net working hours of public prosecutors) to reach the necessary number of prosecutors.

The **cornerstone** for the data collection in Austria was the **case management system**<sup>11</sup> (CMS) from which case types, including the volumes of cases, were extracted and defined by a working group of experts. PAR II recognises 13 case types to which weights are assigned, such as preliminary proceedings against juveniles and young adults; preliminary proceedings against adults; main proceedings – single judge, main proceedings – jury; proceedings against unknown perpetrators; legal and administrative assistance; extradition and surrender proceedings; and non-case-work related activities.

PAR II provides personnel requirement estimates for judges, prosecutors, and *Rechtspfleger*<sup>12</sup>, but excludes **administrative staff**. As such, it is used to **approximately determine** the personnel and budgetary requirements in an organisation but **not to distribute them**. While PAR II is effective in larger organisational units, it lacks accuracy in smaller ones and when outlier cases appear.<sup>13</sup> In those cases, a managerial intervention is necessary to adapt to extraordinary circumstances.

## B - Belgium

■ Since 2007, Belgium has partially introduced a CWS for prosecutorial cases which is based on measuring time spent on business processes (procedural phases).

Belgium uses its CWS for **determining** the number of prosecutors and staff, supporting **requests for funding** and budgetary requests, determining needs in terms of the **specialisation** of prosecutors, **allocating** prosecutors and staff members within the different PPOs, and **assessing the productivity** of PPOs.

The system has been developed by the Public Prosecutorial Council and its Support Service which developed an accompanying **business process management software** to track business processes, organise time measurements, collect and analyse data, and produce reports with dashboards.

**Three steps** were followed to **measure the time** actually needed for case processing.

**First**, the **inventory of business processes** was conducted to recognise the case processing activities that may occur. Priority was given to identifying, modelling and

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<sup>11</sup> Automated Process Register of the Austrian Judiciary or Verfahrnsautomation Justiz (VJ).

<sup>12</sup> As defined by CEPEJ Glossary, an independent judicial officer, performing the tasks assigned by law, who is not a judicial assistant but works within the court and may carry out legal tasks in various areas. See CEPEJ Glossary for more information at <https://www.coe.int/en/web/cepej/cepej-work/definitions>.

<sup>13</sup> Large scale cases which take significantly more time and resources and thus differ from the average significantly would not be recognised as such by the system.

measuring “critical business processes” that comprise 80-90% of the total prosecutorial workload. **Over 150 business processes** have been documented so far. These business processes were further used in the second step to calculate the time needed for handling a case.

**Secondly**, the **size of the workload** was measured by using the **CMS**, disaggregated by general case types, e.g. criminal cases, civil cases, juvenile cases, and so-called police cases (i.e. traffic cases). In parallel, prosecutors themselves kept **Excel tables on time ordinarily needed** for particular procedural phases. The data extracted from CMS concerns all prosecutors and is collected continuously, while the data collected by filling in the timesheets was collected by a sample of prosecutors over three to four months every few years (most recently in 2021-2022, with a planned session for 2023-2024).

**Finally**, cases were weighted by multiplying the business processes carried out, and the execution times required. At this point, the case types were further disaggregated to represent **specific offences** (e.g. robbery, murder, fraud, etc.) that were combined with specific decisions rendered in those cases which in turn **indicated times** needed for their disposition.

To measure the working time that prosecutors and staff devote to handling cases, the system takes into account the official working week (38 or 40 hours on average)<sup>14</sup> reduced by so-called “**unproductive time**” (annual leave, sick leave, and other legal/regulatory leaves and absences) and so-called “**indirectly productive time**” (meetings, training, travel time, communication). To do this, it retrieves data from a **calendar management system**,<sup>15</sup> which prosecutors and staff members use for day-to-day planning, and which is also automatically fed with data from the human resources management system (e.g. approved leave). To **check and supplement certain missing data**, additional inquiries are made into the time available for certain categories of case-related and non-case-related activities.

**New methods** of time measurement (manual time registration by using an app on mobile devices or advanced automatic time tracking within a new CMS) have been considered for the near future. In the meantime, the measurement results need further validation and are subject to change in light of the information collected outside the CMS. Information related to non-case-related work is collected permanently throughout the year and retrieved from the calendar system.

After conducting the whole three-phased process, the Support Service of the Prosecutor’s Office **established the time needed** to perform each of more than 150 working processes identified at the national level. The weighting is presented in **time units**. Their next goal is to establish standards or targets (time needed for optimal performance of working processes) but to achieve this goal, the improvement of CMS

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<sup>14</sup> In Belgium, the average working week is 38 hours, with the possibility of working up to 40 hours.

<sup>15</sup> MS Outlook

is required. An updated and unified CMS with possibilities of advanced time tracking of working processes together with unified practices of filling data.

## C - Bulgaria

The prosecutorial CWS in **Bulgaria** has been in application on a trial basis since 1 January 2020, although the accompanying Rules were adopted by the Supreme Judicial Council (SJC) in 2014.<sup>16</sup> It is designed to be used for a **range of purposes**, including determining the number of prosecutors and staff, budgetary purposes, specialisation, allocation of prosecutors and staff, allocation of cases, assessment of productivity (general and individual), planning the number of units, supporting the review of the territorial jurisdiction, backlog reduction, appraisal, career development, rewards, and disciplinary responsibilities of prosecutors and investigators.

Before the 2014 Rules, the Prosecutor's Office operated a **legacy system** for assessing the workload of prosecutors and investigators under the so-called "Comprehensive Approach" Framework. It was based on reporting the number of actions taken and decisions passed by prosecutors regardless of the time spent and the different severity of cases (only the number was considered).

The present CWS was developed and implemented by the SJC with the engagement of the Prosecutor's Office. The data on the workload of the PPOs, as well as of the prosecutors and investigators, were **derived from statistical reports in real-time** from the CMS - Unified Information System of the Prosecutor's Office. All PPOs were included in the process except for the Supreme Cassation Prosecutor's Office and the Supreme Administrative Prosecutor's Office.

Measuring the complexity of prosecutorial actions/decisions is a **two-step process** in Bulgaria. The **first step is compulsory**. The **complexity of the action/decision** is taken into account if it is foreseen by the **indicators defined by the Rules** by multiplying the number of such actions/decisions by the given coefficient. For determining the specific coefficient for each of these indicators, the statistical data on the workload by the number of actions/decisions for previous years (before 2014) are taken into account, as well as a detailed survey among prosecutors and investigators. These were discussed by **the working group** (with the participation of prosecutors and investigators) established for this purpose by the SJC.

In principle, **actions/decisions that require more time to administer**, including familiarisation with the entire case (such as the indictment for bringing the case to court or the decree for discontinuing criminal proceedings) **have the highest coefficient**. At the same time, only those types of actions/decisions that significantly affect the workload are taken into account.

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<sup>16</sup> Rules for determining the workload of PPOs and the individual workload of each prosecutor and investigator.

The **second step is optional**. It involves an **additional assessment of the complexity** by taking into account additional criteria. Data is gathered by the **supervising prosecutor who is most familiar** with the case, after which the complexity coefficient is entered into the CMS. This rate is not applied to every case, but only to those actions/decisions in which complexity deviates significantly from normal. For example, an additional complexity factor of 0,1 is added for every 100 pages of studied material (if over 500 pages), 0,3 for each third and subsequent suspect, and 0,3 for each third and subsequent criminal offence. The respective criteria for complexity are exhaustively listed in the Rules.

Prosecutors' and investigators' relevant actions/decisions are assigned an average amount of time spent. It is assumed that the daily workload quota for a **prosecutor is two weighted actions/decisions**, and the daily workload quota for an investigator is 2.8 weighted actions/decisions.

The working day in Bulgaria is 8 hours (480 minutes), divided as follows:

- On average 3 hours per day are available to the prosecutor for prosecutorial activities not covered by the quantitative indicators;
- On average 5 hours per day are for actions/decisions included in the rules as countable/quantitative indicators.

The Rules provide that an action/decision with a complexity factor of 1 has a time value for preparation and performance of 2.5 hours or 150 minutes. The **caseload quota allows for adjustment** in specific circumstances for individual prosecutors (e.g. due to exceptionally complex cases).

The workload of each PPO is measured as **the sum of the individual workload of all prosecutors** who worked in the period. Respectively the workload of each investigative department is measured as the sum of the individual workload of all investigators who worked in it.

The SJC may at any time, upon request, access the necessary data and, if necessary, update the Rules. In this respect, **in 2019, new indicators were included**, and some of the indicators and the complexity factors were altered.

The calculation of the **annual time value** was made by subtracting from the 365 days in a year the number of days not dedicated to work - days off, holidays, vacation, sick leave, as well as days that fall under the category of "other" duties of the prosecutor/investigator - training, secondment /except in the case of secondment to perform duties in another judicial authority/, etc. This results in an **average of about 250 working days per year**.



## D – Denmark

■ The prosecutorial CWS in **Denmark** is developed and used by the Prosecutorial Council solely **for assessing the productivity of PPOs**. The results of the CWS are **not used on an individual level** in terms of assessing the work of individual prosecutors. Moreover, access to individual prosecutor's data is limited (on a need-to-know basis).

The currently used system is **not the first one** in the country. There were CWSs preceding the current one which differed in complexity and the methodology used.<sup>17</sup> As circumstances evolved, and the Prosecutorial Council deemed the particular CWS obsolete, a new one was developed. The latest CWS update was completed in 2021.

The CWS has been developed based on **data collected monthly from all first-instance prosecutors** and the prosecutorial CMS. Prosecutors and staff are obliged to regularly register information on their activities, including time duration and coded types of activities. The system **collects data on prosecutors' activities continuously** and not only for a specific time period. The main reported challenges in this regard are errors and omissions in time registration, though these are mitigated by the law of large numbers.

The current CWS was delivered by in-house experts, though the databases and IT systems used were developed and maintained by outsourced companies. The system is **revised every four years**.

In the CWS, case types are grouped and assigned weights. Each offence per procedural phase per person counts as a separate case for the weighting which defines the case weight in Denmark as a **sum of the average prosecutor time invested per each case-related activity** separately.<sup>18</sup>

The new 2021 case weights were updated with data on time registrations and case production for the period from 2018 to 2020. In the update, outlier cases were excluded from the calculation.

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<sup>17</sup> The earliest prosecutorial CWS dates back to 2014 although there were simpler systems used for similar purposes in place even before that.

<sup>18</sup> The system used relative values up until 2021 while the workloads are currently presented in hours.

**Table 1:** Case weights for indictments, other decisions, judgments, and orders by case area

	Appeals with court session	Other decisions	Trial	Others
	<b>Case Weights in Hours</b>			
<b>Murder, arson, etc.</b>	11,25	1,34	37,51	
<b>Rape</b>	7,60	2,02	9,92	
<b>Morality</b>	3,80	2,26	7,49	
<b>Robbery</b>	7,62	1,11	16,29	
<b>Burglary</b>	2,93	0,69	3,83	
<b>Theft</b>	2,27	0,37	1,71	
<b>Economic crime</b>	1,15	0,63	1,67	
<b>Drugs and trafficking</b>	2,05	0,38	3,99	
<b>Other criminal laws, including petty theft</b>	4,56	1,18	6,44	
<b>Other special laws</b>	3,15	0,62	2,52	
<b>Road Traffic Act</b>	2,35	0,15	2,20	
<b>Average case weights</b>	2,98	0,77	3,79	4,46

*Source: Update of case files in the local prosecutor's office, 17 March 2021, Rigsgadvkaten*

**Denmark** collects data on the prosecutor-day value<sup>19</sup> and from that it is determined that on average prosecutors spend approximately **4,9 hours a day on case-related work** out of a 7.5-hour working day.


The change in methodology in 2021 has caused the calculated **unit price of a weighted case to increase** from DKK 2 331 to DKK 3 122 solely because of a more detailed disaggregation of the possible case outcomes which caused the weights to increase.

An innovative approach introduced involves **measuring productivity as an index** (instead of in DKK). For example, if productivity for 2019 is set at index=100, an index of 102 in 2021 would show an increase in productivity of two percentage points. With this model, the evolution of productivity can be directly interpreted through relative values. Prosecutorial productivity in Denmark for the period from 2021 to 2023 was calculated as an index. To compare productivity between police districts in a single year, the **productivity of each police district is compared with the average productivity for the whole country.**

<sup>19</sup> As defined by the Questionnaire prosecutor-day value is the amount of time each prosecutor has available for case-related-work in a day. (Q41)

The **total productivity index** is calculated as the **difference between the weighted case production index and the payroll consumption index**. For example, if weighted case production increases by 4% and payroll consumption by 2%, productivity will increase by 2%.

## E – Germany

 *Personalbedarfsberechnungssystem*<sup>20</sup> (PEBB\$Y) is a system for weighting of prosecutorial cases originating from 2001, which is used in **Germany to determine the number of prosecutors and staff, support requests for funding and budgetary requests, and allocate public prosecutors to various PPOs**.<sup>21</sup>

**Germany** implemented a case-weighting system **before PEBB\$Y** that was ultimately **abandoned** due to its theoretical nature and lack of practicality. Another contributing factor was its inability to adapt to the judicial system's evolving circumstances and changes that occurred over time such as regulatory amendments.

The latest version of PEBB\$Y for both courts and the prosecution system was developed in 2014. It was designed by a consultancy company upon the administration of a **six-month time study**. During these six months, **all the employees** of the selected courts and PPOs (there were **14 PPOs** of both first and second instances that were included in the process<sup>22</sup>) were entering time logs and **recording time spent on each case-related activity** and also on some non-case-related activities, such as administration, education, and training. The main purpose was to **determine the average processing time**.

The setting up of the PEBB\$Y update was accompanied by a **strong** network of **organisational support** including a Steering Committee, Executive Steering Committee, Project Office, and project working groups.<sup>23</sup> It considered the overall workload of PPOs during the six-month survey. However, the methodology employed in the calculation of case-weighting **excluded** two specific case categories. First, it omitted the **long-lasting proceedings** that were initiated before the survey and remained pending after the survey concluded. Secondly, it did not account for proceedings that were **statistically concluded before** the survey but were **discontinued** during its duration.<sup>24</sup>

The **annual working time** for the judicial and prosecutorial system has been calculated and presented in minutes, with an average of 98,776 minutes over the past five years. This calculation is based on a full-time basis, excluding regular absences such as leave holidays, illness, parental leave, and other similar factors.

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<sup>20</sup> Translates to English as Personnel requirement calculation system.

<sup>21</sup> PEBB\$Y covers not only the prosecution but also the courts.

<sup>22</sup> Chosen to reflect all PPOs sizes, urban or rural position, and other special responsibilities.

<sup>23</sup> The Steering Committee, comprised of representatives from the Federal States and professional associations, remained apprised of project developments through periodic meetings and regular status documents. In addition, the Executive Steering Committee, composed of central department heads, held the authority to make decisions on specific matters within the project framework.

<sup>24</sup> The times for the proceedings were collected, but the number of cases was not considered.

After conducting the time study based on the self-recording survey, the case types<sup>25</sup> were attributed to the amount of time (minutes) needed to resolve each particular one: for example to resolve capital matters 1.909 minutes are needed, while 589 minutes are attributed to resolving commercial criminal cases. Just 58 minutes are needed to resolve simple narcotic matters. In addition to cases, some non-case related activities were also foreseen such as administrative activities.

**Table 2:** Prosecutorial case types at the first instance and average processing times

Case type	Average processing time (min)
Capital matters	1.909
Commercial criminal cases at the specialised PPOs and non- specialised PPOs	589
Commercial criminal cases at the non-specialised PPOs	150
Criminal traffic cases involving involuntary manslaughter as well as offences dangerous to public safety under sections 315 to 315e of the Criminal Code, except for offences under section 315c, paragraph 1, no. 1a of the Criminal Code, and other criminal traffic cases.	50
Felonies and misdemeanours under the Narcotics Act for which the law provides for a custodial sentence of not less than 1 year	550
Other narcotics matters	58
Offences against sexual self-determination including § 184 of the Criminal Code	299
Smuggling of foreigners and other violations of the Asylum Act	46
Proceedings against members of the judiciary, judges, notaries, other public officials and lawyers for criminal offences in connection with the exercise of their profession as well as corruption offences (insofar as they are not economic criminal offences); state protection cases, political criminal offences and press criminal offences, medical cases and offences against the Heilpraktikergesetz (law on non-medical practitioners) as well as offences	190

<sup>25</sup> The case type disaggregation and the relevant statistical references were specified by the Commission of the State Justice Administrations for Questions of Personnel Requirement Calculation, composed of representatives of the Federal States justice administrations.

under section 131 of the Criminal Code.	
General criminal cases for which the law provides for imprisonment of not less than 1 year	513
Other general criminal cases against adults	99
Other general criminal cases against juveniles/adolescents and proceedings against persons under the age of criminal responsibility.	69
Corpse cases, capital cases, fire cases and public policy cases against unknown persons	45
Unknown perpetrators procedure	10
Administrative offence proceedings	16
Activities of the public prosecutor in criminal enforcement cases	140
Proceedings with asset recovery measures	241
Grace matters	country-specific determination
Rehabilitation procedure	country-specific determination
Guidance supervision matters (Saxony only)	country-specific determination
Mutual assistance - legal assistance procedure	72
Session service and interrogations via videoconference under section 58a (1) sentence 3 of the Criminal Procedure Code	actual use
On-call duty/activity of the detention prosecutor ( <i>Bereitschaftsdienst</i> )	2
On-call duty ( <i>Rufbereitschaft</i> <sup>26</sup> )	country-specific determination
Procedural testing and guidance	3
Staff and disabled representatives, equal opportunities officers	actual use
Training	country-specific determination
Continuous education	country-specific determination
Personnel management	257
General administrative activities	1.457
IT matters	country-specific determination


The average case processing times are standardised at the **national level**, with a few **exceptions** that are based on the individual federal states (clemency and rehabilitation matters, training, and IT matters).

PEBB\$Y serves as an orientation and decision-making aid for budget negotiations and an even distribution of available prosecutors/staff among the PPOs. However, there are a couple of **caveats**. It is **not** suitable for determining the **reasonable workload** of

<sup>26</sup> On-call duty from one's home.

individual prosecutors/staff members. It determines the workload at the level of PPO and shows if more/fewer people are needed to cope with that workload. It **cannot** be used for **future** personnel requirements as it is incapable of taking into consideration new laws and organisational processes. It **cannot** serve for the **internal distribution** of resources within a PPO. Furthermore, it cannot take into account all specific organisational structures that may arise. And finally, it is **not** a system that can be used for **national benchmarking**, i.e. comparing various PPOs across the country.

## F - Lithuania

 The weighting of prosecutorial cases in **Lithuania** was developed by the General Prosecutor's Office in 2012 and inaugurated in 2014. It replaced a legacy joint system for PPOs and the police, abandoned because of the very labour-intensive manual data collection. With it, only the performance of prosecutors at the pre-trial investigation stage was assessed.

The CWS is being used **for assessing the productivity of PPOs and individual prosecutors and, along with other additional data, for determining the number of prosecutors.**

It is based on time estimates collected by a **panel of ten expert prosecutors**. The whole process of collection and assessment of cases took 18 months. A further 12 months was required to develop the information system. Expert prosecutors assessed the resolved cases and calculated an average time rate in order to develop working time standards<sup>27</sup>. They collected ten cases per article of the Criminal Code in each of the five district PPOs<sup>28</sup>, resulting in a **total of 50 cases for each article of the Criminal Code**. For very rare crimes, fewer cases were collected. Prior to this, all prosecutors in the country were asked to complete a questionnaire over a two-week period to record the pre-trial investigations they had completed and the amount of time they had spent working on them. Data was obtained only on the most common offences (e.g. theft, fraud). As a result, a team of prosecutorial experts was brought in to collect the missing data.

When establishing **working time standards**, expert prosecutors took into account prosecutors' participation **in all procedural phases** (investigation, trial, and appeal phase). They used electronic logs from the information system where the time spent on their work was recorded.

Expert prosecutors drafted eleven tables (adopted as annexes to the methodology) by which working time standards were set. Two of the tables relate to the investigation phase (investigation supervised by a prosecutor and conducted by other authorities, and investigation conducted by the prosecutor). A third table relates to trials and appeals. The remaining tables were dedicated to other functions carried out by prosecutors (handling complaints, defending the public interest in civil cases, international legal assistance,

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<sup>27</sup> Hours and minutes prosecutors need to dispose a case per case type.

<sup>28</sup> Lithuania's prosecution system consists of General Prosecutor's Office and five district PPOs.

drafting legislation, etc.).

The two tables covering the **investigation** phase display in detail **case-types** grouped into **66 categories**, consisting of several related criminal offences that require a similar amount of time to conclude the investigation. The working time standards **differ depending on the procedural decision taken** (i.e. referral to court, termination of the investigation, suspension of the investigation). **Additional** working time is added **for each suspect** and a **fixed amount of working time** is **allocated** for each **criminal offence**.

For example, for the criminal offence of fraud, the investigation can be conducted by the pre-trial investigation authority and the prosecutor is supervising that investigation. If that investigation is concluded by a termination, the working time standard for the prosecutor would be 11 working hours. If the investigation is suspended, it would require 20 working hours. If the case is referred to court, 50 working hours would be needed. On that working time standard, an extra 7 hours are added for each additional suspect. The investigation can also be conducted by the prosecutor, in which case the termination of the investigation requires 40 hours of prosecutor's time, suspension requires 60 hours, and referral to court requires 100 hours. For each additional suspect, 14 hours are added.

For the **trial** and **appeal** phase, a separate table is made with different time values which take into account the **volume of the case**, defined as the number of pages that form a volume of the case file, and the **number of accused** persons.

*For example, a trial before the District Court requires two and a half hours of prosecutor's time. For each extra case file volume an extra hour is added, and two more hours are added for each extra accused person. Appeals brought before the District Court require ten hours (out of which six hours are required for the examination of evidence),<sup>29</sup> an extra half an hour for each extra volume of a case file, and an extra hour for each additional accused person. Appeals brought before the Court of Appeal require 14 hours of a prosecutor's time and extra hours for additional volumes and accused persons are the same (half an hour and an hour).*

After the system was developed, a **permanent working group** consisting of expert prosecutors was formed to implement amendments to the Criminal Code and introduce working time standards for newly introduced offences. Expert prosecutors used a comparative method (taking into consideration working time standards for similar offences) to **determine working time standards for new offences**.

By the order of the Prosecutor General, a "Methodology for assessing the workload of prosecutors and prosecution offices" was adopted. The methodology introduces **formulas for the calculation of the workload of both the prosecutor and the PPO**. The established working time standards are used in these formulas for the determination of the coefficient of either the individual prosecutor, the PPO, or the unit within a PPO. Prosecutors and PPOs are then assessed according to their coefficients.

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<sup>29</sup> For the prosecutor to prepare an appeal.

### ***Lithuanian system in formulas – Assessing the workload of prosecutors and PPOs***

The workload factor of a prosecutor is calculated according to the following formula:

$$K = \frac{V_1 * P_1 + V_2 * P_2 + \dots + V_n * P_n}{L - D}$$

**L – D**

**K** - coefficient of the prosecutor's workload;

**V** - hours and minutes prosecutors need to dispose of a case per case type;

**P** - the number of procedural decisions or procedural actions or other work carried out by a prosecutor per case type;

**L** - working time (hours and minutes) worked by the prosecutor;

**D** - the prosecutor's working time devoted to the performance of official functions that are not evaluated under this methodology.

The workload coefficient of a PPO (or unit) is calculated according to the following formula:

$$K = \frac{V_1 * P_1 + V_2 * P_2 + \dots + V_n * P_n}{(PL - DP) * PD + AL * AD + SL * SD}$$

**(PL - DP)\*PD+AL\*AD+SL\*SD**

**K** - the workload coefficient of the PPO (unit);

**V** - the standard of working time (in hours and minutes) necessary for the performance of official activities;

**P** - the number of procedural decisions, procedural actions or other works in a given category of proceedings carried out in a PPO (unit);

**PL** - working time of prosecutors (hours and minutes); **AL** - time worked by assistants (hours and minutes); **SL** - time worked by professionals (hours and minutes);

**PD** - the prosecutor's working time coefficient, equal to 1.0;

**AD** - the assistant's working time coefficient;

**SD** - specialist's working time factor;

**DP** - the amount of working time of prosecutors in the PPO (unit) for the performance of official functions not assessed according to the Methodology.

Prosecutors in Lithuania are aware of certain **challenges** in implementing their CWS. The calculation of the working time rate for each offence is **time-consuming** and **not sufficiently precise**. It is necessary to keep abreast of the changes to the Criminal Code, which can be frequent in Lithuania. Therefore, a **new methodology** is being developed in which the working time rates will be allocated **for each procedural step** taken by the prosecutor, not for each criminal offence. Lithuania has an Electronic Criminal Procedure Information System, which handles all documents produced during investigations. Data will be automatically extracted from this information system.



## G - The Netherlands

■ An inaugural case-weighting system for public prosecution services has been introduced in the **Netherlands** by the Ministry of Justice, and concurrently a CWS was also set up for the courts. Although inaugurated by the Ministry, the system is in fact administered and maintained by the Dutch Public Prosecution Service for the first and the second instance.

The Dutch prosecutorial CWS is used **solely for financial and budgetary purposes** in terms of allocation of prosecutors, staff, and other resources. In this respect, since 2017, the budget of the PPOs has been largely based on the principle of *production x cost price*. The results have never been used for other purposes.

The case-weighting **relies on data collected monthly/yearly for regular statistical reports** from the national prosecutorial CMS. Therefore, the prosecutors are not required to enter additional data and all prosecutors' case data are included. The system monitors not only the number of cases but also the stages of the procedure, the decisions passed in the case, the authority that initiated it, and whether the case is re-entering the system. No CMS modification was required for implementation of the CWS.

The method **does not take into consideration the amount of time** the prosecutors spent on cases, nor the amount of time they spent on work other than resolving cases. In practice, cases resolved in a particular month are taken and categorised as predefined according to their weight (from 1 to 5). In line with this, a calculation of the workload is used yearly for justifying budget distribution.

The method has not been revised since 2014 when the **five case-weighting categories were established depending on the complexity of the cases** i.e., how time-consuming they are. Categorisation was made by taking into consideration multiple criteria such as the offence type and number of victims. Individual prosecutors were consulted to achieve a consensus on the categorisation.

What counts as a prosecutorial case is in the Netherlands defined by the "parketnummer", a number which may comprise several cases against a single perpetrator which will be tried before a court contemporaneously.

### **An interesting initiative in the Netherlands**

*Unrelated to the CWS, the Netherlands has an interesting ongoing project in which it is randomly sending text messages to prosecutors asking them to report on what they are currently doing and for how long. This way, the Public Prosecution Service, in cooperation with one of the large consultancy companies, is trying to quantify the engagement of prosecutors to obtain more funds and personnel.*

## H - Sweden

The CWS in **Sweden** has been designed by the Accounts and Finance Department of the Prosecution Authority and is used solely for supporting funding and budgetary requests - in other words, for the **allocation of internal budget** among different PPOs<sup>30</sup>. The obtained data is also used as general information on expenditure in the prosecutorial annual report. Although CWS data can be used by the Prosecution Authority to justify the request for an increase of the overall prosecutorial budget, it is in practice mainly used to allocate budget internally to four middle-level PPOs. These are further allocated to local PPOs within their jurisdiction.<sup>31</sup>

The current system has been operational for a **decade**. It replaced the previous CWS, which was Excel-based and lacked the required **flexibility** during its 15-year tenure. Additionally, it was burdened by a time-consuming reporting process.

Besides the Accounts and Finance Department of the Prosecution Authority, representatives from different parts of the prosecutorial system were also included in the process of developing the present CWS, mainly heads of departments and chambers: chief prosecutors, directors of public prosecution, and chief administrators. The human resources and legal departments were also included, as well as the employee organisations.

For the **collection of data**, the authorities use a specific method of **recording the time spent on cases in time logs**. The particularity of the Swedish system is that all employees, and not just prosecutors, report how much time they spend on each case category each day. This is being done by all the prosecutors and staff at all levels of the prosecutorial system. Another specificity is that this is not being done for a longer period but for **four weeks** every year. To be more precise, **twice every year for two weeks** (usually in May and at the end of September/beginning of October). Time is registered per time unit (1/2 hour, full hour) in the electronic information system. With this data, the prosecutor-day value<sup>32</sup> and the prosecutor- year value<sup>33</sup> can easily be derived. However, the primary purpose of the CWS does not lie in this area, and the sample is not designated to give accurate information in this regard. Furthermore, all the data on time spent on work not directly related to the resolution of cases is registered in time logs and excluded from the prosecutor-day value in the case-weighting study.

The **method of case-weighting calculation** is also quite particular in Sweden. The case weight is the average of the prosecutor time's invested in the case as a whole. The

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<sup>30</sup> The Swedish Prosecution Authority does not use the results from the CWS as an absolute and definitive basis for budget allocation. Rather, they are used as a factor in making sure that the budget allocation does not become too biased over time, compared to objective workload.

<sup>31</sup> The four PPOs that receive their budget based on this system consist of 31 local prosecution chambers. There is also a National Public Prosecution Department consisting of national units handling specific types of crime which are not part of the CWS-based budget system.

<sup>32</sup> Ibid

<sup>33</sup> As defined by the Questionnaire prosecutor-year value is the amount of time each prosecutor has available for case-related-work in a year. (Q43)

**classification system** is based on hundreds of different codes, combining legal and criminological aspects, and serves as the basis for all types of statistics, and not just case-weighting. The Prosecution Authority uses ten main case types, divided into 33 sub-types. These case types are extracted from the CMS. For case-weighting purposes, the defined sub- types are grouped into 18 categories (e.g. rape, other sexual offences, robbery, minor theft, etc.). **The total working time spent on all of the cases from a certain case type is divided by the total number of particular case types** as received from the CMS. This number is then converted into a weighted index - a **case weight is assigned to that particular case type**. Case-type "Use of illegal drugs/possession for personal use" is set as weight-index 1.0. The average time for this case type is 1,15 hours: therefore, the index weight in Sweden for each case type equals the average time divided by 1,15. In line with this, other case-types are assigned with case-weights (e.g. rape 6,230, other sexual offence 3,055, robbery 5,441, minor theft 0,536, etc.). The table below demonstrates the complexity of each case type (compared to the "use of illegal drugs/possession for personal use") within the case-weighting system in Sweden.

The Prosecution Authority has analysed the system several times and is generally content with both the quality of data and the response rate. There is no obligation to report the working time of employees who are on vacation or sick leave. Even though there are no fines for non- reporting, the response rate is about 90%.

**Table 3:** Case weights according to case types (weighted index) in Sweden**Updated in 2021**

	Total time (hours)*1	Case types *2	Total time/ case type	Weight
<b>1 Murder, manslaughter, gross assault</b>	78 070	5 730	13,62	11,8
<b>2 Other assault and violence</b>	126 140	44 224	2,85	2,5
<b>2.1 Unlawful threat, molestation</b>	49 365	34 050	1,45	1,3
<b>2.2 Other crimes against personal freedom and integrity</b>	43 190	20 182	2,14	1,9
<b>3.1 Rape</b>	61 200	8 543	7,16	6,2
<b>3.2 Other sexual offences</b>	32 285	9 191	3,51	3,1
<b>4.1 Robbery</b>	27 470	4 390	6,26	5,4
<b>4.2 Minor theft</b>	13 450	21 838	0,62	0,5
<b>4.3 Theft and other appropriation</b>	62 965	17 572	3,58	3,1
<b>5 Damage to property</b>	11 570	8 933	1,3	1,1
<b>6.1 Fraud</b>	42 715	16 859	2,53	2,2
<b>6.2 Fraud against social security systems</b>	15 100	23 919	0,63	0,5
<b>6.3 Other property crimes</b>	26 875	19 157	1,4	1,2
<b>7.1 Use of illegal drugs/possession for personal use</b>	75 240	65 428	1,15	1
<b>7.2 Other drug/narcotics crimes</b>	40 985	6 953	5,89	5,1
<b>8 Traffic-related crimes</b>	54 155	65 081	0,83	0,7
<b>9 Environmental crimes *3</b>	10	92	0,11	0,1
<b>10 Other</b>	71 090	61 219	1,16	1
<b>TOTAL</b>	831 875	433 361		

\*1 Four weeks of reported time multiplied to correspond to one year of caseload.

\*2 Number of case types closed by prosecutors within 12 months

\*3 National units such as the National Unit for Environment and Working Environment Cases are excluded. This is the reason why there are so few cases and hours in this category.

## I - Non-European states

**Australia** and **Canada** have implemented CWSs within their relevant federal prosecution services.

The CWS in **Australia** is designed and used by Australia's Federal Prosecution Service, the Commonwealth Directorate of Public Prosecutions (CDPP). CDPP formed a working group consisting of prosecutors, which, using a **Delphi method**, drafted a "National Legal Direction" with defined **grades of complexity** for prosecutorial cases. Grades go from 1 for the least complex cases, to 4 for the most complex ones. There is no further distinction between grades, but the CDPP is currently thinking about further specificity (e.g. 1.2, 1.4). While assessing the complexity, both volume and nature of evidence have been considered, as well as for example the number of victims. CDPP's **senior management** is authorised to attribute weights to cases which is crucial in deciding whether the case will be assigned to a junior or a senior prosecutor, or, for the most complex cases, to a team of prosecutors. The complexity is also crucial for determining **budgetary requests**. The complexity may change during the process before the prosecution, in which case prosecutors working on the case inform their superiors of these changes and the grade can be changed accordingly. Although generally satisfied with the system, the CDPP is currently working on some minor upgrades.

In **Canada**, the Federal Public Prosecution Service (PPSC) uses its CWS for determining staffing needs, supporting funding requests, determining specialisation needs, allocating prosecutors and staff among offices, and assigning cases. It divides the cases into low, moderate, high, and mega complexity. The latter two categories may be assigned only in consultation with a manager. The weights were assigned by a working group, based on data collected from the CMS.

### **Extract from the Canadian PPSC timekeeping protocol, the complexity matrix**

*Low complexity - Cases of a routine nature that are resolved through alternate measures or which involve the application of well-established law to relatively straightforward fact situations (e.g., minor property offences).*

*Moderate complexity - Cases which require some analysis and review of the facts or the law; which involve factual circumstances which may be difficult to communicate; or which may involve offences not ordinarily seen by the courts (e.g. more serious property offences; sexual assault; violence against the person).*

*High complexity - Cases which may involve complex facts or law; which raise legal issues in areas where the law is not clearly established; that challenge established laws or procedures; which may present novel, multiple, or complex policy and/or legal issues that require significant advance preparation; or which give rise to a significant change in established laws or practices (e.g. tax evasion/proceeds of crime).*

*Mega complexity - Cases that are extremely demanding and complex; involving multiple factual and legal issues of a complex nature; or involving issues likely to raise significant legal, social, economic, and/or policy consequences of national importance (e.g. major organised crime prosecutions; series of historical sexual assaults involving a high number of victims and witnesses coming from different jurisdictions).*

The **United States of America**, the cradle of case-weighting, is also a federation, with various case-weighting systems implemented across its federal states. The **American Prosecutors Research Institute** conducted a study in 2002<sup>34</sup> to delve into this topic and determine how many cases a prosecutor can reasonably handle. The primary aim was to assess the feasibility of establishing **national caseload and workload standards**.

The study revealed that developing universal workload standards was **unfeasible** due to differences among federal states in terms of criminal codes, court structures, and crime profiles. Nevertheless, it recommended a preferred model in which staff record prosecutors' time by case type, disposition type, and procedural stages (pre-charge, pre-trial, and trial). Disposition type was considered crucial, as the majority of cases are resolved without a trial during the pre-charge or pre-trial stages. Resource needs are then calculated by case type, having regard to the frequency of different disposition types and accounting for available time (excluding vacations, leave, and non-case-related work).

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<sup>34</sup> How Many Cases Should a Prosecutor Handle? Results of the National Workload Assessment Project." APRI, Alexandria, VA, available at [https://biblioteca.cejamericas.org/bitstream/handle/2015/2111/How\\_Many\\_Cases.pdf?sequence=1&isAllowed=y](https://biblioteca.cejamericas.org/bitstream/handle/2015/2111/How_Many_Cases.pdf?sequence=1&isAllowed=y).

# Part III - Comparative analysis of case-weighting in public prosecution services

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■ This section presents a thorough comparative analysis of the CWSs discussed in the preceding part of this report. Its objective is to methodically compare these systems based on their principal components - development and implementation processes, data collection methodologies, and case-weight calculation techniques. Each of these aspects is further elaborated and explored within their respective subsections. This approach aims to enhance understanding of the strengths and weaknesses inherent in the existing CWSs, and to ultimately serve as a practical guide for States around Europe considering CWS implementation (or modification).

## A - Development and implementation

### i) Pre-existing systems

■ Out of the eight responding countries with a CWS, six have **previously employed** a different system before the current one was introduced. The decision to abandon their previous systems was primarily driven by the fact that these systems were no longer suitable for their intended purposes or had become inapplicable.

Three different reasons are invoked to justify the decision to abandon previous systems: lack of efficiency (practicability and time-consuming), lack of precision, and lack of flexibility. Moreover, in the majority of cases, these flaws were related and could therefore accumulate.

- **Lack of practicability/time-consuming:** In **Sweden**, the previous system was Excel- based, making the reporting extremely time-consuming. Similarly, in **Lithuania**, the data was collected by manual transfer from statistical reports. In **Germany**, the previous system was abandoned due to its theoretical nature and lack of practicality.
- **Lack of precision:** In **Lithuania**, the previous system was only used to assess the performance of the prosecutors in the area of pre-trial investigation. In **Bulgaria**, the assessment of prosecutors was only based on reporting the number of actions and decisions of prosecutors regardless of the time spent or the degree of severity of cases.
- **Lack of flexibility:** In **Germany** and **Sweden**, previous systems were not flexible enough to adapt to the evolution of the judicial system or legislative changes. In **Denmark**, the previous system was abandoned because it was found to be

obsolete. In **Austria**, the previous system had to be updated to adapt to the determined processing times and case types.<sup>35</sup>

These examples underscore the **significance of long-term planning** when implementing a CWS. First, they accentuate the necessity of a flexible system that enables States to readily accommodate changes in criminal legislation, criminal activity, or prosecutorial practices. Secondly, the importance of factoring in the time efficiency in utilising the system further reinforces the need to incorporate relevant and efficient IT tools.

#### *ii) Lead institutions*

■ A lead institution has been proven to be a cornerstone of successful CWS development and implementation. They offer strategic direction, financial support, regulatory authority, essential expertise, and efficient decision-making processes. Their active involvement ensures that the system stays on the correct course. A closer look at the institutions that led the development and implementation of the CWS reveal two main situations, both involving engagement from the highest levels of the hierarchy.

■ First, the development can be **initiated at the government level**, more precisely by the Ministry of Justice. This situation was encountered in **Austria**, **Germany**, and the **Netherlands**. In these three countries, prosecutors were involved in the development or administration of the system. In **Germany**, the development and implementation of the CWS was commissioned by the Conference of Ministers of Justice, though the decision itself was adopted by the Commission of the State Judicial Administrations for Questions relating to the Calculation of Personnel Requirement (*Kommission der Landesjustizverwaltungen für Fragen der Personalbedarfsberechnung*)<sup>36</sup>. The development of the new system was accompanied by a network of organisational support including a Steering Committee, Executive Steering Committee, Project Office, and Project Working Groups. In **Austria**, the system was developed with the support of PPO staff and the Federal Computing Centre. In the **Netherlands**, while the system was inaugurated by the Ministry of Justice, it is administered and maintained by the Public Prosecution Service.

■ Secondly, the development can be initiated at an administrative level by the PPS. A great diversity of lead institutions can be noted depending on the national institutional organisations. In **Belgium**, the system was initiated by the Public Prosecutorial Board (*Collège des procureurs généraux*, composed of the attorneys general to the courts of appeal). In **Denmark**, the system was initiated by the Director of Public Prosecution, and Prosecution Offices were included in the modelling of the case-weighting system. In **Lithuania**, the system was initiated by the General Prosecutor's Office. In **Sweden**, the Accounts and Finance Department at the Swedish Prosecution Authority led the process

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<sup>35</sup> In contrast to other examples, Austria chose to update its initial system instead of replacing it with an entirely new one.

<sup>36</sup> The Conference of state justice ministers coordinates the legal policies of individual states in Germany. This is a permanent body with the presidency rotating on an annual basis. While the decisions made at the Justice Ministers' Conference meetings do not become binding law, they can provide important guidance for the development of legal policies.



of the CWS development and implementation. Different parts of the prosecutorial system were also included in this process (heads of departments, chief prosecutors, HR, Legal department, Employee organisation, etc.).

The situation in **Bulgaria** is specific. The process was managed by the SJC. The Prosecutor's Office also joined the process, providing expert opinions and participating in working groups.

### *iii) Outsourced design & implementation support*

Among the eight respondent countries, only three have **outsourced** part of the establishment of the CWS to **private companies**. However, this analysis did not cover an in-depth assessment of how much the States rely on outsourcing in general, particularly for IT systems they rely on.

In **Austria**, the process included several different public actors (staff and professional representatives, representatives of the specialised departments of the Federal Ministry of Justice, and representatives of the Federal Computing Centre) under the guidance of a consulting company.

In **Germany**, the present CWS was designed based on a report prepared by a **consulting company**.

In **Denmark**, the CWS was designed by in-house experts, but the accompanying databases and IT systems used were developed and maintained by **outsourced companies**.

### *iv) Purposes of case-weighting systems*

Based on the information provided by the national respondents, there appears to be a **correlation** between the institution responsible for the creation or implementation of the system and the specific objectives assigned to it.

To summarise, the objectives assigned to the CWS largely **correspond** to the missions and functions of the authority that carried out the implementation procedure. However, it is difficult to determine whether the chosen objectives naturally led to the selection of one authority over another, or if conversely, the choice of the authority led to the assignment of the system's objectives.

In the three countries where the system was initiated at the **governmental level**, the CWS is primarily used to determine the personnel and budgetary requirements: assessing the number of prosecutors needed, supporting requests for funding, and budgetary requests. In **Austria**, it provides personnel requirement estimates for prosecutors but is not used to distribute them. In **Germany**, the system serves as an orientation and decision-making aid for budget negotiations and an even distribution of available prosecutors/staff among the PPOs. In the **Netherlands**, it is used solely for financial and budgetary purposes in terms of the allocation of prosecutors, staff, and other resources.

In other countries, those personnel and budgetary requirements purposes at a national level are not entirely absent (**Belgium, Bulgaria**<sup>37</sup> and **Lithuania**). However, these systems are also (or exclusively) used for purposes at the PPO level (**Belgium, Bulgaria, Sweden, Denmark** and **Lithuania**) or at the individual level (only two countries: **Bulgaria** and **Lithuania**).

At the PPO level, CWS can be used for:

- Allocating prosecutors and staff members within different PPOs (**Belgium** and **Bulgaria**);
- Allocating internal budget among different PPOs (**Sweden**); and
- Assessing the productivity of different PPOs (**Belgium, Bulgaria, Denmark, Lithuania**).

At the individual level, CWS is used for:

- Assessing the productivity of individual prosecutors (**Bulgaria** and **Lithuania**);
- Individual appraisal and career development (**Bulgaria**); and
- Disciplinary responsibility of prosecutors (**Bulgaria**).

## **B - Data collection**

### *i) Data collection methodology*

█ The methods of data collection are highly diverse among European countries. Among the eight countries studied:

- five rely primarily on a methodology based on time-study: **Austria, Belgium, Denmark, Germany** and **Sweden**; and
- three rely primarily on a methodology based on time-estimates (experts' evaluation): **Bulgaria, Lithuania**, and the **Netherlands**.

However, even in countries using the same type of methodology (time-study v. time-evaluation/Delphi-like), a number of specificities can be noted, making each system unique.

### *Time-study methods*

█ Among the five countries mainly or exclusively relying on a Time-Study method, a significant distinction can be drawn based on the source of the data collected.

In **Denmark**, the pre-existing CMS was used as a data source.<sup>38</sup> All first-instance prosecutors were required to register the information on their activities – time duration and types of activities – every day prior to the implementation of the CWS. Therefore, the

<sup>37</sup> The purposes of CWS are very wide-ranging in Bulgaria and include purposes only relevant to this country (e.g. planning the number of units, supporting the review of the territorial jurisdiction, and backlog reduction).

<sup>38</sup> Police and prosecution service use a CMS called POLSAS.

CMS was already processing the data needed and did not require any updates. This system is time-consuming for prosecutors but allows for a larger sample (all first-instance prosecutors) and continuous data collection.

In **Austria, Belgium, Sweden** and **Germany**, CWSs are based on a time-study using **time logs** in which prosecutors record the time spent on different activities. Nevertheless, significant differences exist regarding the **tools used for data collection**.

In **Germany** and **Sweden**, the system is based on an **online time log** and recording of the activities of prosecutors. In **Austria** and **Belgium**, the system is based on manual reporting – “process-sheets” in **Austria** and Excel files in **Belgium**. This system was used for 15 years in **Sweden** but it was replaced by an online log system 10 years ago. However, it must be noted that, in **Belgium**, data collection also relies on the use of the CMS to establish the volume of cases (the number of cases within each case type processed during a certain time). The data extracted from the CMS concerns all prosecutors and is collected continuously.

In **Austria, Belgium**, and **Germany**, only a sample of representative PPOs (in urban and rural areas representing different sizes) participated in the time-data collection:

- **Austria:** Five out of sixteen first-instance PPOs which corresponds to about 55% of all prosecutors, with a view to obtaining processing times for 100 cases in each case- types;
- **Germany:** Fourteen PPOs of both first and second instances; and
- **Sweden:** all prosecutors and staff at all levels of the prosecutorial system participate in the data collection.

■ In **Austria, Belgium**, and **Germany**, the data collection process spans several months but occurs only every few years, specifically for six months in **Austria** and **Germany** and three to four months in **Belgium**. The shorter period is due to the complementary use of the CMS for case volume assessment. In **Sweden**, data collection is conducted for four weeks annually, split into two-week intervals in May and at the end of September or the beginning of October.

In these four countries, both **case-related** and **non-case-related** activities are included in the data collection.

#### *Time-estimate methods (Delphi/Delphi-like Methods)*

■ Three respondent countries are using a time-estimate method. However, these systems are once again quite different – especially on the level of detail sought in the estimation of time.

In **Lithuania**, the method used is the closest to Delphi (a group of experts reviewing cases to assess working time standards). Ten expert prosecutors spent 18 months reviewing existing resolved cases and assessing an average time rate needed for disposition. In this process, expert prosecutors reviewed 10 cases per each article of the Criminal Code in the five district PPOs of the country (50 cases per article of the Criminal Code, except for rare

crimes). This process allowed them to establish working time standards formalised in eleven tables included in the methodology (two for the investigation depending on the role of the prosecutor - supervisor or conductor, one for trial and appeal, and the remaining for other functions carried out by prosecutors).

Additionally, a permanent working group consisting of expert prosecutors was formed following amendments to the Criminal Code to introduce working time standards for newly criminalised offences by comparative method (taking into consideration working time standards for similar offences).

In **Bulgaria**, the time-value of an exhaustive list of prosecutorial actions/decisions was settled by the special working group at the SJC (with the participation of prosecutors and investigators) in the form of a specific coefficient. In determining the specific coefficient for each of these actions/decisions, the statistical data on the workload by number of actions/decisions for previous years was considered, and a detailed survey of prosecutors and investigators conducted. The main principle is that the actions/decisions that require more time to prepare/render, including familiarisation with the entire case (such as the indictment for bringing the case to court or the decree for discontinuing criminal proceedings) have the highest coefficient.

In the **Netherlands**, the CMS is only used to collect regular statistical reports on the volume of cases (number of cases, stages of the procedures and initiating authority). The time factor was assessed through consultations with expert prosecutors to reach a consensus on the classification of cases through five categories (from 1 to 5 depending on the complexity of cases taking into account how time-consuming they are). This evaluation of the complexity of cases is less detailed. This can be explained by the more targeted purpose of the CWS that is solely used to justify yearly budget requests and distribution of financial resources among PPOs.

Much has already been said in available studies and other literature regarding the *rationale* for selecting the time-estimate method over the time-study method, with a primary emphasis on the advantage of the time-estimate method being less time-consuming and less burdensome. From the described examples, it appears that the intended purposes of the CWSs are also a relevant factor. **Lithuania** and **Bulgaria** are the only two countries using CWS at the individual level, to assess individual prosecutor productivity or to make decisions on individual careers. This specificity presumably explains a more "vertical" approach to data collection.

The **Netherlands'** situation is quite different as it appears that the time assessment is kept "approximative". This is because the purpose of the CWS is to estimate the differentiation of the yearly workload to support budget requests and financing of the PPOs. Therefore, the Netherlands considered "precision" of time-value studies was not needed in this context.

## ii) Working-time assessment

■ In the case-weighting process, member States use different approaches when it comes to assessing the working-time of prosecutors, defined as the prosecutor-year and prosecutor-day value.<sup>39</sup>

**Denmark, Sweden, and Lithuania** are specifically collecting data on prosecutors' working-time. In **Denmark** and **Sweden**, this collection is facilitated by the method of data collection and the available IT tools. These two States have the most elaborate time-study system since all prosecutors participate in data collection, which is continuous in **Denmark** and regular in **Sweden** (twice a year). Also, both States maintain IT tools for data collection. These take the form of online reports, making it easier for the prosecutors to report on their working-time. In **Lithuania**, prosecutor-year value is also collected based on time records.

**Austria, Belgium, Bulgaria, and Germany** are not collecting prosecutors' working-time data, but are using assessments based on official working hours. In **Austria** and **Germany**, the annual net working hours – official working-time minus regular absences (parental leave, holidays, illness) – is estimated at 1.720h/year and 98.776 min/year (approximately 1.646h) on average, respectively.

In **Bulgaria**, the daily working-time is settled at 8h/day, including 5h/day for case-related activities. Regular absences (or unproductive time) and non-case-related activities are also taken into account through the assessment of the working day per year (250 working days per year). Similarly, in **Belgium**, the working-time assessment is based on the legal weekly working-time (38h or 40h) minus "unproductive time" and non-case-related activities, both assessed through the extraction of data from an online calendar.

Unsurprisingly, there is a notable diversity of solutions when it comes to considering the time spent on non-case-related activities. These can be:

- a) Collected but not subtracted from the total working-time. In **Germany**, data related to time spent on non-case-related activities is collected but this time is not subtracted from the annual working-time because those activities are included in the system.
- b) Collected and subtracted from the total working-time (**Austria, Belgium, Lithuania, Denmark**). In **Belgium**, time spent on non-case-related activities is extracted through online calendars. In **Lithuania**, these activities are assessed through the same time records used for case-related activities. In **Denmark**, the CMS includes data on time spent both on case-related and non-case-related activities (average time of 4,9h/day for case-related activities on a total of 7,5 h/day). In all these countries, only time spent on case-related activities is counted as relevant data for case-weight calculation.

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<sup>39</sup> See above the definition in the questionnaire on case-weighting in the Foreword Section.

- c) Not collected but subtracted from the total working-time. In **Bulgaria**, time spent daily on activities is predefined as 5h/day for activities covered by the Rules and 3h/day for activities not covered.
- d) Not collected and not subtracted. In the **Netherlands**, the system does not take into consideration the amount of time that prosecutors spend on cases, nor the amount of time they spend on work other than case resolving. In practice, cases resolved in a particular month are taken and categorised as predefined according to their weight (from 1 to 5).

### iii) Outsourcing

Three respondent countries are outsourcing part of the data collection process. In **Austria**, data collection was carried out with the help of a consulting company. In **Belgium**, support is provided by external consultants for the installation, configuration, and use of the applied software, and the transfer of knowledge to the Public Prosecution Support Service. In **Germany**, the evaluation of data collected in the course of the self-reporting was carried out by an external consulting company.

## C - Case-weight calculation

### i) Classification of cases and procedural phases

The classification of cases that serves as the basis for the CWS varies among different States based on (a) offences provided by criminal law, (b) phases of the procedure, (c) both offences and phases of the procedure, and (d) the complexity of cases.

- a) In **Sweden**, the classification system used for all types of statistics is based on hundreds of different codes combining legal and criminological aspects. The Prosecution Authority specifically uses a categorisation system of 10 main categories and 33 subcategories. For case-weighting purposes, subcategories are grouped into 18 categories.

*Examples: murder, manslaughter, gross assault, other assault and violence, unlawful threat, molestation, other crime against personal freedom and integrity, rape...*

- b) In **Germany**, the CWS is based on case-related and non-case-related prosecutorial activities. In terms of case-related activities, products are mainly based on the type of offences.

*Examples: capital matters, commercial criminal cases, felonies and misdemeanours with a custodial sentence of not less than one year, offences against sexual self-determination, smuggling of foreigners, and other violations of the Asylum Act...*

- c) In **Austria**, case types were defined by a working group of experts and extracted from the CMS. The system recognises 13 case types to which weights are assigned. This classification is based on the type of activity and not on the type of offence.

*Examples: preliminary proceedings against juveniles and young adults, preliminary proceedings against adults, main proceedings – single judge, main proceedings – jury...*

In **Denmark**, the classification is based both on the type of offence and the procedural phases. Three main procedural phases are distinguished (convictions, indictments with trial, and other decisions) for each offence category. Therefore, for every type of criminal offence, three categories must be distinguished.

*Examples: conviction for murder and arson, indictment with trials for murder and arson, other decisions for murder and arson, conviction for theft, indictment with trials for theft, etc...*

- d) In **Lithuania**, the classification for the investigation phase is based on the type of offence. There are 66 types of criminal offences used for case-weighting purposes. It is then further categorised according to procedural specifics: whether the prosecutor leads or conducts their pre-trial investigation and whether the decision in the case is a suspension, a discontinuance, or a referral to court. Therefore, for every one of the 66 types of criminal offences, six categories must be distinguished (those subclassifications bring the number of "case types" to 396).

*Examples: fraud and misappropriation of property on a large scale*

- *Prosecutor leads investigation + decision of suspension*
- *Prosecutor leads investigation + decision of termination*
- *Prosecutor leads investigation + decision to refer to the court*
- *Prosecutor conducts investigation + decision of suspension*
- *Prosecutor conducts investigation + decision of termination*
- *Prosecutor conducts investigation + decision to refer to the court*

However, for the trial and appeal phase, the classification is different and based on the procedural phase.

*Examples: Trial before the District Court, Appeal before the District Court, Appeal brought before the Court of Appeal...*

- e) In **Belgium**, the classification is based on an inventory of all the activities and work processes that a case can take. The path taken depends on the type of offence (*robbery, murder, fraud...*) and the type of decision taken (*procedural phases, like pre- investigation phase, investigation phase, dismissals, indictments, trial phase, etc.*). More than 150 working processes have been established so far. Out of them, workloads have been measured for around 40 business processes.
- f) In the **Netherlands**, five case-weight categories (from 1 to 5) have been established depending on the complexity of cases, in other words, how time-consuming they are. Multiple criteria were considered for this categorisation, including the type of offence. However, unlike in **Sweden** and **Germany**, the type of offence is only one factor among others (for example, the number of


victims, and type of repetition...).

- g) In **Bulgaria**, there is no classification and no case types as such. All criminal cases are theoretically covered by the Rules of the SJC regarding case-weighting. However, the system is entirely based on the coefficient attributed to a case depending on the different actions or decisions undertaken by the prosecutor.

*Example:*

- *Investigation supervision (20 listed acts)*
- *Actions and acts of investigation (27 listed acts)*
  - *Investigative experiment*
  - *Inspection, search, seizure, exhumation*
- *Prosecutorial acts for resolving criminal proceedings (7 listed acts)*
  - *Agreement*
  - *Indictment*
  - *Resolutions of termination*
  - *Decisions to suspend criminal proceedings*
- *Judicial phase (7 listed acts)*
  - *Protests (motivated) - appellate and cassation appeals*
  - *Proposals for court rulings*
- *Enforcement of sentences (11 listed acts)*
- *Participation in hearings (11 listed acts)*

*ii) Case-weight attribution*

 In terms of case-weight attribution, a distinction can be made between countries employing the Time-study method and those utilising the Time-estimate method.

For countries using the Time-study method (**Austria, Belgium, Denmark, Germany, and Sweden**), the case-weight is calculated as the average prosecutor's time invested in the case. For each of the predetermined case types, the data collected allowed the CMS to determine this average time (by dividing the total time used for this case type by the volume of this case type).

- a) In **Austria, Belgium, Denmark, and Germany**, the average time constitutes directly the case weight and therefore is expressed in time units.

*Example: In Denmark, the average time invested by prosecutors for a conviction for murder and arson is 37,5h, for indictment with trials for murder and arson it is 11,25h, and for other decisions for murder and arson it is 1,34h.*

- b) In **Sweden**, this average time is converted into relative values and indices. One case type ("Use of illegal drugs/possession for personal use") serves as reference, with an index weight of 1,00. The average time for this case type is 1,15 hours: therefore, the index weight in Sweden for each case type equals the average time divided by 1,15.



*Example:*

- For rape, the average time is 7,16h: therefore, the weight index for rape is 6,23 (7,16/1,15).
- For fraud, the average time is 2,53h: therefore, the weight index for fraud is 2,2 (2,53/1,15).

c) In **Bulgaria** and **Lithuania**, both of which utilise the Time-estimate method, the systems differ significantly, but they share a similar two-step process for calculating a case weight. The first step is the determination of the case weight depending on the predetermined weights of different factors/case types. The second step is the adjustment of this case weight depending on certain aggravating factors (presumed to increase the complexity of the case).

In **Bulgaria**, the first step (which is mandatory) is the calculation of the case weight by adding the coefficient of each predefined action or decision. A coefficient of 1 equals 150 minutes.

The second step is elective, and concerns cases whose severity/complexity deviates significantly from usual. When working on a case that requires a more complex resolution than usual, the assigned prosecutor fills out a form and submits it to the supervisor for approval. Aggravating criteria and corresponding coefficients are exhaustively listed in the corresponding rules. Following approval and the input of the complexity coefficient into the system, the case's final coefficient is recalculated.

*Aggravating criteria entail, inter alia: considerable volume of materials studied / more than 100 sheets in substance, pronouncement on the criminal activity of more than one person...*

In **Lithuania**, the two steps (allocating the predetermined weight standard and the aggravating factors) occur simultaneously.

For the investigation phase, a fixed weight of working time is allocated for each case type and an additional rate is added for each suspect. The total case weight is expressed in time units.

*Example:*

*For the criminal offence of fraud, if the prosecutor is supervising the investigation:*

- which is concluded by termination, the standard weight is 11h,
- which is suspended, the standard weight is 20h,
- which is referred to the court: the standard weight is 50h

*On that working standard, 7h is added for each additional suspect, if the prosecutor is supervising the investigation.*

Concerning the trial and appeal phases, a predetermined allocation of working time is assigned to each case type, with an additional rate factored in based on the case's volume and the number of accused involved. The total case weight is then expressed in time units.

*Example: Appeals brought before the District Court require 10 hours, an extra 1h 30min for each extra volume of a file, and an extra hour for each additional accused person.*

- d) In the **Netherlands**, the CMS monitors not only the number of cases but also the stages of the procedure, the decisions passed in the case, the authority that initiated it, whether the case is re-entering the system, etc. When a case is resolved, it is automatically categorised in one of the five predefined case-weight categories (1, 2, 3, 4, 5) based on those factors.

## Part IV - Alternative systems to case-weighting

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■ The questionnaire responses reveal that a significant number of member States do not use a CWS in their public prosecution services. This section summarises the feedback from these States: Bosnia and Herzegovina, Croatia, Czech Republic, Finland, France, Greece, Hungary, Ireland, Latvia, Lithuania, Luxemburg, Malta, Republic of Moldova, North Macedonia, Poland, Romania, Türkiye and Ukraine. Nevertheless, their responses contain valuable information on the **obstacles** to the implementation of CWS (A), on the **plans for the implementation** of CWS in the **future** (B) as well as on the **alternative systems** used by the respective member States (C).

### A- Main barriers to the case-weighting implementation

■ The most cited obstacle to implementing a CWS concerns **insufficient awareness**. Eight respondents raised this issue: Bosnia and Herzegovina, Czech Republic, France, Greece, Ireland, Finland, Latvia, Romania, and North Macedonia. Other obstacles are shared by several of the respondents:

- a) Concerns that prosecutors would suffer from an **excessive burden concerning data collection** – France, Finland, Latvia, Republic of Moldova, and Ukraine;
- b) Concerns relating to **improper use of collected data** – France, Finland, and Romania;
- c) **Deficiencies in the data collection process** and/or **available data** – France, Finland, Ireland, and Malta.

Regarding the deficiencies in the **data collection process** or available data, this option was not offered in the list of available answers in the questionnaire, but was instead mentioned spontaneously by the three respondents. Therefore, the possibility that deficiencies in the data collection process and/or available data could also be an obstacle in other States is not excluded.

Concerns about the **effectiveness of CWS amongst prosecutors** are only mentioned by two respondents – France and the Republic of Moldova.

Finally, a **possible constitutional barrier** is mentioned by one respondent. In *Luxembourg*, an increase in the number of prosecutors is subject to the adoption of a law. However, the CWS could be useful for other purposes or even to assess the need for such an increase.

## B - Case-weighting in the past and future

■ All States without a CWS have never had one in the past. However, the positions regarding the potential establishment of a CWS in the future present a diverse outlook. Out of 15 responding States:

- a) Eleven States do not appear to have plans to establish a CWS.
- b) Five States mention that they intend to implement a project in the near future with a view to establishing a CWS:
  - In **France**, the implementation of a CWS has been a priority for the Ministry of Justice since 2021. A CWS has been in development since 2019.
  - **Latvia** has a project based on prosecutors' **online time logs** but is interested in other countries' experiences to find the most suitable option for case and human resources management.
  - **North Macedonia** has already implemented a system in courts based on the **grading of the complexity of court cases through several indicators**. The same model is currently being developed for prosecutors.
  - In **Romania**, the project "Optimising management at the level of the Judiciary. The Public Prosecutor's Office component" includes proposals to **quantify the complexity and volume of the work and specific tasks carried out by prosecutors**. The methodology used to calculate the complexity of the prosecutors' activity is related to factors such as the subject matter of the case, the stages of criminal investigation, and the procedural measure ordered. Software calculating complexity and workload is still to be developed.
  - In **Ukraine**, the Action Plan for the Implementation of the "Strategy for the Development of the Prosecutor's Office for 2021-2023" provides for the development of a system of **measuring and regulating workload as one of the main parameters for evaluating their prosecutors' activities**. One of the objectives is to unify criteria for measuring workload and increase the efficiency of human capital use.<sup>40</sup>

Even if these projects are not fully-fledged CWS as defined by the questionnaire,<sup>41</sup> they could still be valuable options for case and resource management.

## C - Existing alternative systems to case-weighting

■ All responding States – except for **North Macedonia** – have an alternative system to case-weighting for different purposes. These are ranked from the most mentioned to least mentioned purpose in Table 4.

**Table 4:** Purposes of alternative systems to CWSs

<sup>40</sup> These statements refer to the situation reported by the member States in 2023.

<sup>41</sup> "A case-weighting system is a tool to measure or evaluate the time required for a case to be processed..." (Questionnaire, p. 2).

Allocating prosecutors within different PPOs: 10 responding States

Determining the number of prosecutors: 9 responding States

Determining the number of staff members;

Determining needs in terms of specialisation of prosecutors: 7 responding States

Assigning cases among prosecutors and PPOs: 6 responding States

Assessing the productivity of PPOs and individual prosecutors; Allocating staff members within different PPOs: 5 responding States

Supporting requests for funding and budgetary requests;

Assessing resources required to reduce prosecutorial backlogs: 4 responding States

Planning the number of units: 3 responding States

Assisting in revising territorial prosecutorial jurisdiction: 2 responding States

While it is not possible to draw any firm conclusions due to the broadness of the term "system", it seems that alternative systems are more often used for "**human resources management**" – allocating prosecutors within offices, determining the number of prosecutors, specialised prosecutors and staff members, assigning cases, assessing productivity – than for "**structural organisation**" – supporting budgetary requests, planning the number of units, and revising territorial jurisdictions. It is worth noting that these structural aspects are presumably embedded in broader State policies, leading to a lesser reliance on case-weighting or statistical tools.

As regards the description of these alternative systems, once again the broadness of the concept of "system" in the questionnaire led to the reporting of very diverse methods. Based on these descriptions, it is possible to classify these "systems" into three categories.

First, the "systems" described can be based on **classical managerial methods** by hierarchical superiors. The manager will assess the workload of individual prosecutors to assign cases in an objective manner in order not to overburden them (*Czech Republic, Ireland, and Malta*). This constant assessment can be used to identify specific needs or resources (e.g. specialised prosecutors). In **Latvia**, part of prosecutors' appraisals/evaluations involved reviewing some of the prosecutors' cases to evaluate performance indicators in order to assess their productivity or the productivity of their office. In **Türkiye**, the Chief Public Prosecutor is authorised to organise the functioning of PPOs according to the needs and conditions of the situation. In **Ukraine**, the Prosecutor General's Office uses the information system "Personnel Web" to determine the number of prosecutors and staff members and to allocate them within the different PPOs.

Secondly, some respondents suggest that decision-makers use **statistical data** for determining the required number of prosecutors. In **Poland**, statistical data is analysed monthly at the local level and every six months at the national level. In *Luxemburg*, a law can be adopted on the initiative of the *Procureur Général d'Etat* to increase the number of prosecutors based on workload-related statistics. In *Greece*, the number of prosecutors in each PPO is fixed, though this can be changed if a significant increase or decrease in

caseload occurs.

Thirdly, some States have developed some **case-weighting methods** or **CMSs** that do not fit the definition of a CWS mentioned in the questionnaire.<sup>42</sup> In **Finland**, cases are weighted based only on the titles of crimes involved. This method can be used with a large number of cases to assess and compare workload. In **Bosnia and Herzegovina**, the Prosecutorial CMS (TCMS) is used to assign cases to individual prosecutors based on a case type – e.g. general crimes, economic crimes, corruption crimes, etc. – and the specialisation of the prosecutors. The TCMS is also used to obtain data on the annual quotas prescribed for each type of case in the “Book of Rules on performance indicators for Prosecutors in Bosnia and Herzegovina”.<sup>43</sup> The prescribed quota is notably the basis for determining the required number of prosecutors in each PPO and the achieved annual quota is the basis for the annual assessment of an individual prosecutor.

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<sup>42</sup> In Israel, data supported tools are used to measure the workload of different prosecutorial units and/or prosecutors (e.g. measure the number of resolved cases per unit in a period of time divided by the number of active prosecutors working in that unit). This method is used to determine the number of prosecutors needed and to support budgetary requests.

<sup>43</sup> This document was adopted by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina.

### **Case-weighting features in the system in Croatia**

A system of weighting of prosecutorial cases has not been introduced in **Croatia**. There exists a **hybrid point-based system** intended primarily for determining the number of prosecutors and serving also as an additional method for the evaluation of prosecutors' workload and performance. It has been established by the Framework Criteria for the Work of Prosecutors, prescribed by the Minister of Justice upon the preliminary opinion of the Chief Prosecutor (drafted by an expert working group). The most recent Framework Criteria date back to December 2019.

The Framework Criteria prescribe how many **cases a prosecutor should resolve on an annual basis** – e.g. municipal prosecutor (dealing with less serious crimes, with the prescribed prison sentence of up to 12 years) should resolve 200 cases against adult perpetrators, or 180 cases against minors, or 400 so-called "other cases" (where there are no official criminal charges), or 100 legal aid cases, or 200 misdemeanour cases. The final result is calculated as a combination of these numerical targets, and expressed in percentages. The same methodology is applied to county prosecutors (dealing in the first instance with more serious crimes, with a prescribed prison sentence of over 12 years).

Example: A municipal prosecutor who resolved 20% of cases from each of the five categories mentioned – 40 cases involving adult perpetrators, 36 cases involving minors, 80 "other cases," 20 legal aid cases, and 40 misdemeanour cases – would meet the quota (achieve 100%).

The basis for the development of the Framework Criteria is data of all PPOs (by case types), extracted from the CMS. All incoming cases from the past three years are taken into consideration and analysed in relation to the number of prosecutors available.

The Framework Criteria primarily serves as a basis for **determining the required number** of prosecutors, which is done by the Minister upon the Chief Prosecutor's proposal. When the PPO seeks approval from the Ministry of Justice to hire additional prosecutors, they analyse data on incoming and resolved cases from the past three years in conjunction with the Framework Criteria. The decision to hire more prosecutors is based on calculating whether the current number of prosecutors is adequate to meet the standards set by the Framework Criteria. As the number of prosecutors is connected to financial resources, the Framework Criteria indirectly play a role in determining budgetary requirements as well.

The **performance evaluations** of individual prosecutors, as determined by the Framework Criteria, are contingent not only on the nature of the cases they handle but also on their complexity. Failure to meet the established quota can potentially trigger disciplinary proceedings, whereas surpassing it can earn the prosecutor additional recognition and opportunities for advancement. The performance evaluations, as well as the conduct of disciplinary proceedings against prosecutors, falls within the competence of the High Prosecutorial Council.

## D – Institutional cooperation – Learning from Norway

States do not always resort to the textbook, straightforward, and unified case-weighting solutions that cover the entire prosecutorial system and reside only within that system. Instead, in some instances a system of case-weighting is established **amongst institutions**.

**Norway** conducted a capacity assessment in the field of criminal investigation under the sponsorship of the project “Efterforskningsløftet” in 2018 as a joint effort of the Office of the Director of Public Prosecutions and the Norwegian Police Directorate. Although the system may be considered a CWS, it is not classified as such in this analysis because it takes into consideration only a part of the criminal case processing and prosecutors are only a smaller fragment of it.

The Norwegian methodology used for capacity planning relies on three questions:

- How many resources are available for criminal case management in the police, converted into so-called full-time equivalents (FTEs)?
- What is the number of criminal cases resolved by the police in a given year?
- How much time is spent on different activities and cases in criminal proceedings?

The collected information has been used to calculate current resource utilisation and to establish a **computer model** capable of calculating how changes in the number of cases, the composition of crime types, and task performance will impact police resource requirements. The data model is founded on 21 distinct case categories, encompassing all 12 police districts, and comprises four different roles in criminal case management: Investigator, Forensic Technician/Computer Investigator, Prosecution Lawyer, and Civilian Criminal Case Support.

The results in the report are based on real data from the criminal justice system obtained for 2017 (the last full calendar year at the time) while human resources data was collected on 1 June 2018. To calculate the time spent on different activities, a range of workshops were conducted with criminal case processing staff in eight police districts. There are 168 calculations of time spent on criminal case processing activities for each of the 21 case categories in the analysis. Combined with data from the police's criminal CMS, the average time spent per case category was calculated and multiplied by the number of cases in each case category to give the total resource requirements for the category, broken down by the four previously defined roles.

The study findings indicated that the police have 5.288 FTEs available for investigation, of which 4.920 FTEs are available for criminal case management and 368 FTEs dedicated to the management of investigation. Out of 4.920 FTEs, 3.480 are Investigators, 255 Forensic Technicians/Computer Investigators, 716 Prosecution Lawyers and 470 Civil Criminal Case Support. Some differences have been found among districts concerning the proportion of resources in each role, but no assessments have been made of the significance of this for criminal proceedings. It is however logical to expect that these differences will result in



different abilities to handle each district's criminal case portfolio.

Calculations have been made of the time available for criminal case management after the deduction of time spent on other activities. At the national level, 1.168 hours are available for effective criminal case management after deductions across the four roles. The available time also varies by role. Meetings and central training courses are the two activities where the most time is spent outside of criminal proceedings. The available time also differs between districts, signifying the absence of a uniform standard within the police force regarding the amount of time allocated for training, meetings, and other supplementary activities by investigative resources.

When calculating the time required to conclude work on a case, a significant variation is observed among different case categories. On average, a case in the "Murder and attempted murder" category takes approximately 445 times longer to complete than a case categorised as "Other." In terms of overall resource allocation, the police allocate the most resources to cases falling under the "Other violence" category.

Across all categories, it takes on average 17,3 hours to resolve a case. Of this, the role of Investigator takes 12,4 hours, while Prosecution Lawyer takes 1,7 hours. Civil Criminal Case Support takes 1,7 hours and Forensic Technician/Computer Investigator takes 0,9 hours. A comparison of 2013 and 2017 data revealed that there is an increased need for resources for criminal proceedings, even though the number of cases dropped by 70.000 due to the change in the complexity of cases.

## Part V - Key guiding principles

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**■** Diversity stands out as the defining feature of the prosecutorial case-weighting in Europe and beyond. Although there are many similarities among the States, there are also outstanding differences, as noted earlier in this report. Each state embarked on its own learning curve, mostly independently and without drawing from the experiences of other States.

Designing, developing, and implementing a system for case-weighting is a challenging task that requires a strong network of institutional and expert support, budgeting, dedicated resources, and long-term planning. It is therefore advisable to first take stock of the national circumstances, options, and expectations and adjust targets accordingly. Preferring simplicity over complexity is recommended for States new to case-weighting, as it allows for a more manageable and effective implementation process, especially when building initial expertise in this area.

Nevertheless, we can gather several key guiding principles representing best practices.

1. **Strong leadership** – Lead institutions are the cornerstone of successful CWS development. They ensure a clear and inspiring vision and strategy, establish a culture of excellence, accountability, and innovation, and provide timely and informed decision-making. Lead institutions are responsible for consulting with relevant entities and promoting the system. If prosecutors display reluctance, these lead institutions are responsible for raising awareness and providing a rationale regarding the importance of the system. Another role of lead institutions is to ensure the long-term viability of the system by maintaining a dedicated team within their organisation responsible for its development, overseeing implementation, and conducting regular reviews.
2. **Significance of long-term planning** – Successful CWS implementations are carefully planned well in advance and with a long-term perspective to mitigate any potential disruptions to the judicial system. Intrinsically, CWS is not a tool for quick wins, nor can any judicial system expect results in a short period of time.
3. **Importance of defining purposes targeted by the CWS introduction** – This report reveals how CWSs are designed differently across member States to address the multitude of purposes they serve. Predetermining the purpose of the CWS is undeniably necessary to choose the right development path. However, it is advisable to begin with simpler systems and gradually work up.
4. **Quality and efficiency in data collection** – CWSs rely heavily on high-quality and efficient data collection, which is fundamental for case-weighting design and development. Accurate assessments and meaningful conclusions can only be derived from high-quality data. Moreover, data collection is closely connected to selecting the appropriate methodology. A process that requires taking into

consideration available resources, time, data availability, and all other pros and cons of the different methodologies. The analysis in this report supports the conclusion that it may be important to favour simple systems, especially where data availability and collection are limited.

5. **Incorporation of relevant and efficient IT tools** – IT tools serve as the primary facilitators for conducting case-weighting studies and maintaining such systems. They contribute to enhancing accuracy and efficiency in data collection and subsequent analysis. Precisely because of this facilitating effect, it is advisable to take stock of the existing IT tools before designing the CWS to identify current possibilities and potential opportunities for enhancement.

The central IT system in this context is the CMS, which facilitates data collection and analysis, providing information on case types, their volume, frequency, and sometimes even on case duration or the duration of individual actions within a case. Over the last decade or two, all member States have turned to the advantages of the IT systems in developing CWSs. The modalities differ depending on the national context and how advanced the State is in computerising its judicial system. In this regard, taking into consideration experiences from member States with developed and operating CWSs, considering a combination of in-house and outsourced expertise may be advisable when developing CWSs.

6. **Dissemination, transparency, and communication** – To achieve broad acceptance of the system and its purpose, it is important to disseminate relevant information among stakeholders, primarily the prosecutors through regular and transparent communication. Lead institutions should guide this activity to ensure authority and maximise its impact. This can be accomplished through seminars, colloquia, conferences, and internal communication channels that facilitate two-way communication. Collecting feedback and considering it for future amendments and updates is also an important aspect of the process. Training programmes should be developed to ensure that the data will be collected in a unified, reliable and accurate manner and that the system itself is properly understood and used by prosecutors and PPOs staff.
7. **Sustainability** – The developed and implemented system should be designed to be sustainable and resilient to changes, allowing it to promptly and effectively adapt to evolving circumstances. This adaptability is crucial for fostering acceptance and trust among stakeholders. To achieve it, necessary financial and human resources need to be ensured not only for daily operations but also for periodic and possibly *ad hoc* reviews of the system. Over time, the integrity of any case-weighting system may be affected by external factors, such as changes in legislation, case law, legal practices, court technologies and administrative policies, etc. Regular reviews and updating of CSW is therefore essential to ensure the reliability of the data.

# Abbreviations

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**CEPEJ** - European Commission for the Efficiency of Justice

**CMS** – case management system

**COE** – Council of Europe

**CWS** – case-weighting systems

**DKK** – Danish Krone

**IT** – Information Technology

**MoJ** – Ministry of Justice

**PAR** - Personnel Requirement Calculation

**PEBBSY** – Personalbedarfsberechnungssystem (case-weighting system implemented in Germany)

**PPO** – Public Prosecution Office

**PPS** – Public Prosecution Service







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

