



REPORT EFFICIENCY AND QUALITY OF THE SLOVAK JUDICIAL SYSTEM ASSESSMENT AND RECOMMENDATIONS ON THE BASIS OF CEPEJ TOOLS

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INTRODUCTION

The present report was drawn up as part of the Project “Strengthening the efficiency and quality of the Slovak judicial system” (hereinafter referred to as “the Project”) which aims at supporting the efforts in view of continued reforms of the justice sector, targeting to improve the efficiency and quality of Slovak courts. This objective shall be achieved through a thorough assessment of the Slovak judicial system and through the application of the tools and methodology developed by the European Commission for the Efficiency of Justice (CEPEJ).

The Project is contemporary to active policy reforms to improve the organisation and functioning of the national court system such as: optimisation of the judicial map and further specialisation of judges and courts, simplification of some judicial proceedings, introduction of electronic payment orders, enhancement of the ICT tools and statistical data analysis for better court management, introduction of changes in the procedure of selection of judicial candidates and in the process of evaluation of judges and court staff etc. Ministry of Justice of the Slovak Republic (“MoJ”), in cooperation with the Judicial Council of the Slovak Republic, intends to develop a methodology for determining the necessary number of judges, assistants, and other resources to be allocated to courts, to find out the optimal size of courts in view of a better specialisation of judges etc. It looks for solutions to reinforce the professional support to judges and to resolve the backlog problem by improving the efficiency of courts, but also by adopting possible extraordinary measures, when the backlog and the age of pending cases are too high. At the same time, the judiciary of the Slovak Republic enters a new wave of infrastructural developments, following the European and global trends.

The CEPEJ was invited by the Government of the Slovak Republic to support its on-going efforts. As part of the Project, a team of CEPEJ experts is called to evaluate the functioning of the Slovak judiciary and to develop recommendations on the way to further improve the efficiency of national courts and the quality of their services, based on the CEPEJ tools and methodology, which are the result of the intergovernmental work based on inputs from the 47 member States of the Council of Europe (CoE).

Therefore, in April 2017 the CEPEJ Secretariat set up the team composed of the following experts knowledgeable of the CEPEJ tools and its cooperation objectives and methodology:

- Mr Georg Stawa, President of the CEPEJ, Secretary General of the Ministry of Justice, (Austria)
- Mr Otto Nijhuis, Judge, representative of the District Court of Gelderland in the Network of the CEPEJ pilot courts (The Netherlands)
- Mr Ivan Crnčec, Assistant Minister for European Affairs, International and Judicial Cooperation of the Ministry of Justice, CEPEJ/SATURN member (Croatia)
- Mr Harold Epineuse, Special Advisor to the Director of Court Services Department of the Ministry of Justice, author of the CEPEJ Guidelines on how to drive change towards cyber justice (France)
- Mr Francesco De Santis, Researcher in civil procedure and judicial systems, expert of the CEPEJ Working Group on Quality of Justice (Italy)

In addition, a cooperation agreement was reached with the Research Institute on Judicial Systems of the National Research Council of Italy (IRSIG-CNR). The agreed institutional cooperation envisages the participation of IRSIG-CNR in the process of collecting and analysing qualitative and quantitative indicators on the functioning of the Slovak court system and of 12 selected courts (in particular sections dealing with: Budget, Court management, Analysis of the caseload, and Time management). IRSIG-CNR designated experts were:

- Mr Marco Fabri, Director of IRSIG-CNR, Scientific expert of CEPEJ/SATURN
- Ms Federica Viapiana, Scientific expert of the IRSIG-CNR

Having in mind his long-term participation in the work of CEPEJ and deep knowledge acquired in regard to its tools, the CEPEJ Member on behalf of the Slovak Republic, Mr Ladislav Duditš, Judge of the Regional Court in Kosice, was invited to take part in the Project in the capacity of national expert.

In June 2017 the team of CEPEJ experts conducted a fact-finding visit to the Slovak Republic. As part of the mission, the CEPEJ experts had enriching exchanges with representatives of the Ministry of Justice, Supreme Court, Bar Association, Judges' Association and NGOs active in the field of judicial reforms of the Slovak Republic. The delegation also visited 6 regional and district courts in Bratislava, Banská Bystrica, Galanta and Senica. To be able to conduct all these meetings and to engage consistent discussions, the CEPEJ team was for most of the time divided into two groups with a parallel agenda. A large amount of varied information has been gathered, while the discussions with national stakeholders and the visits to the courts allowed an in-depth insight into the organisation and functioning of Slovak courts.

One of the main sources of information for the expert team constituted the data gathered by the CEPEJ in the framework of its wide exercise to evaluate the European judicial systems. Most of this information is available on the CEPEJ-STAT dynamic database which allows to find various data on judicial systems of Council of Europe member States¹. Factual data and analytical reports published by respected European institutions (e.g. the EU and the ENCJ) were analysed and are referred to by the expert team. Further information on the legal background, recent evolutions and statistical data was exchanged with the MoJ before, during and after the fact-finding visit.

Another major source of information for the assessment of Slovak courts and of the current level of enactment of different CEPEJ-recommended tools represented the results of two "surveys" among judges and court managers, including senior court staff. To this end two questionnaires were designed by the CEPEJ expert team, the first based on the Revised SATURN Guidelines for judicial time management (CEPEJ(2014)16) and the second mainly inspired from the Checklist for promoting the quality of justice and courts (CEPEJ(2008)2).² The questions were adapted to the realities of the Slovak court system and coordinated with the MoJ, which actively supported this exercise. At the end of June 125 judicial officials answered the "Questionnaire on Time Management" and 110 replied to the "Questionnaire on Quality". The MoJ team examined the large number of comments made by the respondents, selected and systematised the most important of them, and kindly ensured their translation into English.

As a result of the above activities and the acquired information, the CEPEJ team developed the present report containing an assessment of the current situation, recent achievements and actual challenges with which the judiciary and courts of the Slovak Republic seem to be confronted, as well as the recommendations for the planned or new steps in pursuing related reforms. A draft of this report was commented upon by members of a working group established by the MoJ, including experienced judges. Those comments were reviewed and some of them were taken over by the CEPEJ team.

¹ Please visit the webpage: <https://www.coe.int/t/dghl/cooperation/cepej/evaluation/2016/STAT//>

² The translation into Slovak language of relevant CEPEJ documents and CCJE opinions may be found on the Project's webpage: https://www.coe.int/t/dghl/cooperation/cepej/cooperation/slovaquie/default_en.asp?

This report should support the MoJ and other judicial actors in their policy and decision-making processes, and should also become the basis for continued cooperation in view of a comprehensive implementation of CEPEJ tools in selected courts of the Slovak Republic in 2018, and their further dissemination on the basis of the achieved good practices.

A. Judicial system and court organisation

a. *Guarantees for judicial independence.*

Only an independent and impartial judiciary can provide the basis for the fair and just resolution of legal disputes, particularly those between the individual and the State. In this context, it is recalled that all CoE member States have undertaken, under Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), to guarantee access to independent and impartial tribunals, whenever civil rights or obligations are in issue or criminal charges are to be determined; and in respect of which the European Court of Human Rights (ECtHR) has developed a wide jurisprudence. The principles of independence and impartiality are recalled in the Recommendation [CM/Rec\(2010\)12](#) of the Committee of Ministers of the CoE to member States on judges: independence, efficiency and responsibilities (hereafter: Recommendation on judges).

It is of primordial importance that judicial independence and impartiality exists in fact and is secured by law, and that public confidence in the judiciary, where it has been lost, is restored and maintained. To this end, it is important that a culture of respect for judicial independence and impartiality is propagated in society generally, but specifically amongst the executive and legislature.

The Committee of Ministers of the CoE adopted on 13 April 2016 the Council of Europe Action Plan on strengthening judicial independence and impartiality ([CM\(2016\)36 final](#)). Its aim is to identify the ways in which the Council of Europe will guide and support its member States in the implementation of concrete measures needed to strengthen judicial independence and impartiality. As such, the Plan of Action represents a commitment on the part of the Secretary General and of the Council of Europe as a whole to accord the highest priority to working with member States to strengthen further the independence and impartiality of the judiciaries in Europe. The types of remedial action that may be envisaged by member States in order to address the challenges identified are set out in the Appendix to the Plan of Action.

The Plan of Action recognises the diversity of legal systems, constitutional positions, and approaches to the separation of powers in the member States of the CoE and implementation of the actions detailed in the Appendix should take full account of this diversity. The urgency of these actions lies in the need to bolster judicial independence and impartiality in cases where existing structures have been identified as failing to guarantee the rule of law and democratic security. The Plan of Action indicates measures that need to be taken, firstly, to improve, or establish where these are lacking, formal legal guarantees of judicial independence and impartiality and, secondly, to put in place or introduce the necessary structures, policies and practices to ensure that these guarantees are respected in practice and contribute to the proper functioning of the judicial branch in a democratic society based on human rights and the rule of law.

According to the Magna carta of Judges³ judicial independence and impartiality are essential prerequisites for the operation of justice. Judicial independence shall be statutory, functional and

³ CCJE (2010)3 Magna Carta of Judges, adopted by the Consultative Council of European Judges on 17 November 2010 (please see under the link: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1707925&direct=true>).

financial. It shall be guaranteed with regard to the other powers of the State, to those seeking justice, other judges and society in general, by means of national rules at the highest level. The State and each judge are responsible for promoting and protecting judicial independence.

Judicial independence shall be guaranteed in respect of judicial activities and in particular in respect of recruitment, nomination until the age of retirement, promotions, irremovability, training, judicial immunity, discipline, remuneration and financing of the judiciary.

Establishing and securing the proper functioning of effective mechanisms and other measures to fully implement the obligations under the ECHR, particularly with regard to the guarantees provided by Article 6 concerning the right to a fair trial, is a long-standing objective. Those guarantees evolve with the society and imply not only formal legal safeguards of judicial independence and impartiality but also putting in place the necessary structures, policies and practices to ensure that these safeguards are respected and contribute to the proper functioning of the judicial branch in a democratic society based on human rights and the rule of law. Protecting the independence of individual judges and ensuring their impartiality is another key factor to be addressed in the struggle for guaranteeing the right to a fair trial.

Not of a lesser importance is the objective of building the public trust in the judiciary and broader recognition of the value of its independence and impartiality, for example by ensuring transparency in the workings of the judiciary and in its relations with the executive and legislature, and by the judiciary or courts adopting a proactive approach towards the media and to the dissemination of general information, which must be respectful of the rights of the defence and of the dignity of victims.

It was not the objective of the CEPEJ expert team, therefore not in the ambition of the present report, to assess all the aspects related to judicial independence in the Slovak Republic. At the same time, it is obvious that there may not be justice of quality without the independence and impartiality of the judiciary being properly secured. The modern societies demand processing of judicial disputes without undue delays and efficiently from the point of view of the resources spent, but the drive for efficiency must not lead to inferior quality decisions, nor to the disregard for judicial independence.

Therefore, the CEPEJ expert team will only point out to the elements related to judicial independence and impartiality which may need to be further addressed by the Slovak authorities, while the MoJ and the Judicial Council of the Slovak Republic are invited to give a serious consideration to these issues in the light of the Council of Europe Action Plan on strengthening judicial independence and impartiality, and to address them separately, possibly in cooperation with the CoE and its specialised bodies (esp. the Venice Commission and the CCJE).

In the Slovak Republic, the basis of the guarantees of judicial independence is set in the Constitution. The independence of the court system from the other branches of state power follows from the Article 141 of the Constitution saying that the judiciary in the Slovak Republic shall be carried out by independent and impartial courts. The judiciary shall be carried out on all levels separately from other state authorities.

The constitutional guarantees of independence of judges can be found in the Articles 144 to 148:

- Judges are appointed (and recalled) by the President of the Slovak Republic, at the proposal of the Judicial Council of the Slovak Republic, for a life tenure.

- Judges are independent when performing their function and bound by the Constitution, constitutional law, international treaties pursuant to Article 7, paragraphs 2 and 5, and laws.
- If the appointed judge is a member of a political party or a political movement, he is obliged to renounce such membership before taking the oath.
- A judge performs his function as a profession. The performance of a function of a judge is incompatible with the performance of a function in any other public authority body, including the function of president of the Judicial Council of the Slovak Republic, or employment contract in a state body, employment contract, or similar employment relation, entrepreneurial activity, membership in a governing or control body of a legal person engaged in entrepreneurial activity, with other economic or gainful activities, with the exception of the administration of one's own property, and scientific, pedagogical, literary, or artistic activity, and membership in the Judicial Council of the Slovak Republic.
- A judge may be transferred to another court only with his consent or on the basis of a decision of a disciplinary panel.
- Temporary suspension of the office of a judge may not interfere with the independent judiciary. The reasons for a temporary suspension of the office of a judge, as well as the conditions for a temporary suspension of the function of judge or a temporary assignment of a judge shall be laid down by law.
- Judges may not be persecuted for their decision-making, even after the termination of their tenure.
- Judge may fill in a complaint against the decision initiating criminal prosecution against him, whereas this complaint will be decided by the Prosecutor General.

The status of judges

The judge is appointed for a life tenure. The reasons for termination of the office of a judge are regulated by law. The President of the Slovak Republic upon a motion of the Judicial Council of the Slovak Republic is obliged to recall a judge:

- if the judge has been convicted upon the final verdict of an intentional criminal offence,
- if the judge has been convicted upon the final verdict of a criminal offence without probation,
- upon the final verdict of the Disciplinary Board for the disciplinary offence which is not compatible with the office of a judge,
- if the judge lost the statutory conditions to be elected to the National Council of the Slovak Republic (the Parliament).

The President of the Slovak Republic, upon a motion of the Judicial Council of the Slovak Republic, may recall a judge:

- if his health conditions do not allow him/her to perform duly the duties of a judge for a time period longer than one year,
- if he has reached the age of 65 years.

The office of the judge terminates also by the resignation of a judge, by limitation of the legal capacity, the loss of the nationality of the Slovak Republic, the change of permanent residence outside the territory of Slovakia, failure to take the oath or giving up the oath, and by the judge's death.

Remuneration of judges

According to the "Act on judges", the average monthly salary of the judge equals the monthly salary of a Member of the Parliament. The monthly salary of the judge at the beginning of the career, with the

lowest length of overall legal practice, is 90% of this salary. The amount of the basic salary depends on the length of the judicial legal practice. The monthly salary of the judge of the Supreme Court and of the Specialised Criminal Court is 130% of the monthly salary of a Member of the Parliament.

Judges are entitled to 2 additional monthly salaries (in May and in November), unless they do not meet the conditions stipulated in law. A functional supplement to the salary is paid to presidents and the vice-presidents of courts, the presiding judges of the panels of judges, and the presiding judges of the divisions (at regional courts and the Supreme Court). A special financial supplement is paid to judges of the Specialised Criminal Court and to those judges of the Supreme Court who decide on the legal remedies in the cases decided by the Specialised Criminal Court.

The judge is obliged to submit a declaration of property and assets every year. The declarations are reviewed by the Judicial Council.

Judicial immunity

Judges may not be prosecuted for their decision-making, even after the termination of their tenure. The Venice Commission has argued in favour of a limited functional immunity of judges: “Magistrates (...) should not benefit from a general immunity as set out in the Bulgarian Constitution. According to general standards they indeed needed protection from civil suits for actions done in good faith in the course of their functions. They should not, however, benefit from a general immunity which protected them against prosecution for criminal acts committed by them for which they should be answerable before the courts.” (CDL-AD(2003)12, para. 15.a).

It is indisputable that judges have to be protected against undue external influence. To this end they should enjoy functional – but only functional – immunity (immunity from prosecution for acts performed in the exercise of their functions, with the exception of intentional crimes, e.g. taking bribes)⁴.

b. Judicial self-governance. The role of the Ministry of Justice

According to the Recommendation on judges (points 26, 27), councils for the judiciary are independent bodies, established by law or under the constitution, that seek to safeguard the independence of the judiciary and of individual judges and thereby to promote the efficient functioning of the judicial system. Not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary.

The Judicial Council of the Slovak Republic.

In the Slovak Republic the Judicial Council is the constitutional body whose composition and the competences are stipulated in the Article 141a of the Constitution.

The Chair of the Judicial Council is elected from among the members of the judiciary and is recalled by the Judicial Council. Its members are:

- a) nine judges, who are elected and recalled by the judges of the Slovak Republic,
- b) three members who are elected and recalled by the National Council of the Slovak Republic,

⁴ CDL-AD(2010)004, § 60-61

- c) three members who are appointed and recalled by the President of the Slovak Republic,
- d) three members who are appointed and recalled by the Government of the Slovak Republic.

The composition of the Judicial Council, after amendments in the recent years, complies with the Recommendation on Judges which states (§ 27): *“Not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary”*. It is also welcome that the Chair of the Judicial Council is elected from among the members of the judiciary, while previously the Chief Justice of the Supreme Court held *ex officio* the position of Chair of the Judicial Council. The term of office of members of the Judicial Council of the Slovak Republic shall be of five years. The same person may be elected or appointed as the Chair or as a member of the Judicial Council for a maximum of two consecutive terms.

The competences of the Judicial Council include:

- a) ensuring fulfilment of the responsibilities of public supervision of the judicial system,
- b) adopting a standpoint on whether a candidate for appointment as a judge fulfils the criteria for judicial office which provide a guarantee that s/he will properly perform the office of a judge (on the basis of documents from the state authority vested with the task of protecting classified materials, and of statements from candidates for appointment to the position of judge),
- c) submitting proposals to the President of the Slovak Republic concerning candidates for appointment as judges, and proposals for recall of judges,
- d) deciding on the assignment or transfer of judges,
- e) submitting proposals to the President of the Slovak Republic for appointment of the President and the Vice-Presidents of the Supreme Court of the Slovak Republic, and proposals for their removal,
- f) submitting proposals to the Government of the Slovak Republic concerning candidates for judges who should act for the Slovak Republic in international judicial bodies,
- g) electing and recalling members and chairs of disciplinary senates,
- h) commenting on the draft budget of the courts of the Slovak Republic during preparation of the draft of the state budget, and submitting a standpoint to the National Council of the Slovak Republic regarding the draft budget of the courts,
- i) monitoring whether a judge fulfils the criteria for judicial capacity which provide a guarantee that the judge will properly perform his office throughout the duration of that office,
- j) publishing the principles of judicial ethics in cooperation with the bodies of self-administration of the judiciary,
- k) other competences laid down by law.

The adoption of a resolution of the Judicial Council of the Slovak Republic requires the consent of an absolute majority of all its members.

In the context of the appointment of judges, which is a sensitive issue and obviously influences both the internal and external perception of judicial independence, the Judicial Council has a statutory role. It evaluates the candidates for judicial appointment, upon the proposal by the selection committee, and mainly on the basis of documents from the National Security Office. The role of the executive in this process may be too prominent. On the other hand, the procedures for selection of candidates for judges undergo a reform (please see the section “Selection criteria and appointment procedure for judges”).

In regard to the budgeting of the courts of the Slovak Republic, the Judicial Council has an advisory role. At least, the Council can “comment” on the draft budget of the courts, when it is being drawn up by the Government, but also to submit its standpoint to the Parliament. Hopefully this entitles also the Council to be represented and heard in the debates on the budget in the Parliament or in its specialised commission.

Finally, it is worth recalling that, according to the Recommendation on Judges (§ 27): “*Councils for the judiciary should demonstrate the highest degree of transparency towards judges and society by developing pre-established procedures and reasoned decisions*”. Therefore, the statutory rights of the Judicial Council shall be supported by appropriate institutional capacities of this authority, including professional secretarial and expert assistance.

The Article 143 par. 3 of the Constitution of the Slovak Republic stipulates that the bodies of judicial self-administration also participate in the management and administration of courts in the extent laid down by law.

The Councils of Judges

According to the Act No. 757/2004 Coll. “on Courts and on amendments to certain laws” the Councils of Judges are bodies of judicial self-government.⁵ They are involved in the management of courts to the extent stipulated by the law. The Councils of Judges are established at the level of each district court, regional court, the Supreme Court and the Specialised Criminal Court. If the Council of Judges is not elected in a particular court, its jurisdiction shall be exercised by the court plenary. The Council of Judges at the level of each court shall have at least three members and no more than nine members. The members of the Councils of Judges are elected and recalled by the Plenary of the given court, from among its members and by a secret ballot. The exercise of the office of a president and vice-president of a court is incompatible with membership of the Councils of Judges. Where the competence of the Council of Judges is exercised by the Plenary of a court, the President and the Vice-President of the court shall not have the right to vote in plenary decisions in matters within the competence of the Council.

Competences of the Council of Judges:

- a) to comment on the draft budget of the court,
- b) to discuss the report of the President of the Court on the use of appropriations,
- c) to discuss the draft work schedule of the court and to adopt an opinion,
- d) to decide on the objections of the judges in matters under a special law⁶ (e. g. the judge's objection to his assessment, the objection that he is not assigned tasks according to the schedule of work so that he could trial the matters and decide on them without undue delay),
- e) to elect the members of the selection board (in the selection procedure for the position of the President of the Court),
- f) to file a proposal to initiate disciplinary proceedings in the cases provided by this law,
- g) to co-decide on some judges' salary matters,
- h) to approve the rules of procedure of the Court's Council,

⁵ § 33 (3), § 45 to § 48 of Act No. 757/2004 Coll. on Courts and on amendments to certain laws.

⁶ Competence under the Act No. 385/2000 Coll. On judges.

- i) at the request of the President of the Court, it takes an opinion on matters falling within the jurisdiction of the President of the Court,
- j) to decide on other matters, if so provided by a special law⁷.

The term of office of the “Council” is five years. The function of a member of the Council is an honorary function.

Competence of the Councils of Judges according to the “Act on judges”.

Councils of judges also defend the rights and legitimate interests of judges. If the competent Council fails to comment or decide on matters that are given for expressing or deciding within 30 days, it proceeds without expressing or deciding. However, it is necessary to request the opinion of the relevant Council of Judges in the case of an appointment of a judge to a higher judicial position (presiding judge in the panel of judges, presiding judge of the division).

The College of Presidents of the Councils of Judges

A College of Presidents of the Councils of Judges is established at the level of each regional court and it is made up from the President of the Regional Court’s Council of Judges, the Presidents Councils of Judges of the district courts in the jurisdiction of the concerned regional court, as well as the representatives of the plenaries of district courts where the Council of Judges is not elected. The session of the College convenes, proposes its program and is chaired by the President of the Council of Judges at the regional court or by the charged President of one of the district courts’ Council of Judges

Competence of the College:

- a) to comment on the draft budget and after allocating funds from the state budget to their proposed schedule for the regional court and district courts in its district,
- b) to comment on the report on drawing on the budget for the past year,
- c) to propose program priorities for the field of justice,
- d) at the request of the President of the Regional Court, to give opinions on matters falling within the jurisdiction of the President of the Court,
- e) to decide on other issues if so provided by a special law.

The role of the Ministry of Justice

The Ministry of Justice of the Slovak Republic (“the Ministry”) performs the administration and the management of the courts as the central authority.

The Ministry performs the administration:

- *In the sphere of personnel:*
 - o determines the number of judges, court employees and vacancies of judges, within the government-approved limits of staff numbers in the budget chapter of the Ministry;
 - o participates in determining the content of the training of judges.
- *In the financial sphere:*
 - o manages the budgeting of the courts;
 - o performs financial control and internal audit in the courts;

⁷ Other competence stipulated by the Act No. 385/2000 coll. On judges.

- methodically guides the exercise of basic financial control by the courts, bookkeeping by courts, investment construction, state property management, creation and use of Social Fund, public procurement in investment construction;
- *In the organisational area:*
 - methodically guides and controls the administration of district courts, regional courts and the Specialised Criminal Court by the chairpersons of these courts;
 - methodically guides the activities of courts in the field of fire protection, protection of classified information, health and safety at work;
 - performs control according to a special regulation.
- *In the economic sphere:*
 - manages and methodically guides the development, deployment and use of information systems and technologies in the courts;
 - on the basis of an assessment of the status of judicial agendas, strategic planning and preparation of long-term concepts of judicial development;
 - administers and secures the central information system of the judiciary;
 - methodically guides the provision of library and information services, the acquisition, processing, storage, protection and use of library funds;
 - methodically directs the performance of the archives.

c. Levels of jurisdiction, specialisation of courts and judges.

➤ **General description of the Slovak court system**

According to Article 143 (1,2) of the Constitution of the Slovak Republic, the system of courts consists of the Supreme Court of the Slovak Republic and other courts. The detailed arrangement of the court system, the courts' powers and organisation, and the manner of court proceedings shall be laid down by law.

The court system of the Slovak Republic consists of district courts (54), regional courts (8) and the Supreme Court of the Slovak Republic. To the court system belongs also the Specialised Criminal Court⁸. The details on the territorial jurisdiction of particular courts are set in the Act no. 371/2004 Coll. "On seats and territorial jurisdiction of courts of Slovak Republic".

District courts act as general courts of first instance in civil and criminal matters, unless procedural rules stipulate otherwise.

Regional courts act as courts of appeal in civil and criminal matters where district courts (within their territorial jurisdiction) decided as courts of first instance. Regional courts also act as courts of first instance in administrative matters, unless procedural rules stipulate otherwise.

The Specialised Criminal Court has a nationwide jurisdiction over criminal matters stipulated by the Code of the criminal procedure, mainly serious crimes related to organised groups, economic and terrorism crimes. It has the status of a regional court.

⁸ Act No. 757/2004 coll. "On courts", § 5

The Supreme Court acts as the appeal court against the first instance decisions of the regional courts and of the Specialised Criminal Court. Furthermore, the Supreme Court decides on the extraordinary remedies against the decision of the courts, if stipulated by the procedural rules. The Supreme Court decides on the conflicts of jurisdiction between the courts and the administrative bodies, and in other matters, if so provided by law or an international agreement. In addition, the Supreme Court ensures the uniform interpretation and application of laws and other generally binding rules by its own decision-making process (generated jurisprudence), by adopting opinions to unify the interpretation of the law and by publishing the judicial decisions of fundamental importance in the “Collection of opinions of the Supreme court and decisions of the courts of the Slovak Republic”.

Generally, all district courts deal with all types of cases at first instance level (i). Comparing to the situation of specialisation of the Slovak judicial system, as it was presented in 2011 to the Consultative Council of European Judges (CCJE), further steps have been taken towards the specialisation of courts or the creation of specialised chambers/sections within courts to deal with specific areas of law (ii).

i. Agendas

The caseload of district courts is classified *ratione materiae* on the basis of the following main agendas: criminal law; civil law; commercial law; bankruptcy and restructuring; family law, legal guardianship and custody of minors; inheritance; enforcement of a decision; cases necessitating enforcement by the bailiff; electronic payment orders; custody; cases enabling to substitute a written document that has been destroyed or lost; and judicial treasury. Each agenda may include several sub-categories of cases.

As a matter of principle, judges express their preference for a particular branch of law and they generally follow a major division between criminal law and civil law. Further specialisation is into civil and commercial law. Depending on the size of the court there can be also judges dealing only or mainly with family law. However, in most Slovak district courts there is no further specialisation and each judge has to deal with several agendas. In small courts judges have to perform the office without specialisation.

For that matter, it will be further clarified that the Slovak system is undergoing a transfer of some of the aforementioned agendas to a court with a nation-wide jurisdiction (namely: enforcement and electronic payment orders) to the District Court of Banská Bystrica).

ii. Specialisation of courts (“causal jurisdiction”)

There is a twofold trend in European countries to establish, on the one hand, specialised courts for some specific matters, but also, on the other hand, to try to establish sections/divisions in larger courts for some other matters. For example, some specific judicial matters have been concentrated in fewer courts or, in some cases, deployed to just one highly specialised court. This is the case, for example, for proceedings dealing with patent law and international protection of intellectual property. Also quite peculiar are the “payment orders” that in some countries have been fully digitalised, unless they are challenged by the debtor. Based on the procedural rules of every country, the court that deals with these cases can also be “virtual”, with a location which is not necessarily the one in which the claim has been filed for territorial jurisdiction.

On the other hand, administrative matters, fiscal matters, family matters, that in some judiciaries were dealt with by specialised courts spread out all over the country, have been merged more recently in larger general jurisdiction courts, establishing a specialised section/division within these courts. The rationales behind this policy usually are: a) an increasing in the flexibility of case assignment; b) an increasing in the flexibility of allocation of judges to different divisions; c) an increasing in the flexibility of court personnel allocation; d) a simplification for the user of the access to justice; e) a decrease in the number of presidents of courts, f) a less fragmented judicial map; g) an expected increase in court effectiveness and efficiency.

As already mentioned above, there is a fully-fledged specialised court in the Slovak judicial system: the Specialised Criminal Court, which has first instance jurisdiction over the most serious crimes. This court deals exclusively with cases regarding serious organised crimes, serious property and economic crimes, as well as serious criminal offences committed by public officials in connection with the performance of their functions.

Furthermore, the specialisation of Slovak courts operates at the level of district or of regional courts: several sets of disputes are assigned to them (causal jurisdiction) in addition to their general jurisdiction over civil, criminal and administrative cases. As it can be drawn from the document provided by the MOJ describing the *ratione materiae* jurisdiction of courts, several district courts have jurisdiction over a certain area of law at first instance level: (a) over the entire national territory, (b) over parts of the national territory (more regions), (c) over one entire region or (d) over a part of a region (more districts).

The following such jurisdictions could be identified:

a) Nation-wide jurisdiction:

- Enforcement proceedings, dunning (payment orders) proceedings and industrial property disputes -> District Court Banská Bystrica;
- Register of public sector partners -> District Court Žilina;
- Disputes over compensation for nuclear damage -> District Court Nitra;
- Competition disputes -> District Court Bratislava II;
- Civil protection measures ordered in another member State of the European Union -> District Court Bratislava III;
- Stock exchange disputes -> District Court Bratislava V.

b) Jurisdiction over parts of the national territory:

- Disputes of unfair competition proceedings and copyright -> District Court Bratislava I, for the territories of the Regional Courts Bratislava, Trnava and Nitra; District Court Banská Bystrica for the territories of the Regional Courts Banská Bystrica, Žilina and Trenčín; District Court Košice I for the territories of the Regional Courts Košice and Prešov.
- Proceedings for the return of a minor -> idem.
- Disputes relating to arbitration (except consumer arbitration) -> District Court Bratislava V, for the territories of the Regional Courts Bratislava, Trnava and Nitra; District Court Banská Bystrica for the territories of the Regional Courts Banská Bystrica, Žilina and Trenčín; District Court Košice I for the territories of the Regional Courts Košice and Prešov.

c) Jurisdiction over an entire region:

- Disputes regarding bills of exchange or checks -> District Court Bratislava V for the territory of the Regional Court Bratislava; District Court Trnava for the territory of the Regional Court Trnava; District Court Banská Bystrica for the territory of the Regional Court Banská Bystrica; District Court Košice I for the territory of the Regional Court Košice etc.
- Individual labour disputes and collective labour relations, strike and lockouts disputes -> District Court Bratislava III for the territory of the Regional Court Bratislava; District Court Piešťany for the territory of the Regional Court Trnava; District Court Zvolen for the territory of the Regional Court Banská Bystrica; District Court Košice II for the territory of the Regional Court Košice etc.

d) *Jurisdiction over a part of a region:*

- Criminal proceedings -> in the territory of the Regional Court Košice: District Court Košice I for the territory of the districts of Gelnica, Košice I, Košice III, Košice-okolie, Levoča, Rožňava and Spišská Nová Ves; District Court Košice II for the territory of the districts of Košice II, Košice IV, Michalovce, Sobrance and Trebišov.

It thus results that there is already a rather high specialisation of different district courts (as first instance courts) and, subsequently, of the regional courts (as appeal courts), over specific areas of law. However, apart from the specialisation entailed by this system of causal jurisdiction, it seems that there is little possibility for specialisation of judges in district and regional courts, given that each judge is anyway in charge of different agendas.⁹

In this context, the case of the District Court of Banská Bystrica deserves a special mention. In addition to its general jurisdiction (on civil and criminal cases), since 1 April 2017 this court became the specialised court for all new enforcement cases. As it has been explained by the MoJ, the main reason behind this choice has been the highly successful manner in which this court and the Regional Court of Banská Bystrica dealt with the extraordinary flow of cases in the previous years, stemming from the fact that

⁹ As one of the judges commenting on a draft of the present report emphasised: *“Apart from the general agendas (civil, family, business, criminal and administrative), specialised courts, such as the District Court Bratislava I, are also vested with one or more specialised agendas. Therefore, this court decides, among general agendas, also regarding, for example, the return of a minor, whereas its jurisdiction in this agenda corresponds to the circumscription of the Regional Court of Bratislava. In practice, this means that a judge of civil law section of the District court Bratislava I handles the general family law agenda and, within that ambit of competences, he or she also handles incoming cases regarding the return of a minor. The same applies to other situations, where the law stipulates a causal jurisdiction... The problem is that judges deal with multiple general agendas, depending on what has actually “landed” on their court. A judge may, therefore, handle civil law cases – they can also build up most of his or her agenda – but, simultaneously, he or she will also deal with cases from the family, business and criminal law agendas. This combination will vary, depending on the situation of courts.*

If we are talking about specialisation, we have in mind the state of affairs, where a judge does not need to “switch” from business to civil law or from civil to family, but also from family to criminal or from criminal to civil law. The proceedings in these general agendas have different time demands – when it comes to planning, different procedural norms, deadlines, as is different the applicable substantive law. It seems effective that a judge should specialise in one type of agenda - that is, only dealing with matters of civil or family law, or business law, etc. At this stage, we do not consider specialisation in the sense that judges should be specialising exclusively in certain areas of law within the main agendas – e.g. within civil law specialising only on property law, contract law, responsibility for damages, etc.”

enforcement cases became the core agenda for several judges of these courts (District and Regional). Furthermore, the District Court of Banská Bystrica has a nationwide jurisdiction on electronic payment orders and industrial property disputes as well as causal jurisdiction for the territory of several regions in other areas of law. At the same time, staff and facilities of this District court seems to be supplemented; the enforcement and electronic payment order cases are processed by one department of this court, under the supervision of a vice-president of the court which has been specifically appointed to this purpose.

The information collected shows a quite complex situation in Slovakia and, even though some more information should be gathered, it is recommended to avoid the establishment of further specialised courts, to analyse more in depth the caseload and distribution of courts within the country, and to explore the possibility to promote the specialisation of judges by establishing specialised sections/division within the existing courts. In this regard, particular attention should be given to the issue of access to justice and quality of judicial decisions.

➤ Main directions of the intended reform of the Slovak judicial system

It has been particularly highlighted by all the national stakeholders participating to this evaluation exercise that one of the most important issues for the Slovak judicial system is that of specialisation of judges. According to representatives of the MoJ, the prevailing consideration is to reach, at the same time, quality and efficiency.

Several judges, in the process of developing the present report, underlined their approval to the possibility to increase their specialisation in specific areas of law, going even further the very general distinction between civil and criminal cases. In their view, each judge should ideally be in charge of just one type of agenda, which is admittedly difficult to achieve at the level of small district courts and at the level of regional courts.¹⁰ Representatives of the Bar Association support the specialisation of judges. On the contrary, the “causal jurisdiction” does not seem to be considered as the best tool to achieve judges’ specialisation.

In this regard it can be added that 54% of the replies to the Questionnaire on Quality were negative as concerns the need to create or to maintain the existence of specialised courts in the Slovak judicial system, while only 25% were positive (Figure 1). Moreover, although not favourable to the specialisation of courts, the respondents supported the specialisation of judges. Thus 64% of all respondents (and 71% among the respondents who are judges) replied “Yes” to judges’ specialisation, 13% (10% among the respondents who are judges) said that it is partially necessary and 23% (19% among the respondents who are judges) replied “No” (Figure 2).

¹⁰ As one of the judges commenting on a draft of the present ascertained: *“Nobody is interested in setting-up more specialised courts in the sense of causal jurisdiction. There is an interest in providing at least basic specialisation (criminal, civil, business, family and administrative) to judges, so that one judge does not carry out 2-4 agendas”.*

Figure 1: Answers to question 27 of the Questionnaire on Quality

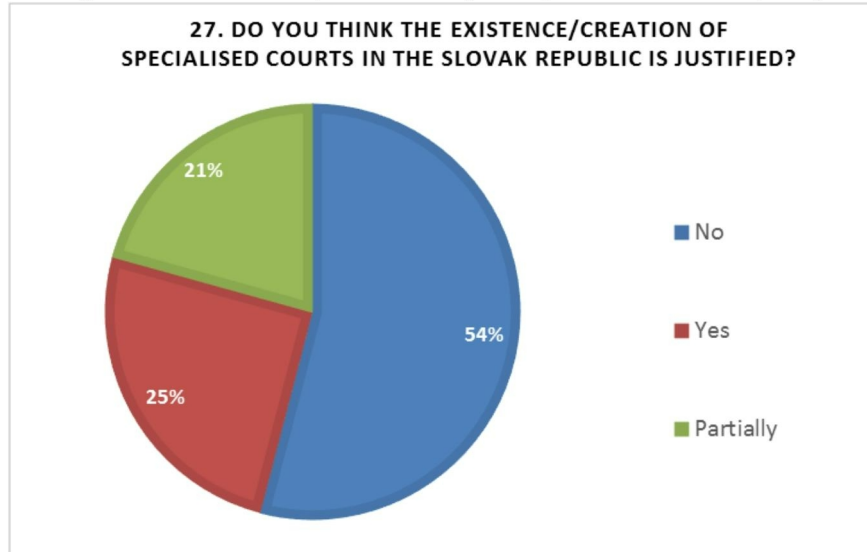
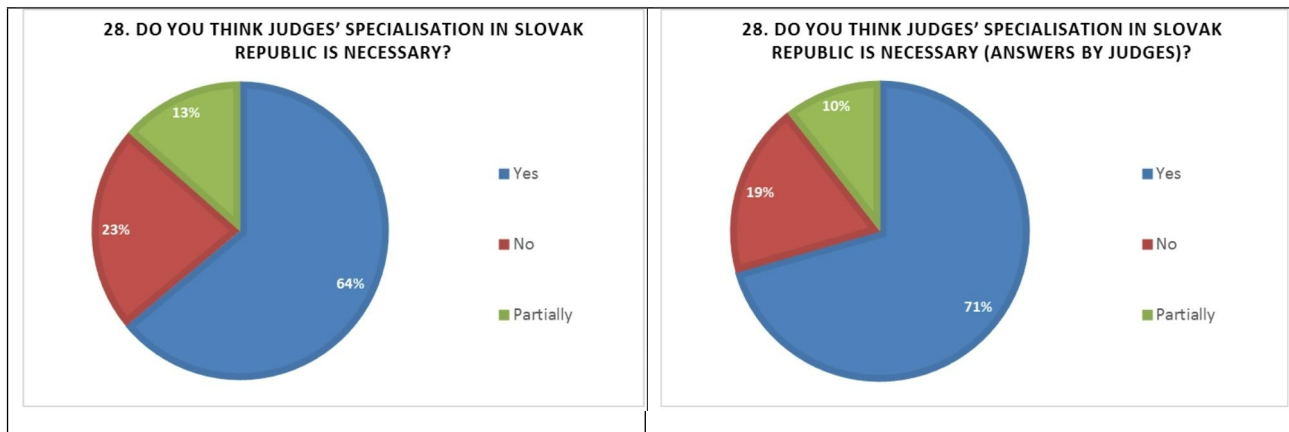


Figure 2: Answers to question 28 of the Questionnaire on Quality (in general and among the respondents who are judges)



Among the respondents who are not favourable to specialised courts, it has been mentioned that the present level of specialisation within courts is sufficient, or even that specialised courts do not have a place in the Slovak generalist judicial system.

The following common ideas emerged among the few respondents favourable to the creation of specialised courts: specialised courts should be created for the areas of administrative law and commercial law, either under the form of a specialised court system, with a dedicated Supreme Court, or under the form of one specialised court for each region within the ordinary court system.

Another aspect has to be underlined: it emerged from the discussion with representatives of the MoJ and of the judiciary, as well as from the comments to the replies to the Questionnaire on Quality, that judges are not satisfied with the present court organisation, in particular with the high number of district courts (which doubled between 1993 and 1998). Some are of the opinion that several district courts

should be either closed down, or merged in one bigger district court as courthouses. Each courthouse should then deal with a given type of cases (labour cases, criminal cases, family law cases etc.), in order to pursue a higher specialisation. This issue has to be addressed in connection with the analysis of the Slovak judicial map. At this stage, however, a few remarks concerning both the current organisation of the Slovak judicial system and the directions of the reform foreseen by the Slovak participants can be addressed.

Firstly, it is worth to recall that, as a matter of principle, “specialisation” can be implemented in different ways: a) “specialised courts”, competent to adjudicate legal disputes in a specific legal branch, with jurisdiction over a region or the entire country (specialisation of courts); b) “specialised sections/chambers” within “general” courts, competent to adjudicate legal disputes in a specific legal branch; c) possibility for judges within “general” courts to become specialised in disputes of a certain legal branch. The CEPEJ’s Good practice guide to improve the functioning of justice (CEPEJ (2016)14)¹¹ offers several examples of the different measures also recently adopted by some CoE member States.

It is widely acknowledged that the more complex our society becomes, the greater is the need for states to provide its citizens with more complex judicial services, to cope with the variety of social relations and the disputes generated thereof. Hence, the high complexity of judicial disputes requires a more specialised judicial system, in order to ensure the best level of quality of justice to citizens and to increase the efficiency in the case-processing.

Furthermore, specialisation of judges and, above all, of courts, can entail some risks, that have been already detailed in the CEPEJ’s “Good practice guide to improve the functioning of justice” ((2016)14). Indeed, given that specialised courts generally deal with rather sensitive areas of law, the risk that their interpretation and application of the law might appear to be influenced by considerations of political expediency or budgetary affordability cannot be ruled out. Also, in the absence of any arrangements for a certain rotation or alternation, a judge’s permanent assignment to the same specialised court or division could determine establishing an undue familiarity with a limited circle of lawyers and experts. It is, therefore, essential to consolidate the independence and impartiality of such specialised courts and judges.

Secondly, and turning to the Slovak courts’ system, at this stage of the analysis it seems that the specialisation has been pursued so far mostly through the mechanism of “causal jurisdiction”, which, as the experts learned, is largely criticised by some Slovak stakeholders. Since this new model is being recently introduced (in 2016), a reasonable lapse of time should be left for the causal jurisdiction to be tested and then the results assessed, and the system possibly improved. However, some remarks can already be formulated.

In quite a few areas of law only one district court has nation-wide jurisdiction, even in areas of law which are likely to bring forth applications before courts in different parts of the country. Such a choice of specialisation of courts (and implicitly of designing the courts’ map) could entail some difficulties for access to court, if the towns where the concerned district courts are seated are not always easily

¹¹ Downloadable under the link:

<https://wcd.coe.int/ViewBlob.jsp?id=2450235&SourceFile=1&&BlobId=2968564&DocId=2394358&Index=no>

accessible from all parts of the country. If this problem can be partially tackled by the use of an online application system, videoconferences etc., all the critical aspects cannot be dispelled (for example: the participation of parties and witnesses without access or ability to use ICT tools to court hearings).

Moreover, it seems that in the current system of “causal jurisdiction” several areas of law, which are sometimes very narrow and often closely inter-related, have been divided and assigned to different courts. For example, as it results from the description of specialisation presented above, disputes related to industrial property and copyright, competition and unfair competition as well as stock exchange disputes are divided among four district courts which have either nation-wide jurisdiction or jurisdiction over a part of the national territory. Another example in this sense would be the very narrow specialisation of three district courts over parts of the national territory for proceedings concerning the return of a minor, which could be easily merged with the family agenda assigned to specialised judges in each district court or in one district court which has jurisdiction over the territory of the respective region.

In the light of the foregoing, the following could be considered:

- some of the existing specialisations, which cover very narrow area of law generating a limited number of cases (for instance: civil protection measure ordered in another member State of the European Union and, most likely, disputes over compensation for nuclear damage) could be cancelled;
- the existing specialisation system could be amended in the sense of assigning “causal jurisdiction”, as a general rule, to several district courts in the country (either one for each region or one for the territory of several neighbouring regions), instead of assigning specialisation to only one district court for the territory of the entire nation;
- consequently, the narrow specialisations which are currently split among different courts in similar or related areas of law could be merged in one specialised agenda and assigned to several district courts, allowing a more rational shaping of the specialisation and a better geographical accessibility of such specialised jurisdictions. For instance, as already mentioned above: disputes related to industrial property and copyright, competition and unfair competition, as well as stock exchange disputes, could be merged into one “business law” agenda assigned to several district courts in the country having jurisdiction *ratione loci*. Likewise, proceedings concerning the return of a minor could be merged with the family-law agenda. Since, in this perspective, the judges specialised in and having jurisdiction over certain categories of cases would continue to be part of a district court, it would still be possible to assign them also a certain number of “ordinary” cases, if the incoming “special” cases were not enough to attain a balanced caseload per judge.¹²

¹² In this regard, the example of Italy could be useful. The Legislative Decree n. 168 of 2003 established in several district courts (tribunali) sections specialised on disputes related to industrial and intellectual property; The Legislative Decree n. 1 of 2012 (ratified by Law no. 27 of 2012) extended the jurisdiction of these sections (renamed “district courts for companies”) to disputes related to competition law, corporate law etc. Similar specialised sections operate at the level of appeal. The president of the district court (or of the court of appeal) where the specialised section is operating can assign to it also “ordinary cases” as far as this assignment does not prejudice the speedy case-processing in the specialised areas.

Thirdly, and in the connection with the last scenario foreseen above, the possibility to achieve a certain degree of judges' specialisation inside the existing courts, even in parallel to "causal jurisdiction", is strictly related to their size: the bigger is the court, the higher is the possibility to assign to certain judges only one agenda, going beyond the macro-areas of civil and criminal cases. To this effect, two different paths might be followed. On the one hand, on the territory of each and any of 8 regional courts some of the small district courts could be merged in bigger ones, but the courthouses would remain. For example, on the territory of the Banská Bystrica Regional Court there would be only 2 or 3 district courts (and not 8 as there are now), but all 8 courthouses would remain and the judges in each courthouse could be specialised in a specific agenda. Such a measure of "functional rationalisation" (without the physical merging) of the small district courts, would enable the specialisation of judges, because each district court would have a bigger pool of judges, and specialised judges in the same courthouse could form a specialised chamber competent to deal with a specific type of cases. In this way, even the causal jurisdiction of the court could still be preserved, because some of the courthouses can be left with the specific causal jurisdiction, established for that court by the law.

As already stated above regarding "causal jurisdiction", the main counter-argument to this approach may be related to the accessibility for court users to the (newly specialised) courthouses, which would still be located in the places of some of the existing district courts, but might be quite far from the place where the dispute has actually appeared. Therefore, in this perspective it is also important to thoroughly analyse to which extent the type of cases attributed to a certain courthouse requires to hold hearings and to hear witnesses and experts. Furthermore, it cannot be excluded that a certain "courthouse", even acting as a specialised branch of the district court, will not have enough cases and, then, will have to take some of other agendas in order to maintain a fair distribution of the caseload within the enlarged district court.

On the other hand, and taking into account some of the counter-arguments raised above, another way to pursue the specialisation of judges within the district courts would be that of cancelling some of the existing district courts in the same region, in view of creating bigger district courts, sitting in the main (and better connected) cities, with a higher number of judges. This measure is related to the possible reform of judicial map.

Fourthly, the special situation of the District Court of Banská Bystrica has attracted the attention of the experts for two reasons. On the one hand, the recent concentration of all the enforcement proceedings of the Slovak Republic in this court might theoretically raise some issues as concerns accessibility by court users and efficient relations with bailiffs. However, several Slovak counterparts explained, during the visit of the experts as well as in the process of developing the present report, that the enforcement of court judgments is mostly carried out by bailiffs (who have a territorial jurisdiction in the region where they are assigned and can easily get in contact with the District Court of Banská Bystrica); that the intervention of the district court is, generally, limited to granting the authorisation to proceed with the enforcement; that all the requests or objections in the framework of enforcement proceedings can be addressed by the parties in an array of convenient ways (for instance: online, by post or through the intermediary of the bailiff); that for any contentious matter regarding enforcement agenda, the District court of Banská Bystrica can request the assistance of any Slovak court (request proceedings). For these reasons, the bulk of enforcement proceedings may be "supervised" from this specialised court, assisted by special IT tools to increase its productivity. Nonetheless, it has also been explained that there are still a few procedural decisions which remain within the jurisdiction of the court sitting in the district where the enforcement is actually carried out (for instance: the judicial splitting of immovable goods).

The risk of overburdening of this district court, which has a widespread “causal jurisdiction” (nationwide jurisdiction on enforcement proceedings, electronic payment orders, industrial property disputes; jurisdiction for the territory of several regions in other areas of law) in addition to its “general jurisdiction”, has to be taken into account. While the measures already taken by the Slovak authorities, in terms of staff and facilities are able to mitigate this risk, the result is that of creating quite a big court.¹³ In this regard, the experts have taken good note of the administrative precautions, reported above, that have been already adopted by the Slovak authorities against the risks commonly related to the efficient management of courts of big size.

In the light of the foregoing, an alternative to the nation-wide jurisdiction of the District Court of Banská Bystrica over enforcement proceedings would be to attribute jurisdiction on enforcement proceedings to one district court in each region. This proposal is not meant to undermine the excellent results achieved by the District Court of Banská Bystrica in dealing with enforcement proceedings but on the contrary, to give the possibility to export this successful model to a few other district courts. It is also not excluded that the results of the recently adopted reform will prove the success of the adopted solution.

Lastly, another aspect, which calls for special attention, is the necessity to continue guaranteeing the random and fair distribution of cases among judges working in the specialised chambers/sections. Once again, this result cannot be easily achieved in small courts.

d. Judicial map

At present, the judicial map of Slovakia is composed of 54 district courts, spread in the territory divided between 8 regional courts, and covered entirely by the Supreme Court of the Slovak Republic and the Special Criminal Court.¹⁴ The drawing of the courts’ map follows the historical administrative map of the country. There are between 5 and 8 district courts in the territory of each regional court, with a minimum of 5 district courts in the territory of the Regional Court of Nitra and maximum of 8 district courts in the territory of the Regional Courts of Banská Bystrica and Presov.

¹³ As one of the judges commenting on a draft of the present report put it: *“Enforcement and electronic payment order department work in the same building, together with the vice-president of the court in charge, which means they are focused on these two agendas and therefore they build up a relatively autonomous department within the large court. This finally results in lower administrative risks, compared to the rest of courts with diverse agendas. From a long-term perspective, district courts have underestimated enforcement and payment order agendas, however, the informatisation is perfectly suitable for these kind of agendas...”*

¹⁴ Please see under the link: <https://www.justice.gov.sk/Stranky/Sudy/Sudy/Zakladne-informacie-o-sudoch.aspx>

Figure 3: Judicial Map of the Slovak Republic¹⁵



It has to be clearly stated, in the historical context, that the concept itself has been created in the 19th century: the idea behind the courts' map in the Austro-Hungarian Empire was to reach a court by horse or ox-cart and to arrive back home on the same day. Interpreting this concept contemporarily in its radicalism, the number of courts in Slovakia can be easily reduced by half.¹⁶

Furthermore, it has to be kept in mind that ordinary citizens, on average, have to deal with the courts once or twice in their lifetime (figures from Austrian court surveys, but likely similar due to similar economics, society, law, culture and court system).

The often cited argument of "daily need of courts around the corner" (in many countries used by local politicians, in general) is completely missing this point and lacking any empiric background. Courts are neither social welfare institutions nor daily supply chain supermarkets (to which people often go once a week to the regional capital for weekend shopping).

These plain arguments have to be stated, because in the political discussion of optimising court structures they are the main arguments of avoiding useful, efficient solutions with better quality of judiciary and use of human resources.

¹⁵ Source: <http://www.lexadin.nl/wlg/pics/maps/slovakia.gif>

¹⁶ One of the judges commenting on a draft of the present report ascertained: "This is the crucial problem of the Slovak Republic – we have too many courts, even if we look through the lenses of the 19th century. The revision of judicial map is also the key for enhancing the specialisation."

Furthermore, it was shown in a lot of countries recently (the Netherlands, Belgium, Romania, Croatia, Austria) that merging courts and optimising the structure, by creating efficient mid-size solutions, never failed in providing judicial service or decreased the satisfaction about access to justice.

Changes in the judicial map are not that crucial step anticipated by the public as might be thought. The general public might be even opposed to such reforms, if it is not explained that, for example, the reduction in the number of courts or their physical locations will, of course, influence the convenience of having a court as closely as possible, but the expected positive effects (in terms of quality and timeliness of justice and of courts' services, efficient use of resources etc.) will compensate the inconveniences. Therefore, if there is an objective need and argument to optimise the structure of the court system, this usually is welcomed by practise. Last but not least, optimising the judicial map is a complex task which would normally take a decade or more. Thinking ten years ahead into the future, the judicial business will have been changed: electronic court solutions (online dispute resolutions) will be as normal as cybershopping; the artificial intelligent "robot judge" will take care about standardised mass-cases (e.g. payment orders); and human resources will be less bound geographically, as clerks and judges will be able to work on their cases electronically and flexibly. Any kind of increase of human resources in the judiciary and creating of courts has to be reflected critically against this background.

As mentioned above, it resulted from the discussion with the representatives of MoJ and of the judiciary, that judges are not satisfied with the present court organisation, in particular with the high number of courts. They are of the opinion that some district courts should be either closed down or merged in one bigger district court (possibly as specialised courthouses). According to an opinion expressed in the comments to the Questionnaire on Quality, it is preferable to strengthen the district courts seated in the main cities of the regions, and creating a certain degree of specialisation within these courts on selected types of agendas, especially family and labour. Another opinion expressed in the same comments even made reference to reducing the number of regional courts.¹⁷

A similar opinion was shared by representatives of the Bar Association met by the CEPEJ expert team, who believe that although reducing or merging courts would cause some difficulties in the transitional phase, the gradual development of an electronic system would be a useful tool helping to reduce the number of courts.

The statistical data provided by the MoJ reveals that among the 12 selected courts there are several very small district courts, composed of only 5 to 8 judges. For instance, up until 2014, the District Court of Senica used to be composed of 10 judges, while from 2015 8 judges are sitting for a population of 60 655 inhabitants. A similar situation is in the District Court of Stará Ľubovňa, composed of 7 judges for a

¹⁷ As one of the judges commenting on a draft of the present report ascertained: *"Lowering the number of appellate courts is indispensable, together with the district courts' reform. There are too many regional courts and district courts (and the Supreme court is too big without apparent reasons), along with a great number of judges that are constantly shifting from district courts to regional courts, and from regional courts to the Supreme Court. The consequence of judges' shifting is the incessant re-distribution of cases of judges that are leaving their positions and moving to other courts, which automatically prolongs the proceedings. Apart from that, the need to constantly fill in the vacancies makes it difficult to keep up with quality standards at district courts' level and specifically at regional courts' level (most of the cases end up on this court, whereas a lot of inexperienced judges work there)".*

population of 53 617 inhabitants. Lastly, the District Court Bánovce nad Bebravou counts 5 judges for a population of 36 679 inhabitants.

Should there be a comparative disadvantage or a negative trend in terms of efficiency of these courts, it could be envisaged to either merge them with neighbouring courts of a similar size to form a medium size court, or to close them down and transfer the respective jurisdictions to neighbouring courts.

This kind of measures has been adopted by several countries of the Council of Europe in efforts to rationalise their court network. For example, in Belgium the number of districts has been reduced from 27 to 12, thus determining a reduction of the number of courts at district level. In Romania, 12 courts of first instance have been closed down and their human and material resources have been redeployed. Or, even more significant, the example of the redrawing of the judicial map in Italy, where this process regarded around 1 400 first instance courts and resulted in the closing of 750 courts of limited jurisdiction and detached offices of first instance courts of general jurisdiction. In France the reform of the court map resulted in many courts, including several types of specialised courts, being closed down at all levels of jurisdictions¹⁸. In Croatia 67 municipal courts (1st instance courts of general jurisdiction) have been reduced to 24, and 63 specialised misdemeanour courts were cut down to 22.

It goes without saying that these suggestions are only preliminary and a more thorough analysis of several factors should be made, as well as several phases should be followed in accordance with the CEPEJ's Guidelines on the creation of judicial maps to support access to justice within a quality judicial system (CEPEJ(2013)7)¹⁹. Key factors such as population density, geographical location, flows of proceedings, infrastructure and transportation are to be fully examined and additional factors, such as the level of business, availability of legal advice and the availability of staff for recruitment, should equally be taken into consideration.

The discrepancies between the number of acting judges and the approved number of judges seems to be a recurring problem, which has been signalled to the CEPEJ experts by judges in the various visited courts (reportedly, in the Regional Court of Banská Bystrica only 43 judges are performing the function, compared to 50 envisaged posts; in the District Court of Galanta only 15 judges work instead of the envisaged number of 19 judges). The same issue was signalled by the respondents to the Questionnaire on Quality, as well as by the Association of Slovak Judges. According to the later, approximately 200 positions of judges are unoccupied and many courts are "understaffed". It results from the comments of some respondents to the Questionnaire on Quality that, while allocating the vacant positions of judges, the MoJ is not putting enough emphasis on the size and importance of the courts, their workflow and productivity.

It results from the statistical data provided by the MoJ that in 2016 there were 1215 active judges, while in 2015 there were 1211 active judges. The CEPEJ report "European judicial systems - Efficiency and quality of justice" (CEPEJ STUDIES No. 23), published in October 2016, indicates that in 2014 the number

¹⁸ For more details, see CEPEJ (2016)14, quoted above, Section 1.3.

¹⁹ See the CEPEJ Guidelines on the creation of judicial maps to support access to justice within a quality judicial system (CEPEJ(2013)7), Section 2.a, available under the link:
https://www.coe.int/t/dghl/cooperation/cepej/quality/2013_7_cepej_Judicial_maps_guidelines_en.pdf

of judges per inhabitants in the Slovak Republic was superior to the European median (that is, 24,4 judges per 100.000 inhabitants, comparing to the European median of 17,82 judges per 100.000 inhabitants). Thus, in general terms, it is difficult to conclude that Slovakia faces a problem of insufficiency of judges. The same may be said in regard to court staff.

However, with reference to the findings of the Report on a 2013 working session at the Regional Court of Bratislava (Slovakia) in the framework of the court coaching programme²⁰ and of the analysis contained in chapters below, the situation seems to indicate that there is still a need to reallocate judges among different courts throughout the territory, based on the workload, specialisation and other specific, objective circumstances of each court.

In the same vein, the specific situation of the Regional Court of Bratislava is to be given thorough attention. Despite 83 judges functioning in this court, its caseload is much higher than the caseload of other regional courts of the country, since most of the institutions and public authorities are concentrated in its area of jurisdiction. Reportedly, at the time of drawing up this report, there were 89 positions of judges allocated to this court, of which 6 were unoccupied for a certain period of time, due to the deficiencies of the judicial selection and appointment procedure.

A similar problematic situation exists in the District Courts of Bratislava I to V, as it can be drawn from the information provided by the MoJ²¹. Thus, a redistribution of resources or of the jurisdictions is necessary, especially in order to unburden the District Court of Bratislava I (which has exclusive jurisdiction in the areas of bankruptcy and restructuring for the territory of Regional Court of Bratislava, of unfair competition, copyright and return of minors for the territory of Regional Courts of Bratislava, Trnava and Nitra). The intention of MoJ is to merge the 5 district courts in Bratislava and to either create one district court with specialised sections, or four different specialised courts, each in a specific area of law. It is also proposed to place the Mediation Center in the premises of the court, thus encouraging this alternative dispute resolution method.

Concluding remarks on court organisation

1. In general, it has to be underlined that judicial business has become more complex within the last years. Higher complexity of judicial disputes demands for narrower specialisation, to ensure the best level of quality for the citizen. In Europe, therefore, two main developments can be noted: either to introduce specialised judges, per branches in general courts; or to introduce specialised courts in charge for a region or the entire country.
2. In regard to courts with a general jurisdiction and specialised branches (civil and commercial, criminal, administrative), a certain minimum number of judges is needed, calculated according to

²⁰ G. Oberto, *Report on the working session at the Regional court of Bratislava (Slovakia) in the framework of the court coaching programme – “Saturn” tools for judicial time management of the European Commission for the Efficiency of Justice (CEPEJ)*, Bratislava, 8 April 2013, Section 6.2.1.

²¹ See document “Fundamental Changes in the Justice Administration Exercised by the Current Minister of Justice”, Section IV.

several factors, to guarantee qualitative and efficient decisions and a random assignment of cases within branches.

3. Access to justice is more and more – and definitely will be in the next decade – offered by electronic means – at least in the main categories with “bulk repetitive cases”. So, it is not a matter of geographical location of the courts anymore. This trend will increase, especially if talking about specialised courts for the whole country (example: for the European Payment Order you may have just one portal for the whole Europe, independently of which geographical judge/court is resolving it).
4. The Slovak Republic had a simple judicial system with almost all the courts, at all the levels, having a general jurisdiction. But, with the introduction of the so-called “causal jurisdiction”, the system has become much more complex. The main issue arising in this context is the access to justice. This shouldn’t be a problem with the causal jurisdiction in disputes regarding bills of exchange or checks disputes, in labour disputes, as well as in bankruptcy and restructuring proceedings, because for all of these cases one district court per each region has jurisdiction.
5. For other issues (e.g. jurisdiction in industrial property disputes, disputes of unfair competition proceedings, the copyright disputes, disputes of competition, proceedings for the return of a minor, etc.), as already stated above, it could be still considered whether, at least for some of these types of cases, it is more appropriate to assign the respective jurisdiction to one district court for each region or for the territory of neighbouring regions. From the experts’ point of view, such specialisation is opening advantages of flexibility on human resources within these courts, potentially offering a high level of quality, if access to justice is assisted by up-to-date electronic means. This development could be strengthened.
6. Probably because of the good results ensured in the recent years by the District Court of Banská Bystrica in regard to enforcement cases, and because dealing with this category of cases seem to be one of the biggest problems of the Slovak judiciary (the number of unresolved cases on the state level went up to 3,38 million(!) in 2016), as from 1 April 2017 the District Court Banská Bystrica has got a nation-wide jurisdiction for all the new enforcement cases.

It is yet to be seen how well it works and the Slovak authorities should carefully and regularly monitor the progress in this regard, both for all the other courts, which have lost jurisdiction in enforcement cases but should work hard on resolving all the pending cases, as well as for the District Court Banská Bystrica, which is becoming a “mega-court” for enforcement cases. Although the number of judges and staff has been increased and they got additional office space, managerial problems may occur, reflecting on the efficiency of the court. In an attempt to anticipate this challenge, the MoJ has added a new position of vice-president, to ensure a proper management of the department on enforcement cases.

7. In line with the findings on human resources in the context of the specialisation and of the judicial map, it may be recommended to:
 - Allocate human resources to courts according to objective and transparent criteria related to the caseflow/workload, specialisation etc.
 - Introduce tools to act pro-actively on foreseeable events such as maternity leaves, retirements etc. The new selection proceedings for judges introduced by the Ministry of Justice should, reportedly, help overcome this problem, but the CEPEJ expert team does not have detailed information on the scope of the reform.

- Consider the possibility of shifting judges between specialised agendas/branches, with their consent, upon good notice and not all at the same time, to ensure the transfer of knowledge and know-how, a response to changing caseload etc. At the same time, the possibility of switching the specialisation between the major branches of law (civil and criminal) should remain exceptional.
 - The transfer of judges from one level of jurisdiction to a higher one (but also between the courts of the same jurisdiction) is inevitable as a path of career advancement and in view of replacing judges retiring from higher courts. This transfer has to be operated in a way that does not create disproportionate negative consequences for courts from which judges depart. For example, a judge may not be transferred until his or her replacement is appointed, or the judge to leave a court may be asked to clear first the bulk of his or her pending cases, within a certain period after the decision on the transfer is taken.
8. In parallel to enhancing the specialisation and reviewing the court map, it is wise to invest in modern ICT means (electronic, semi-automated support of procedure) to manage the increasing caseload, to facilitate the access to courts, to improve procedural transparency, to pursue timeliness of judicial proceedings, and to fight the need of employing more human resources, which will likely have to be reduced afterwards.
 9. In the framework of its current assignment, the ambition of the CEPEJ expert team has been to make recommendations to the national authorities on the methodology to be possibly applied, and to provide some comparative cases, and by no means to critically evaluate the judicial map or to design specific recommendations on reviewing it. It is first and foremost for an inter-institutional and interdisciplinary working group, composed mainly of Slovak national experts, including judges, to take the responsibility for designing and implementing a reform of the judicial map. The CEPEJ expert team is willing to provide further advice and support to such a working group.

B. Budget of the judicial system

a. *The budget allocation process*

This section on the budget allocation process in the judiciary of the Slovak Republic is based on the information kindly provided by the Ministry of Justice (specific reference in this case is made between “inverted commas”), additional information collected during the interviews carried out in the course of the fact-finding mission by the CEPEJ team, and some other sources available on-line²².

The budget allocation process can be divided in five phases²³:

- a) **“Preparation”** of the budget to be allocated to the courts – composition and amount of budget is discussed and drafted, in consistency with established objective criteria and in line with courts’ needs and expectations.
- b) **“Formal proposal”** and **“approval”** of the budget to be allocated to the courts – once the budget amount and its allocation have been drafted, public authorities must deliberate in order to approve the budget for the next year(s).
- c) **“Allocation”** of the budget to courts – distribution of funds to the courts.
- d) **“Management”** of the budget allocated to courts – local funds management (payments, reimbursements etc.)
- e) **“Evaluation / audit”** of the budget allocated to courts – monitoring process to control expenses in order to ensure a rational use of them and avoid waste.

a) Preparation

The first step in budget preparation in the Slovak Republic is handled by regional and district courts’ presidents, in cooperation with bodies of judicial self-administration of the respective level. District courts’ presidents prepare a “materially justified draft budget” with a list of requests and priorities for the next three years, based on forecasting of expenses and on the basis, as far as it has been understood, of the number of judges working in each court. This first budget proposal is submitted to the president of the respective regional court some 13,5 months in advance to the concerned budgetary year, by 15 November, and is discussed between the regional court’s president and all presidents of the district courts of the region.

b) Proposal

“The presidents of the regional courts shall present such substantiations for the preparation of the budget of the courts for their districts to the Ministry of Justice and to the Judicial Council of the Slovak Republic by 31 December, 12 months in advance to the concerned budgetary year” (ENCJ report 2015-16 annex II). The Judicial Council submits its observations to the Ministry of Justice. The Ministry of Justice

²² For example, the ENCJ 2015-2016 reports available under the link:

https://www.encj.eu/index.php?option=com_content&view=article&id=217%3A20152016reportsadopted&catid=2%3Anews&Itemid=252&lang=fr

²³ ENCJ Report 2013-2014 Independence and Accountability of the Judiciary:

http://www.encj.eu/images/stories/pdf/workinggroups/independence/encj_report_independence_accountability_2014_disclaimer.pdf

shall discuss the draft with presidents of the regional courts. On the basis of the draft prepared by the courts and on the basis of underlying documents of the overall budget of public administration, the Ministry of Justice submits its proposal to the Ministry of Finance.

c) Approval

Ministry of Finance submits by 15 August the budget to the Government for approval. The Government must approve the budget by 30 September of the year preceding the budgetary exercise and submits it to the National Council of the Slovak Republic (Parliament) by 15 October the latest. State budget for the corresponding budget year is approved by the National Council of the Slovak Republic in the Act of State Budget.

d) Allocation

The Ministry of Justice allocates funds to regional courts, which allocate funds to the district courts. Attribution of funds for personal expenses depends on the number of employees (judges and court staff). However, funds for maintenance costs and costs of the judicial proceedings are attributed on the basis of historic expenditures, taking into consideration new expenditures that were planned (large-scale repairs) or may be expected (e.g. due to legislative changes).

In practice, there are no significant differences of the budget amount from year to year. “The funds must be used for the purpose for which they were intended by budget breakdown” (ENCJ report 2015-16 annex II), the purpose of their use may be changed only by the Government. The Ministry of Justice and the Ministry of Finance may enable courts to use their resources for other purposes than the ones approved in the budget.

The budget allocated does not mean that it will be totally spent.

e) Management

The administration of the court is performed, with different roles, by the President, the Vice-president (there may be several, depending on the number of judges in the court), the court’s Council of Judges, and the Head of court’s administration²⁴. The courts are required to administer the allocated budget economically, efficiently and effectively, in accordance with the related legal standards (financial, public procurement, accounting, budgetary accountability, financial control regulations etc.).

The president of each court (regional and district) is responsible for the administration of public resources allocated to the court, since he or she is responsible for the overall administration of the court. The possible increase of the budget compared to the approved binding indicators, based on the justified request is realised by the Ministry of Justice.

²⁴ The position of the Head of the court’s administration is established on each court by the law (Law 757/2004 Col. on Judges). He or she organises and manages the economic as well as administrative functioning of the court and, apart from that, acts in the name of the court in matters falling within his or her competences, that are provided by law or specified by the president of the court.

The budget is managed at the regional level by the heads of court administration. They have a limited autonomy on small expenses to be allocated to the regional or to a district court under a specific request. Further unexpected expenses and large expenses (such as ICT assets) are managed directly by the Ministry of Justice.

Expenses for courts' experts, lawyers, interpreters, and utilities are paid ex-post, often with a budget supplement. For this purpose, budgets are assigned to courts in specific amounts at the beginning of each year. The process of spending is monitored and if there is a need, the budget is adjusted through a budget amendment measure. If there is no way to adjust the budget through this measure, pending obligations are paid from the budget resources that are assigned for this purpose at the beginning of the next year.

Incomes registered from court fees and some payable court services (incl. the business registry) are not managed by the court administration bodies, but by the Ministry of Finance (ENCJ report 2015-16 annex II). Therefore, these gains are not considered as an income of the courts, but are transferred through the provider of the e-duty stamp (Slovak Postal Service.) to the state budget.

f) Monitoring

The heads of regional courts' administration register incomes and expenses. Basic financial control of courts is performed in accordance with the current legislation. If there is a need, *ex post* control can be performed by external control organs – Internal audit of Ministry of Justice or the Supreme Audit Office of the Slovak Republic.

To sum up, the following table collects the main steps and actors involved in the budget allocation process.

| | |
|-------------------------------|--|
| National Council (Parliament) | The Parliament approves the state budget, so as it is proposed by the Government. Parliament can make changes, at the request of the Government or individual Ministers. |
| Government | Government approves the budget submitted by the Ministry of Finance and submits it to the National Council. |
| Ministry of Finance | Ministry of Finance collects all the budget proposals from other ministries and submits the budget to the Government for approval. |
| Ministry of Justice | The Ministry of Justice decides on the draft budget of the courts on the basis of documents prepared by the courts. It sets the criteria for allocating funds. |
| Judicial Council | <p>“The Judicial Council:</p> <ul style="list-style-type: none"> • comments on the proposal for the budget of courts of the Slovak Republic during the preparation of the proposal for the state budget and • presents opinion of the Judicial Council on the draft budget of courts to the National Council of the Slovak Republic; • Judicial Council's further authority pursuant to the Act on Judicial Council is to discuss reports on the drawing of budgetary funds of courts.” <p>(ENCJ report 2015-16 annex II)</p> |

| | |
|-------------------------------|---|
| Presidents of Regional Court | Presidents of regional courts discuss the budget priorities with the presidents of district courts from the jurisdiction of their regional courts, draft budget proposals and submit them to the Ministry of Justice. |
| Presidents of District Courts | Presidents of district courts prepare lists of needs and budget priorities and discuss them with president of regional courts. They participate in budget management. |
| Internal councils of judges | Internal Councils of judges at courts' level endorse budget proposal and participate in budget administration. |
| Heads of administration | In charge for budget administration. However, according to the applicable legislation, the president of the court is the statutory body responsible for the overall management of financial resources. |

Budget needs for court personnel²⁵

Judges interviewed complained on the lack (insufficient number, high turnover and/or constant vacancies) of personnel, both judicial and administrative/technical. While the lack of judicial staff is also due to delays in appointing new judges to substitute vacancies, the lack of administrative staff seems to be mainly related to the poor salary. Staff is generally considered underpaid (especially in big cities like Bratislava, where the cost of living is higher), also taking into consideration the amount of work and the poor working conditions. In particular, entry salary is about 456-573€ gross per month, and graduated staff who work as judges' assistants are paid on average 780€ per month, way under the average monthly salary for industry that was of 1042€ in May 2017²⁶, or the 944€ average nominal salary of employees in the economic sector in the second quarter of 2017. These are the main reasons why few people are applying for assistant positions in courts, jeopardising the effective and efficient case management. Remuneration of court staff have to be competitive if, at the same time, some targets are to be put forward in terms of efficiency and quality. This issue should be addressed.

b. Data on budget distribution

As reported by the MoJ, in Slovakia a court's budget includes:

- **“Non-capital investments:**
 - Wages, salaries, service income and other personal compensation – this involves all payments to judges and employees in accordance with the applicable regulations (Act No 385/2000 Coll. on Judges and Lay Judges and on Amending and Supplementing of Certain Acts, No. 55/2017 Coll. on Civil Service and on Supplementing of Certain Acts, No. 552/2003 Coll. on Work in Public Interest);

²⁵ By “*court personnel*” or “*court staff*” references are usually made to employees of courts who are not judges, sometimes referred to more explicitly as “non-judge staff”. These employees can be further divided into categories, the most important classification being the division between judicial staff (staff whose task is to assist the judge in the exercise of his/her judicial function) and non-judicial staff (incl. staff in charge of administrative tasks and management of courts, technical and other staff).

²⁶ According to: <https://tradingeconomics.com/slovakia/wages>

- Premiums and contributions to insurance companies – levies collected by the healthcare and social insurance company;
 - Goods and services – includes expenditures for goods and services related to the operation of the court. Out of this amount, the Ministry of Justice determines limits for mandatory tasks (e.g. costs related to court proceedings, information technologies etc.);
 - Current transfers – for the purpose of retirement, severance pay, sickness pay, allowances and contributions for judges and for the purpose of compensation, especially financial compensation resulting from the decisions of the Constitutional Court of the Slovak Republic.
- **Capital investments:**
 - Acquisition of new buildings or reconstruction of the existing ones, computers, renewal of the vehicle fleet, purchase of operating equipment, machinery, devices etc.”

Table 1 and Figure 4 show the total amount of budget spent by the regional and district courts in the years 2012-2016.

Table 1: Total budget of regional and district courts in Slovakia. Source: MoJ

| Budget (actually implemented) | | | | | |
|-------------------------------------|----------------|----------------|----------------|----------------|----------------|
| | 2012 | 2013 | 2014 | 2015 | 2016 |
| Non-capital investments | 148.418.969,72 | 151.008.059,01 | 155.201.468,15 | 169.081.063,00 | 176.475.450,00 |
| % variation vs previous year | | 1,7% | 2,8% | 8,9% | 4,4% |
| Capital investments | 3.769.103,71 | 8.045.190,99 | 4.325.484,85 | 7.492.577,00 | 6.352.678,00 |
| Total budget | 152.188.073,43 | 159.053.250,00 | 159.526.953,00 | 176.573.640,00 | 182.828.128,00 |
| % variation vs previous year | | 4,5% | 0,3% | 10,7% | 3,5% |
| % of capital investments | 2,5% | 5,1% | 2,7% | 4,2% | 3,5% |

Non-capital investments increased every year, especially from 2014 to 2015 (+10,7%). As data show, capital investments vary from 2,5% to 5,1% of the total budget, and their trend is unstable.

Figure 4: Budget spent by the regional and district courts of the Slovak Republic, 2012-2016

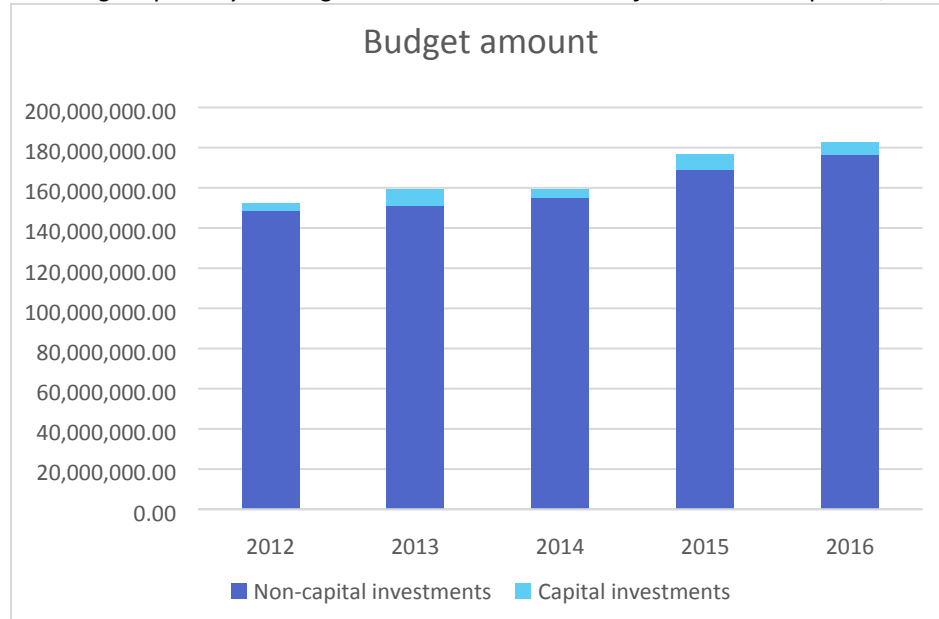


Table 2 below shows other data and indicators calculated on the basis of the information provided by the Ministry of Justice.

Data made available by the MoJ: capital and non-capital investments, number of judges and non-judge staff (FTE)²⁷, incoming and decided cases, population.

Indicators: yearly variation (%) in total budget, number of judges and number of incoming cases compared to the previous year; total budget per total staff (FTE), total budget per incoming cases, total budget per decided (cost-per-case), and total budget per population.

Some trends can be recognised:

- Total investments (total budget) increased almost every year
- The number of judges was stable
- The number of incoming cases decreased (especially from 2013 to 2016)

After five years (from 2012 to 2016) **the budget per staff increased by approximately 20%, the budget per incoming cases increased by 65%, and the cost-per-case increased by some 33%** (budget per decided/disposed of case).

²⁷ "The *full-time equivalent* indicates the number of persons working the standard number of hours; the number of persons working part time is converted to *full-time equivalent*. For instance, when two people work half the standard number of hours, they count for one "full-time equivalent", one half-time worker should count for 0.5 of a full-time equivalent" CEPEJ (2013), *Explanatory Note to the Scheme for Evaluating Judicial Systems. 2014-2016 Cycle*, Strasbourg, France, p. 2.

Table 2: Regional and district courts of the Slovak Republic: budget-related data and indicators 2012 – 2016. Source: MoJ

| Slovakia | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|----------------|
| Non-capital investments | 148.418.970 | 159.053.250 | 159.526.953 | 176.573.640 | 182.828.128 | 165.280.188 |
| Capital investments | 3.769.104 | 3.769.104 | 3.769.104 | 3.769.104 | 3.769.104 | 3.769.104 |
| Budget | 152.188.073 | 159.053.250 | 159.526.953 | 176.573.640 | 182.828.128 | 166.034.009 |
| % of capital investments | 2,5% | 2,3% | 2,3% | 2,1% | 2,0% | 2,2% |
| % variation in total budget* | | 4,5% | 0,3% | 10,7% | 3,5% | |
| Number of judges FTE | 1.227,0 | 1.231,0 | 1.227,0 | 1.211,7 | 1.215,5 | 1.222,4 |
| % variation in number of j.* | | 0,3% | -0,3% | -1,2% | 0,3% | |
| Number of staff FTE non j. | 4.339,4 | 4.378,0 | 4.385,0 | 4.378,0 | 4.363,4 | 4.368,8 |
| Number of total staff (j+nj) | 5.566,4 | 5.609,0 | 5.612,0 | 5.589,7 | 5.578,9 | 5.591,2 |
| Budget / total staff (j+nj) FTE | 27.340 | 28.357 | 28.426 | 31.589 | 32.771 | 29.696 |
| Incoming (total) | 1.481.021 | 1.592.845 | 1.384.713 | 1.260.426 | 1.072.819 | 1.358.365 |
| % variation in number of inc.* | | 7,6% | -13,1% | -9,0% | -14,9% | |
| Decided (total) | 1.254.455 | 1.561.855 | 1.399.228 | 1.298.795 | 1.143.707 | 1.331.608 |
| Budget / incoming | 103 | 100 | 115 | 140 | 170 | 122 |
| Budget / resolved | 121 | 102 | 114 | 136 | 160 | 125 |
| Population | 5.410.836 | 5.415.949 | 5.421.052 | 5.426.252 | 5.435.343 | 5.421.886 |
| Budget / population | 28 | 29 | 29 | 33 | 34 | 31 |

* vs the previous year

Focus on 12 selected courts

This section deals with data of 12 courts selected by the Ministry of Justice. They are the Regional Court of Bratislava, Regional Court of Žilina, Regional Court of Košice, Regional Court of Banská Bystrica, District Court of Bratislava I, District Court of Banská Bystrica, District Court of Galanta, District Court of Piešťany, District Court of Košice I, District Court of Senica, District Court of Martin, District Court of Stará Ľubovňa.

The tables below are based on the data provided by the Ministry of Justice, and they show data and indicators for the last 5 years. Having in mind the available data, the CEPEJ team did not elaborate on the detailed structure of expenditures, such as the maintenance costs, which can be influenced significantly in a specific year by general repairs or renewal of equipment, for example. It also matters whether the specific court rents its premises or they are provided for free. Based on the proposed methodology, the Ministry of Justice is invited to fine-tune this analysis.

The following tables deal with the four selected Regional courts: Bratislava, Žilina, Košice, Banská Bystrica.

Table 1: RC of Bratislava, data and indicators 2012 – 2016

| Regional Court of Bratislava | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 8.004.280 | 8.129.090 | 8.312.067 | 8.857.661 | 9.610.260 | 8.582.672 |
| Capital investments | 14.570 | 43.552 | 144.150 | 0 | 49.451 | 50.345 |

| | | | | | | |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Budget | 8.018.850 | 8.172.641 | 8.456.217 | 8.857.661 | 9.659.711 | 8.633.016 |
| % of capital investments | 0,2% | 0,5% | 1,7% | 0,0% | 0,5% | 0,6% |
| % variation in total budget* | | 1,9% | 3,5% | 4,7% | 9,1% | |
| Number of judges FTE | 74,8 | 76,5 | 76,6 | 76,3 | 78,8 | 76,6 |
| % variation in number of j.* | | 2,3% | 0,1% | -0,4% | 3,3% | |
| Number of staff FTE non j. | 239,8 | 240,7 | 240,8 | 239,7 | 248,2 | 241,8 |
| Number of total staff (j+nj) | 314,6 | 317,2 | 317,4 | 316,0 | 327,0 | 318,4 |
| Budget / total staff (j+nj) FTE | 25.489 | 25.765 | 26.642 | 28.031 | 29.540 | 27.110 |
| Incoming (total) | 27.447 | 16.296 | 17.541 | 15.571 | 14.189 | 18.209 |
| % variation in number of inc.* | | -40,6% | 7,6% | -11,2% | -8,9% | |
| Decided (total) | | 24.302 | 17.477 | 15.687 | 14.950 | 14.483 |
| Budget / incoming | 292 | 502 | 482 | 569 | 681 | 474 |
| Budget / resolved | | 336 | 484 | 565 | 646 | 596 |
| Population | 612.682 | 618.380 | 625.167 | 633.288 | 641.892 | 626.282 |
| Budget / population | 13 | 13 | 14 | 14 | 15 | 14 |

In the Bratislava region are concentrated most of the Government's institutions and private business, that's probably why the number of incoming cases, compared to the population, is higher than in any other region. However, in Bratislava, data show that the number of incoming cases has significantly decreased across the last five years, while the court budget has increased. As a result, the indicator **"budget per incoming case" has more than doubled in five years.**

However, these data would request further analysis. In particular, the data reliability should be better investigated, and the budget should be put in relation with different categories of cases (i.e. criminal, civil, administrative).

Table 2: Žilina RC, data and indicators 2012 – 2016

| Regional Court of Žilina | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 3.189.465 | 3.452.958 | 3.523.825 | 4.002.153 | 4.525.606 | 3.738.802 |
| Capital investments | 20.888 | 193.271 | 4.365 | 30.552 | 9.306 | 51.676 |
| Budget | 3.210.352 | 3.646.229 | 3.528.190 | 4.032.705 | 4.534.912 | 3.790.478 |
| % of capital investments | 0,7% | 5,3% | 0,1% | 0,8% | 0,2% | 1,4% |
| % variation in total budget* | | 13,6% | -3,2% | 14,3% | 12,5% | |
| Number of judges FTE | 37,8 | 37,8 | 38,9 | 39,9 | 39,6 | 38,8 |
| % variation in number of j.* | | 0,0% | 2,9% | 2,6% | -0,8% | |
| Number of staff FTE non j. | 76,6 | 76,6 | 77,2 | 78,3 | 91,2 | 80,0 |
| Number of total staff (j+nj) | 114,4 | 114,4 | 116,1 | 118,2 | 130,8 | 118,8 |
| Budget / total staff (j+nj) FTE | 28.063 | 31.873 | 30.389 | 34.118 | 34.671 | 31.912 |
| Incoming (total) | 8.657 | 12.557 | 12.560 | 10.147 | 7.756 | 10.335 |
| % variation in number of inc.* | | 45,1% | 0,0% | -19,2% | -23,6% | |
| Decided (total) | | 12.863 | 12.433 | 10.574 | 8.177 | 8.809 |
| Budget / incoming | 371 | 290 | 281 | 397 | 585 | 367 |

| | | | | | | |
|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Budget / resolved | | 283 | 284 | 381 | 555 | 430 |
| Population | 1.388.937 | 1.387.470 | 1.385.713 | 1.383.582 | 1.382.339 | 1.385.608 |
| Budget / population | 2 | 3 | 3 | 3 | 3 | 3 |

Table 3: Košice RC, data and indicators 2012 – 2016

| Regional Court of Košice | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 6.008.765 | 6.109.545 | 6.161.300 | 6.521.674 | 7.163.464 | 6.392.950 |
| Capital investments | 95.323 | 103.728 | 80.076 | 62.951 | 13.721 | 71.160 |
| Budget | 6.104.089 | 6.213.272 | 6.241.377 | 6.584.626 | 7.177.185 | 6.464.110 |
| % of capital investments | 1,6% | 1,7% | 1,3% | 1,0% | 0,2% | 1,1% |
| % variation in total budget* | | 1,8% | 0,5% | 5,5% | 9,0% | |
| Number of judges FTE | 64,8 | 64,8 | 63,7 | 62,0 | 62,3 | 63,5 |
| % variation in number of j.* | | 0,0% | -1,7% | -2,7% | 0,5% | |
| Number of staff FTE non j. | 126,8 | 126,8 | 129,5 | 126,1 | 137,9 | 129,4 |
| Number of total staff (j+nj) | 191,6 | 191,6 | 193,2 | 188,1 | 200,2 | 192,9 |
| Budget / total staff (j+nj) FTE | 31.859 | 32.428 | 32.305 | 35.006 | 35.850 | 33.503 |
| Incoming (total) | 11.961 | 14.626 | 15.232 | 14.164 | 12.960 | 13.789 |
| % variation in number of inc.* | | 22,3% | 4,1% | -7,0% | -8,5% | |
| Decided (total) | | 14.610 | 12.962 | 13.825 | 14.996 | 11.279 |
| Budget / incoming | 510 | 425 | 410 | 465 | 554 | 469 |
| Budget / resolved | #DIV/0! | 425 | 482 | 476 | 479 | 573 |
| Population | 827.397 | 828.200 | 828.956 | 830.046 | 831.656 | 829.251 |
| Budget / population | 7 | 8 | 8 | 8 | 9 | 8 |

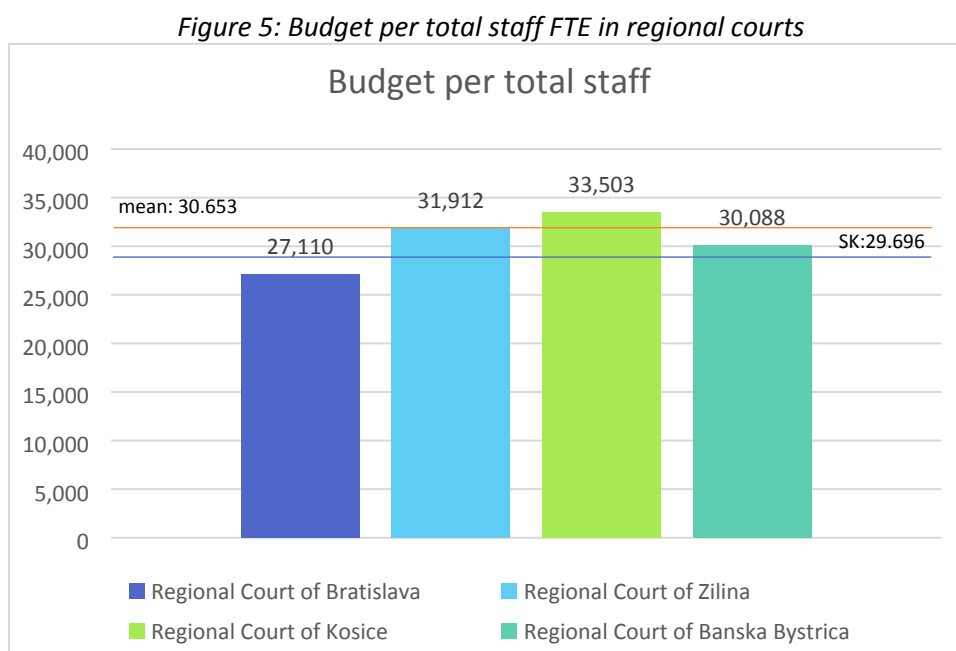
Table 4: Banská Bystrica RC, data and indicators 2012 – 2016

| Regional Court of Banská Bystrica | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|-----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 4.176.535 | 4.466.547 | 4.276.751 | 4.656.780 | 5.131.626 | 4.541.648 |
| Capital investments | 6.103 | 39.783 | 3.205 | 80 | 4.420 | 10.718 |
| Budget | 4.182.638 | 4.506.330 | 4.279.956 | 4.656.860 | 5.136.046 | 4.552.366 |
| % of capital investments | 0,1% | 0,9% | 0,1% | 0,0% | 0,1% | 0,2% |
| % variation in total budget* | | 7,7% | -5,0% | 8,8% | 10,3% | |
| Number of judges FTE | 44,2 | 45,6 | 45,3 | 46,0 | 45,5 | 45,3 |
| % variation in number of j.* | | 3,2% | -0,7% | 1,5% | -1,1% | |
| Number of staff FTE non j. | 100,8 | 102,8 | 103,0 | 105,2 | 118,1 | 106,0 |
| Number of total staff (j+nj) | 145,0 | 148,4 | 148,3 | 151,2 | 163,6 | 151,3 |
| Budget / total staff (j+nj) FTE | 28.846 | 30.366 | 28.860 | 30.799 | 31.394 | 30.088 |
| Incoming (total) | 17.533 | 17.510 | 19.520 | 16.817 | 10.974 | 16.471 |
| % variation in number of inc.* | | -0,1% | 11,5% | -13,8% | -34,7% | |
| Decided (total) | | 14.536 | 17.941 | 18.730 | 13.073 | 12.856 |
| Budget / incoming | 239 | 257 | 219 | 277 | 468 | 276 |
| Budget / resolved | | 310 | 239 | 249 | 393 | 354 |

| | | | | | | |
|---------------------|---------|---------|---------|---------|---------|---------|
| Population | 658.490 | 656.813 | 655.359 | 653.024 | 651.509 | 655.039 |
| Budget / population | 6 | 7 | 7 | 7 | 8 | 7 |

As data show, the same trend, decreasing of incoming cases and increasing of the budget, can be found in all the selected regional courts. In particular, **in the last two years, the total budget increased, while the number of incoming cases significantly decreased.**

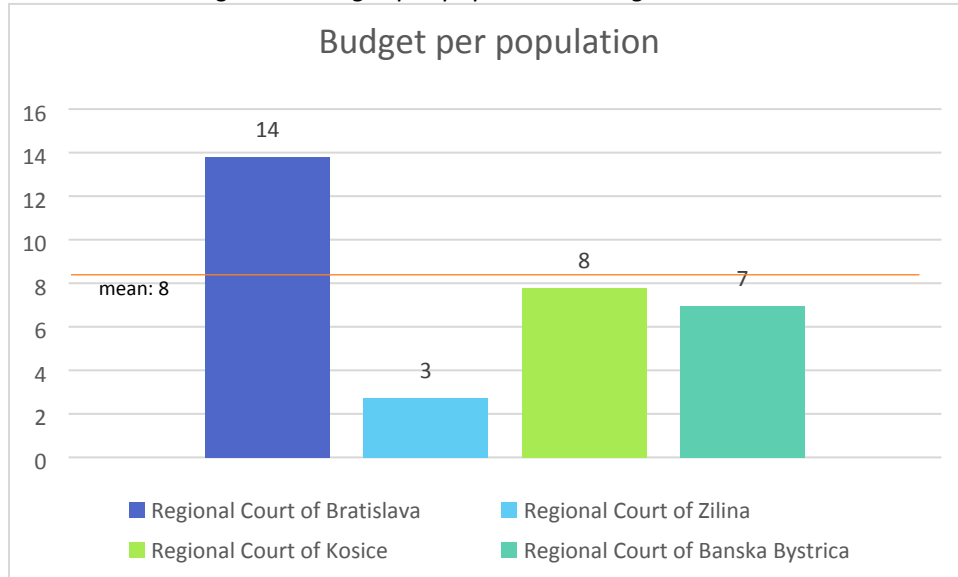
The following charts compare the four selected regional courts on three indicators: budget per total staff, budget per population, and budget per incoming cases. Indicators are calculated on the 2012-2016 mean values.



As it will be explored in the next paragraph, only about 10% of the court budget is not spent for personnel costs. Therefore, the amount of court budget is usually directly related to the number of judges and staff working in that court.

For this reason, the **budget-per-total-staff indicator** should be quite similar in all courts, safe for exceptional situations. As Figure 5 shows, in the four Regional courts of Bratislava, Žilina, Košice and Banská Bystrica the indicator's values are quite similar: Bratislava has the lower ratio, which can be explained by a larger number of employees compared to other regional courts, and Košice has the highest ratio.

Figure 6: Budget per population in regional courts

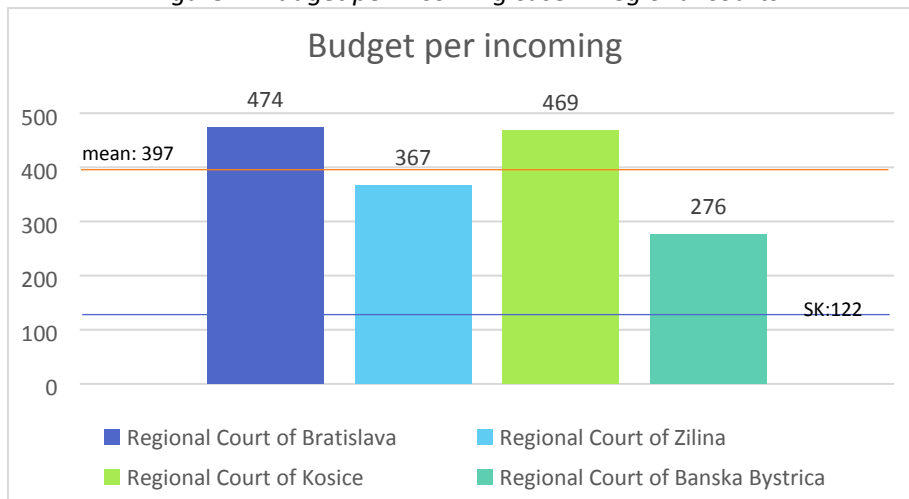


The **budget-per-population indicator** (Figure 6) shows a significant variation across the regional courts. The highest value is 14 € per person in Bratislava Region, then 8 € in Košice Region, 7 € in Banská Bystrica and 3 € in Žilina Region.

As expected, the number of incoming cases is quite different in the four selected courts. Bratislava Regional Court has 3.128 incoming cases per 100.000 inhabitants, Banská Bystrica 2.514, Košice 1.663, and Žilina 746.

The **budget-per incoming case indicator** (Figure 7) shows again a different situation in Banská Bystrica, in comparison to the other selected regional courts. Even excluding capital investments, the analysis leads to the same results and Banská Bystrica remains an “outlier”. This situation may be related to some exceptional functions of this court, therefore the relevant circumstances need further investigation and a reasonable explanation.

Figure 7: Budget per incoming case in regional courts

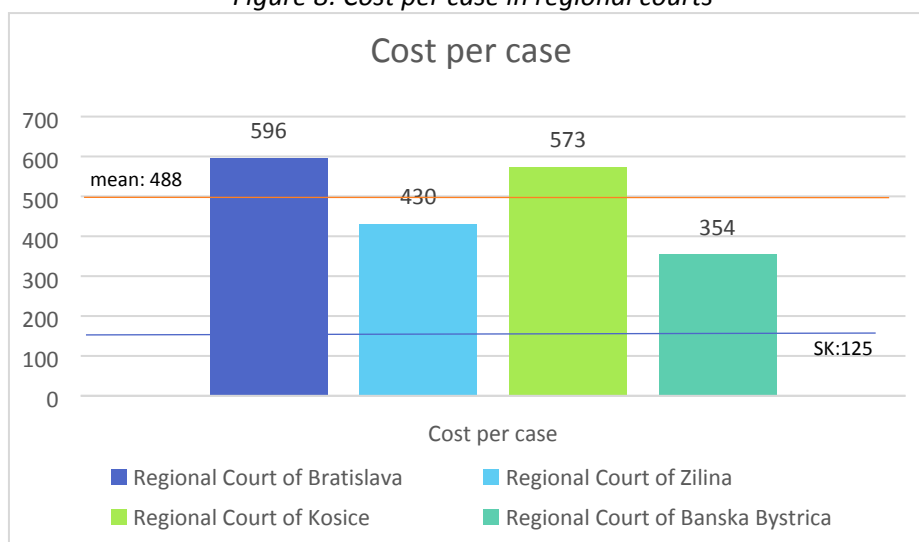


The highest budget per incoming case is allocated in Bratislava, the lowest one in Banská Bystrica. Differences in budget per incoming may be justified by the different caseload structure (percentage on civil, criminal and enforcement cases the courts are dealing with), but Banská Bystrica, Žilina and Bratislava seem to be dealing with similar cases, and their budget is very different.

Furthermore, the budget-per-incoming case in regional courts is higher compared to the national mean – that is 122 € per incoming case, while the average budget of the four courts is 397 € per incoming case. Of course, it should be taken into consideration that the national mean is calculated on global data, summing up the data of both regional courts and district courts.

Another indicator to be considered is the “cost-per-case” (Figure 8). At this stage, it is a “rough” indicator because data on the budget per categories of cases (civil, criminal, administrative etc.) are not available. This indicator is calculated in this part of the report by dividing the mean of the total budget of the last 5 years (including capital investments) for the mean of the total cases disposed of in the same period.

Figure 8: Cost per case in regional courts



It is worth noting that the “cost per case” indicator (Figure 8) is higher than the “budget per incoming cases”, because the mean of disposed of cases is lower than the mean of incoming cases in the period considered. As well as for the budget per incoming cases indicator, the “average cost per case” in the four regional courts is much higher than the national mean (488€ per case vs 125 € per case).

The following tables show data and indicators for the 8 selected district courts.

Table 6: Bratislava DC, data and indicators 2012 – 2016

| District Court of Bratislava I | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 4.596.130 | 4.541.485 | 4.624.030 | 5.154.852 | 5.188.119 | 4.820.923 |
| Capital investments | 13.344 | 3.709.181 | 0 | 123 | 24.328 | 749.395 |
| Budget | 4.609.474 | 8.250.666 | 4.624.030 | 5.154.975 | 5.212.447 | 5.570.318 |
| % of capital investments | 0,3% | 45,0% | 0,0% | 0,0% | 0,5% | 9,1% |
| % variation total budget* | | 79,0% | -44,0% | 11,5% | 1,1% | |

| | | | | | | |
|----------------------------------|--------|--------|--------|--------|--------|--------|
| Number of judges FTE | 39,8 | 39,8 | 43,4 | 42,7 | 40,7 | 41,3 |
| % variation number of j.* | | 0,0% | 9,0% | -1,6% | -4,7% | |
| Number of staff non j. | 160,0 | 160,0 | 161,5 | 160,6 | 156,7 | 159,8 |
| Number of total staff (j+nj) FTE | 199,8 | 199,8 | 204,9 | 203,3 | 197,4 | 201,0 |
| Budget / total staff (j+nj) FTE | 23.070 | 41.295 | 22.567 | 25.356 | 26.406 | 27.708 |
| Incoming (total) | 67.141 | 74.346 | 65.440 | 61.611 | 57.864 | 65.280 |
| % variation number of inc.* | | 10,7% | -12,0% | -5,9% | -6,1% | |
| Decided (total) | 71.731 | 77.068 | 72.251 | 63.784 | 61.579 | 69.283 |
| Budget / incoming | 69 | 111 | 71 | 84 | 90 | 85 |
| Cost per case | 64 | 107 | 64 | 81 | 85 | 80 |
| Population | 38.867 | 38.823 | 38.988 | 39.470 | 39.953 | 39.220 |
| Budget / population | 119 | 213 | 119 | 131 | 130 | 142 |

Table 7: Banská Bystrica DC: data and indicators 2012 – 2016

| District Court of Banská Bystrica | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|-----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 3.405.667 | 3.268.949 | 3.214.247 | 3.523.268 | 3.684.086 | 3.419.244 |
| Capital investments | 14.142 | 2.713 | 21.190 | 22.933 | 52.481 | 22.692 |
| Budget | 3.419.809 | 3.271.661 | 3.235.437 | 3.546.201 | 3.736.567 | 3.441.935 |
| % of capital investments | 0,4% | 0,1% | 0,7% | 0,6% | 1,4% | 0,6% |
| % variation total budget* | | -4,3% | -1,1% | 9,6% | 5,4% | |
| Number of judges FTE | 25,0 | 25,0 | 24,8 | 24,0 | 23,8 | 24,5 |
| % variation number of j.* | | 0,0% | -0,8% | -3,2% | -0,8% | |
| Number of staff non j. | 105,4 | 105,4 | 107,9 | 105,4 | 100,4 | 104,9 |
| Number of total staff (j+nj) FTE | 130,4 | 130,4 | 132,7 | 129,4 | 124,2 | 129,4 |
| Budget / total staff (j+nj) FTE | 26.226 | 25.089 | 24.382 | 27.405 | 30.085 | 26.595 |
| Incoming (total) | 41.194 | 46.054 | 38.040 | 34.554 | 33.584 | 38.685 |
| % variation number of inc.* | | 11,8% | -17,4% | -9,2% | -2,8% | |
| Decided (total) | 39.807 | 46.533 | 38.241 | 36.105 | 33.812 | 38.900 |
| Budget / incoming | 83 | 71 | 85 | 103 | 111 | 89 |
| Cost per case | 86 | 70 | 85 | 98 | 111 | 88 |
| Population | 111.148 | 111.112 | 111.018 | 110.920 | 110.925 | 111.025 |
| Budget / population | 31 | 29 | 29 | 32 | 34 | 31 |

Table 8: Galanta DC, data and indicators 2012 – 2016

| District Court of Galanta | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 2.106.261 | 2.202.502 | 2.118.681 | 2.257.625 | 2.072.103 | 2.151.435 |
| Capital investments | 0 | 20.599 | 1.759 | 0 | 73.472 | 19.166 |
| Budget | 2.106.261 | 2.223.101 | 2.120.440 | 2.257.625 | 2.145.575 | 2.170.600 |
| % of capital investments | 0,0% | 0,9% | 0,1% | 0,0% | 3,4% | 0,9% |
| % variation total budget* | | 5,5% | -4,6% | 6,5% | -5,0% | |
| Number of judges FTE | 16,1 | 16,1 | 15,5 | 16,3 | 12,1 | 15,2 |
| % variation number of j.* | | 0,0% | -3,7% | 5,2% | -25,8% | |
| Number of staff non j. | 72,3 | 72,3 | 69,7 | 69,8 | 67,1 | 70,2 |
| Number of total staff (j+nj) FTE | 88,4 | 88,4 | 85,2 | 86,1 | 79,2 | 85,5 |
| Budget / total staff (j+nj) FTE | 23.826 | 25.148 | 24.888 | 26.221 | 27.091 | 25.399 |
| Incoming (total) | 38.036 | 39.939 | 35.788 | 31.439 | 23.749 | 33.790 |
| % variation number of inc.* | | 5,0% | -10,4% | -12,2% | -24,5% | |
| Decided (total) | 38.240 | 39.042 | 34.345 | 32.473 | 26.660 | 34.152 |
| Budget / incoming | 55 | 56 | 59 | 72 | 90 | 64 |
| Cost per case | 55 | 57 | 62 | 70 | 80 | 64 |
| Population | 146.729 | 146.561 | 146.462 | 146.289 | 146.224 | 146.453 |
| Budget / population | 14 | 15 | 14 | 15 | 15 | 15 |

Table 9: Senica DC, data and indicators 2012 - 2016

| District Court of Senica | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 1.372.039 | 1.380.565 | 1.335.567 | 1.337.444 | 1.424.003 | 1.369.923 |
| Capital investments | 0 | 0 | 0 | 0 | 3.456 | 691 |
| Budget | 1.372.039 | 1.380.565 | 1.335.567 | 1.337.444 | 1.427.459 | 1.370.615 |
| % of capital investments | 0,0% | 0,0% | 0,0% | 0,0% | 0,2% | 0,0% |
| % variation total budget* | | 0,6% | -3,3% | 0,1% | 6,7% | |
| Number of judges FTE | 10,6 | 10,6 | 9,8 | 8,0 | 8,1 | 9,4 |
| % variation number of j.* | | 0,0% | -7,5% | -18,4% | 1,3% | |
| Number of staff non j. | 45,8 | 45,8 | 46,0 | 45,0 | 43,8 | 45,3 |
| Number of total staff (j+nj) FTE | 56,4 | 56,4 | 55,8 | 53,0 | 51,9 | 54,7 |
| Budget / total staff (j+nj) FTE | 24.327 | 24.478 | 23.935 | 25.235 | 27.504 | 25.057 |
| Incoming (total) | 15.887 | 15.389 | 13.228 | 12.397 | 10.492 | 13.479 |
| % variation number of inc.* | | -3,1% | -14,0% | -6,3% | -15,4% | |
| Decided (total) | 16.072 | 15.463 | 13.389 | 13.321 | 11.268 | 13.903 |
| Budget / incoming | 86 | 90 | 101 | 108 | 136 | 102 |
| Cost per case | 85 | 89 | 100 | 100 | 127 | 99 |
| Population | 60.690 | 60.686 | 60.725 | 60.653 | 60.655 | 60.682 |
| Budget / population | 23 | 23 | 22 | 22 | 24 | 23 |

Table 10: Košice DC, data and indicators 2012 - 2016

| District Court of Košice I | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 4.244.452 | 4.166.145 | 4.323.635 | 4.552.118 | 4.782.270 | 4.413.724 |
| Capital investments | 0 | 7.500 | 3.224 | 4.895 | 0 | 3.124 |
| Budget | 4.244.452 | 4.173.645 | 4.326.859 | 4.557.013 | 4.782.270 | 4.416.848 |
| % of capital investments | 0,0% | 0,2% | 0,1% | 0,1% | 0,0% | 0,1% |
| % variation total budget* | | -1,7% | 3,7% | 5,3% | 4,9% | |
| Number of judges FTE | 38,4 | 38,4 | 37,8 | 39,2 | 39,3 | 38,6 |
| % variation number of j.* | | 0,0% | -1,6% | 3,7% | 0,3% | |
| Number of staff non j. | 141,5 | 141,5 | 135,7 | 134,1 | 131,1 | 136,8 |
| Number of total staff (j+nj) FTE | 179,9 | 179,9 | 173,5 | 173,3 | 170,4 | 175,4 |
| Budget / total staff (j+nj) FTE | 23.593 | 23.200 | 24.939 | 26.296 | 28.065 | 25.182 |
| Incoming (total) | 45.195 | 55.904 | 45.779 | 47.167 | 40.927 | 46.994 |
| % variation number of inc.* | | 23,7% | -18,1% | 3,0% | -13,2% | |
| Decided (total) | 28.484 | 56.285 | 46.825 | 44.795 | 43.212 | 43.920 |
| Budget / incoming | 94 | 75 | 95 | 97 | 117 | 94 |
| Cost per case | 149 | 74 | 92 | 102 | 111 | 101 |
| Population | 97.998 | 97.714 | 97.256 | 96.963 | 96.929 | 97.372 |
| Budget / population | 43 | 43 | 44 | 47 | 49 | 45 |

Table 11: Piešťany DC, data and indicators 2012 - 2016

| District Court of Piešťany | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 1.640.609 | 1.800.828 | 1.728.260 | 1.847.522 | 1.752.611 | 1.753.966 |
| Capital investments | 3.043 | 2.999 | 0 | 0 | 0 | 1.208 |
| Budget | 1.643.653 | 1.803.827 | 1.728.260 | 1.847.522 | 1.752.611 | 1.755.175 |
| % of capital investments | 0,2% | 0,2% | 0,0% | 0,0% | 0,0% | 0,1% |
| % variation total budget* | | 9,7% | -4,2% | 6,9% | -5,1% | |
| Number of judges FTE | 12,2 | 12,2 | 12,5 | 11,9 | 9,9 | 11,7 |
| % variation number of j.* | | 0,0% | 2,5% | -4,8% | -16,8% | |
| Number of staff non j. | 56,1 | 56,1 | 55,6 | 52,9 | 50,7 | 54,3 |
| Number of total staff (j+nj) FTE | 68,3 | 68,3 | 68,1 | 64,8 | 60,6 | 66,0 |
| Budget / total staff (j+nj) FTE | 24.065 | 26.410 | 25.378 | 28.511 | 28.921 | 26.585 |
| Incoming (total) | 19.992 | 17.070 | 12.135 | 9.240 | 8.700 | 13.427 |
| % variation number of inc.* | | -14,6% | -28,9% | -23,9% | -5,8% | |
| Decided (total) | 19.039 | 16.610 | 14.931 | 11.067 | 9.444 | 14.218 |
| Budget / incoming | 82 | 106 | 142 | 200 | 201 | 131 |
| Cost per case | 86 | 109 | 116 | 167 | 186 | 123 |
| Population | 108.852 | 108.903 | 63.168 | 62.996 | 62.924 | 81.369 |
| Budget / population | 15 | 17 | 27 | 29 | 28 | 22 |

Table 12: Martin DC, data and indicators 2012 - 2016

| District Court of Martin | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-capital investments | 2.091.130 | 2.115.798 | 2.056.358 | 2.179.506 | 2.131.483 | 2.114.855 |
| Capital investments | 6.090 | 60.180 | 20.228 | 0 | 3.238 | 17.947 |
| Budget | 2.097.220 | 2.175.978 | 2.076.586 | 2.179.506 | 2.134.721 | 2.132.802 |
| % of capital investments | 0,3% | 2,8% | 1,0% | 0,0% | 0,2% | 0,8% |
| % variation total budget* | | 3,8% | -4,6% | 5,0% | -2,1% | |
| Number of judges FTE | 16,7 | 16,7 | 16,3 | 14,8 | 16,1 | 16,1 |
| % variation number of j.* | | 0,0% | -2,4% | -9,2% | 8,8% | |
| Number of staff non j. | 63,8 | 63,8 | 65,0 | 62,8 | 59,7 | 63,0 |
| Number of total staff (j+nj) FTE | 80,5 | 80,5 | 81,3 | 77,6 | 75,8 | 79,1 |
| Budget / total staff (j+nj) FTE | 26.052 | 27.031 | 25.542 | 28.086 | 28.163 | 26.950 |
| Incoming (total) | 24.481 | 24.053 | 21.791 | 19.864 | 18.184 | 21.675 |
| % variation number of inc.* | | -1,7% | -9,4% | -8,8% | -8,5% | |
| Decided (total) | 22.830 | 25.873 | 22.744 | 20.889 | 18.980 | 22.263 |
| Budget / incoming | 86 | 90 | 95 | 110 | 117 | 98 |
| Cost per case | 92 | 84 | 91 | 104 | 112 | 96 |
| Population | 113.534 | 113.315 | 113.091 | 112.879 | 112.746 | 113.113 |
| Budget / population | 18 | 19 | 18 | 19 | 19 | 19 |

Table 13: Stará Ľubovňa DC, data and indicators 2012 - 2016

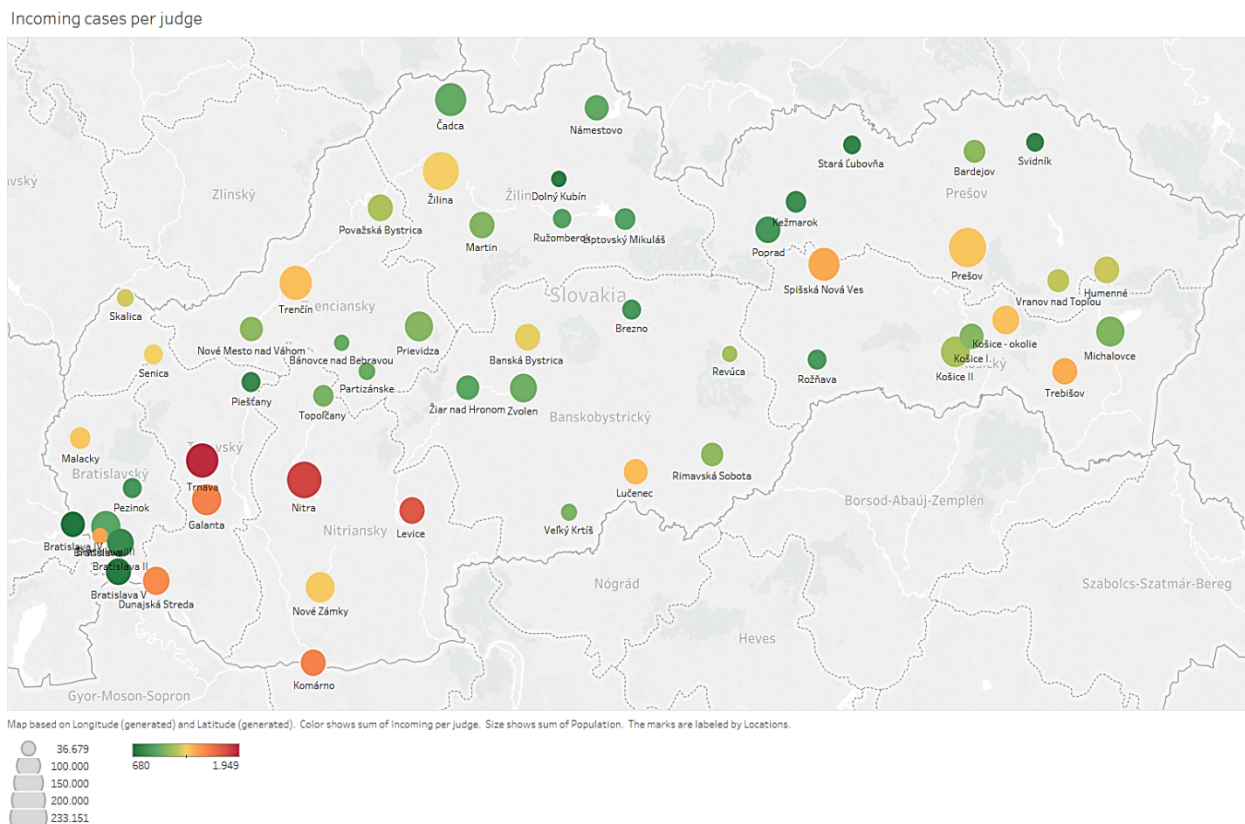
| District Court of Stará Ľubovňa | 2012 | 2013 | 2014 | 2015 | 2016 | Mean 2012-2016 |
|----------------------------------|---------|---------|---------|---------|-----------|----------------|
| Non-capital investments | 948.813 | 936.099 | 914.086 | 983.607 | 1.056.872 | 967.895 |
| Capital investments | 0 | 3.130 | 63 | 0 | 28.088 | 6.256 |
| Budget | 948.813 | 939.229 | 914.149 | 983.607 | 1.084.960 | 974.152 |
| % of capital investments | 0,0% | 0,3% | 0,0% | 0,0% | 2,6% | 0,6% |
| % variation total budget* | | -1,0% | -2,7% | 7,6% | 10,3% | |
| Number of judges FTE | 7,0 | 7,0 | 5,6 | 6,0 | 6,5 | 6,4 |
| % variation number of j.* | | 0,0% | -20,0% | 7,1% | 8,3% | |
| Number of staff non j. | 32,8 | 32,8 | 32,8 | 32,6 | 31,5 | 32,5 |
| Number of total staff (j+nj) FTE | 39,8 | 39,8 | 38,4 | 38,6 | 38,0 | 38,9 |
| Budget / total staff (j+nj) FTE | 23.840 | 23.599 | 23.806 | 25.482 | 28.552 | 25.030 |
| Incoming (total) | 9.216 | 8.629 | 7.684 | 6.451 | 5.387 | 7.473 |
| % variation number of inc.* | | -6,4% | -11,0% | -16,0% | -16,5% | |
| Decided (total) | 9.105 | 8.346 | 7.558 | 6.270 | 5.561 | 7.368 |
| Budget / incoming | 103 | 109 | 119 | 152 | 201 | 130 |
| Cost per case | 104 | 113 | 121 | 157 | 195 | 132 |
| Population | 53.140 | 53.271 | 53.379 | 53.471 | 53.617 | 53.376 |
| Budget / population | 18 | 18 | 17 | 18 | 20 | 18 |

In all the 8 district courts the incoming cases have been constantly decreasing from 2014 to 2016. The number of active judges remained almost the same (except in Galanta and Senica where it decreased), while the budget has increased in all the courts, albeit to a different degree. The number of decided cases decreased in all the 8 courts. As a consequence, the cost per case has constantly increased.

The following map (Figure 9) shows the “incoming cases per judge” and the catchment area (population) in each of the 54 districts in Slovakia. “Incoming cases per judge” is represented in a red-gold-green scale, where red shows a high caseload per judge and green a low one. The minimum value is 680 incoming cases per judge, the maximum is 1.949 incoming cases per judge.

The population in every court’s jurisdiction is represented by the size of the mark, the minimum value is 36.679 inhabitants, the maximum value is 233.151 inhabitants. The position of the courts on the map is useful to estimate the distance between them.

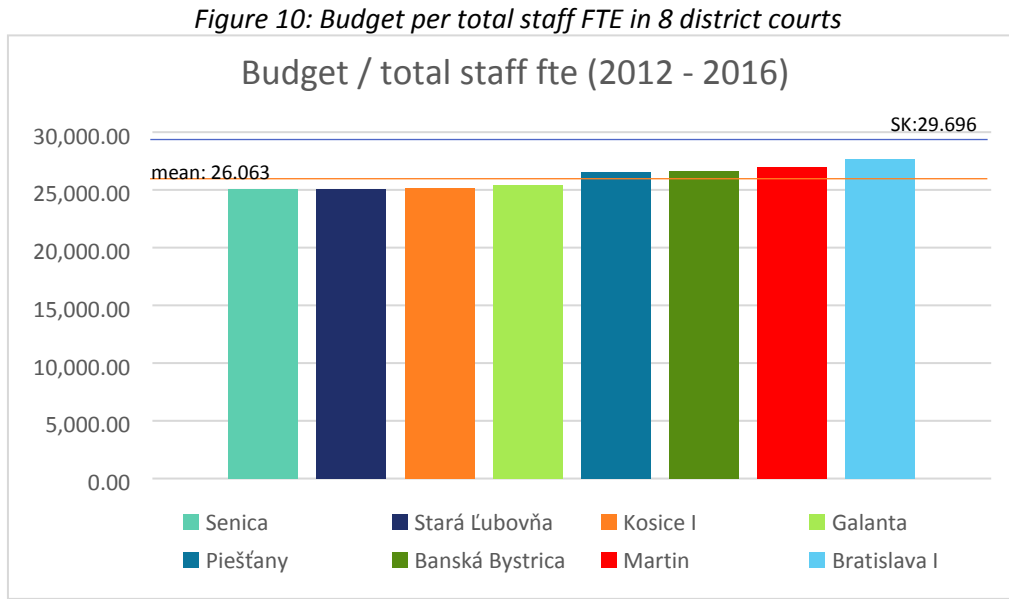
Figure 9: Incoming case per judge and population - 54 district courts - map



The map shows a significant number of courts, which are spread out all over the country in a way that does not seem consistent with the number of incoming cases per judge. In some regions there are many courts, rather small and quite close to each other, with few incoming cases per judge (e.g. Region of Bratislavsky, Trenčiansky, Zilinsky), while in other regions there are few courts, with a large population (size of the mark) and many incoming cases per judge (e.g. Region of Trnavsky and Nitriansky, marks in red).

The data analysis carried out in this report shows that the productivity of judges (disposed of cases per judge) is higher in the courts where the number of incoming cases per judge is high. More analysis is needed to better assess the reasons behind such a relation between judges' productivity and number of incoming cases, and then make a fact-based proposal to have a more efficient territorial distribution of courts, and a more balanced budget/sharing of resources across courts.

Figure 10 shows the **budget per total staff indicator** in the 8 District courts.



Alike in the selected regional courts, there are no major differences in budget-per-staff allocation in the district courts, except for Bratislava I, where a large amount of capital was invested in order to buy a new building in 2013. The average amount of total budget per total staff, excluding Bratislava I, is 26.063 €, lower than the national mean, which is 29.696 €.

Figure 11: Budget per total staff - map

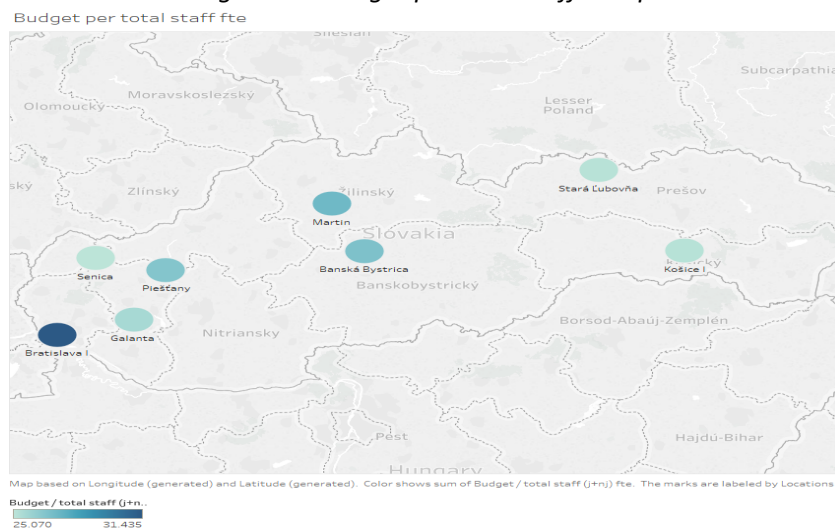
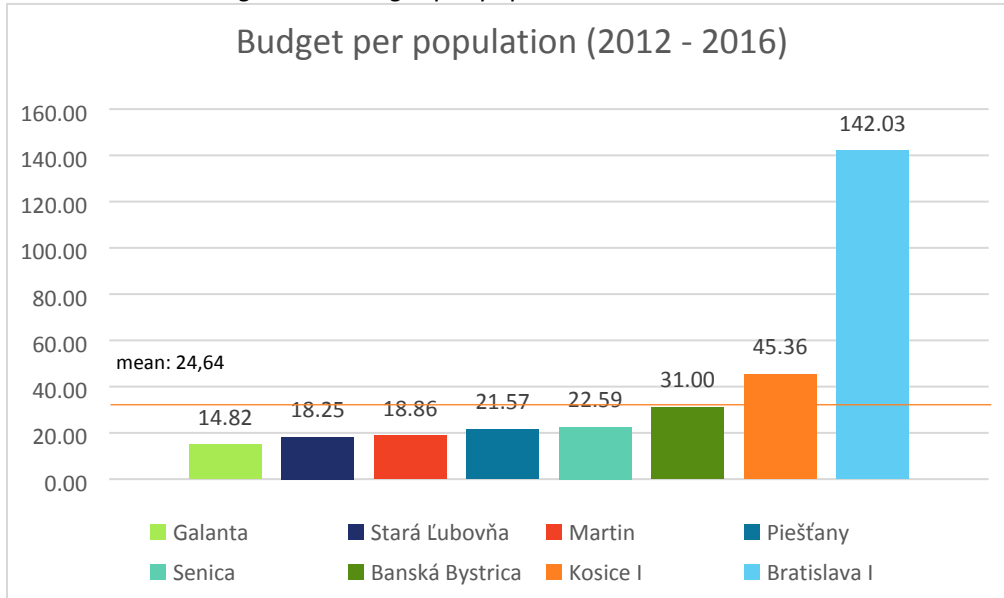
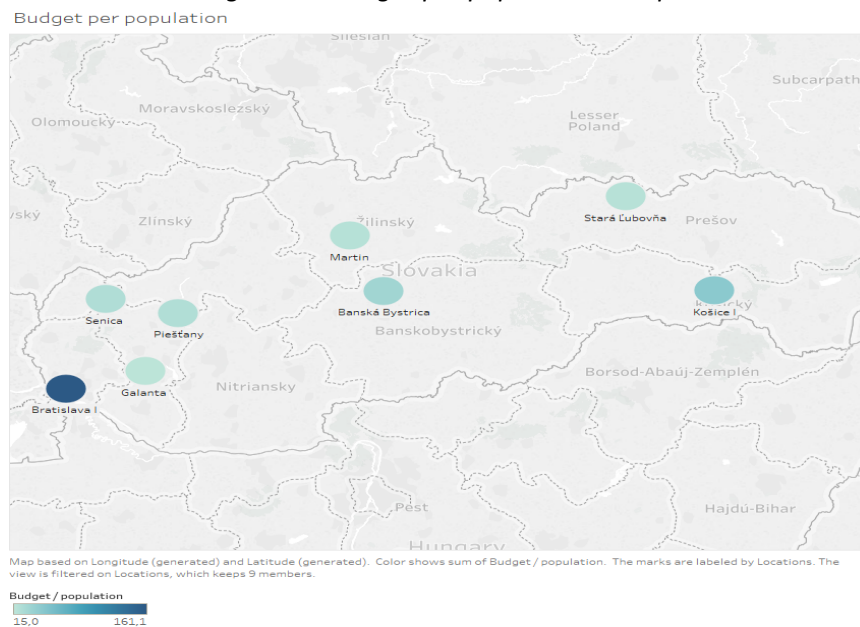


Figure 12: Budget per population in district courts



Bratislava I also is an “outlier” in the **budget-per-population indicator** (Figure 12). Excluding this court, the average amount is 24.64€ per inhabitant. Some courts are well below the average (e.g. Galanta with a 15€ budget) or significantly above the average (e.g. Banská Bystrica - 31€, and Košice I - 45 €).

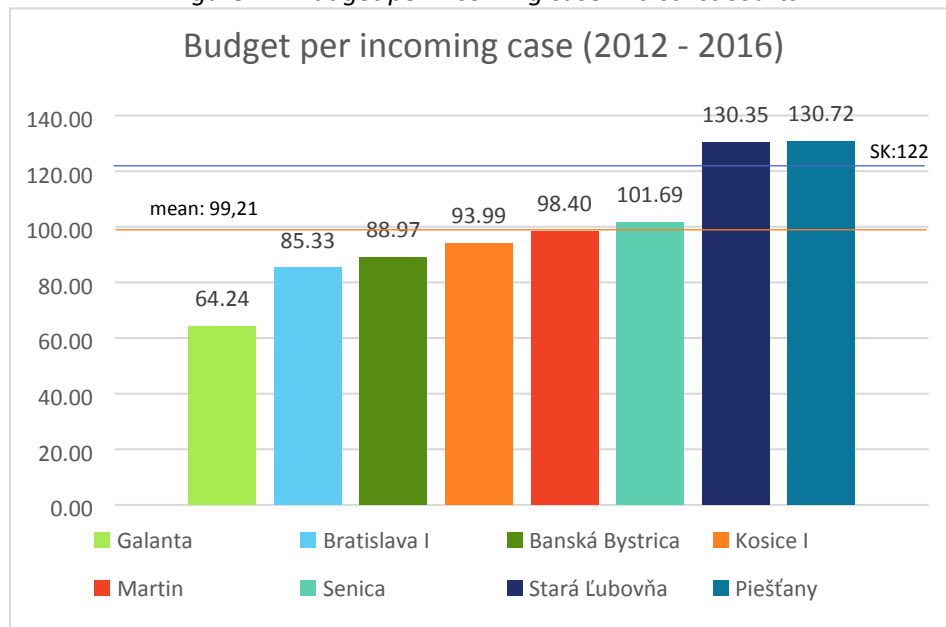
Figure 13: Budget per population - map



The number of incoming cases per 100 000 inhabitants is different across the selected courts, partially because courts deal with different kind of cases (“specialisations”). For example, Banská Bystrica is dealing (for all the region) with bankruptcy, industrial property, electronic enforcement proceedings etc. Košice I deals with arbitration, unfair competition and copyright bankruptcy, promissory notes etc.

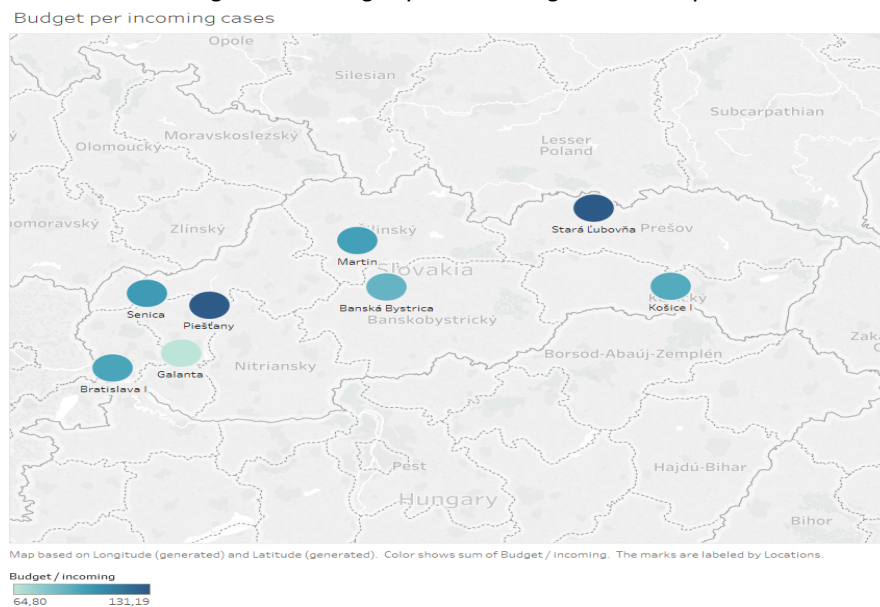
Some differences in budget allocation in the various courts are quite evident in the **budget-per-incoming case indicator** (Figure 14).

Figure 14: Budget per incoming case in district courts



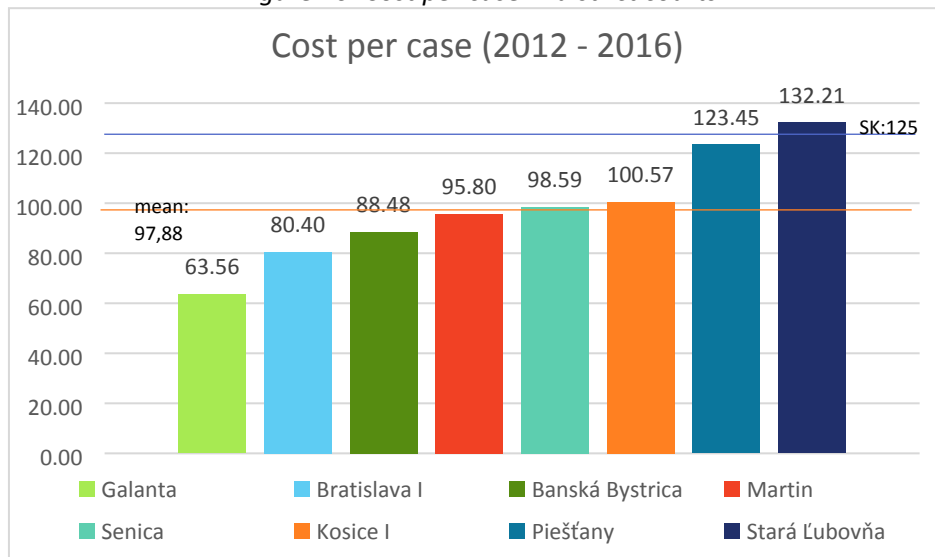
The average budget is 99 € in the 8 District courts, but there are significant differences across the courts. For example, the budget-per-incoming in Piešťany (131 €) is more than double than the budget in Galanta (64 €). The average budget of these 8 courts is lower than the national mean (122 € per incoming case), which was calculated taking into consideration all the district courts and regional courts. For this report, budget data divided for regional and districts courts was not available.

Figure 15: Budget per incoming cases - map



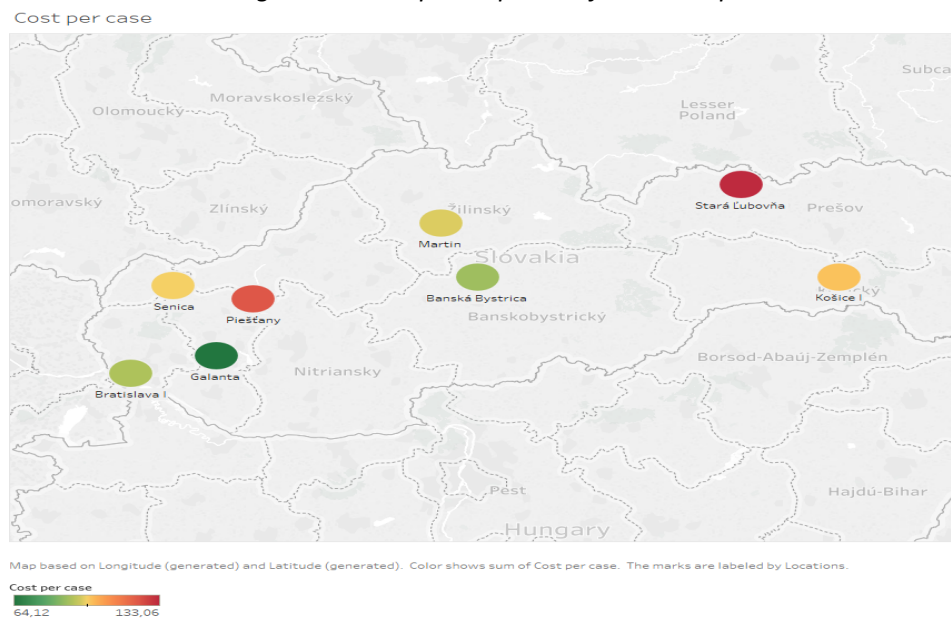
The last indicator used in this analysis is the “cost-per-case” (Figure 16). This indicator should be calculated separately for, at least, civil, criminal, and administrative cases, but, as of today, available data do not allow to do it.

Figure 16: Cost per case in district courts



On the basis of this calculation, the average cost per case (based on the 8 selected district courts mean) is 98 €. However, there are quite significant differences across courts. For example, in Galanta disposing of a case costs in average 64 €, while in Stará Ľubovňa it is 132 €. Apparently, the structure of caseload of these two courts should be quite similar, even though Galanta deals with more enforcement cases, therefore some further investigation is needed to explain such a difference in the “cost per case” with Stará Ľubovňa.

Figure 17: Cost per disposed of case - map



In Figure 17 district courts are represented in a red-gold-green scale, where green is the court where the “cost per case” is lower and red is the court where the “cost per case” is higher. It has been commented, for example by the representatives of the Piešťany District Court, that this particular court has its seat in the premises which are rented, because there is not appropriate building owned by the state. The CEPEJ expert team does not know whether other courts rent premises or have high costs for maintenance of the buildings, and it emphasises that the cost per case indicators are to be applied and interpreted carefully, taking into consideration all the relevant circumstances. This is to be done by the national authorities, for example, by the MoJ.

Focus on the Regional Court of Bratislava in comparison to Košice and Žilina

The Regional Court of Bratislava provided for more detailed budget data, useful to better understand the breakdown of expenses.

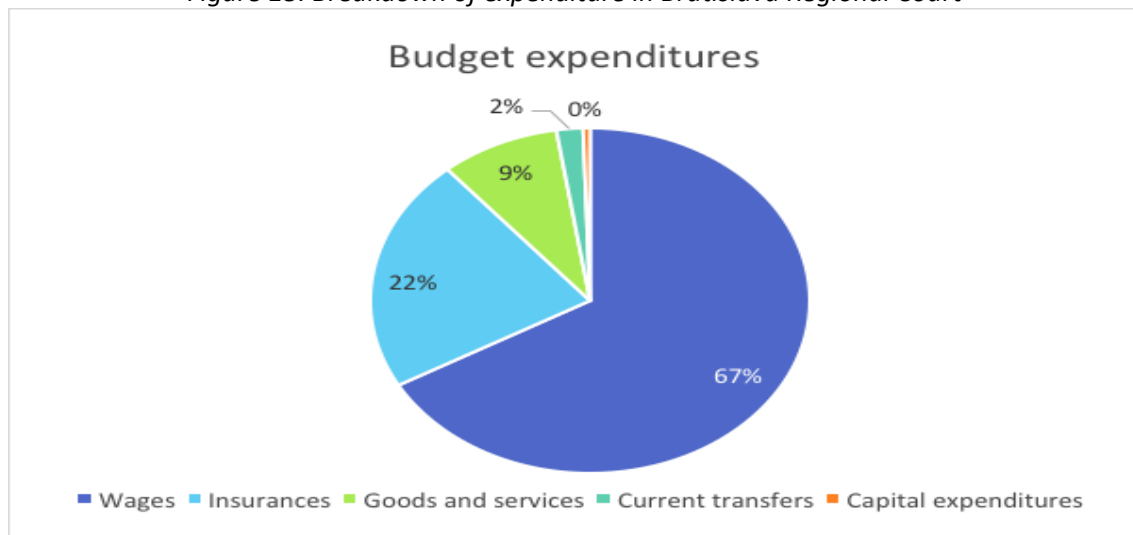
Table 14 shows the budget of 2016, divided in the 5 categories distinguished between approved budget and fact-drawn budget.

Table 14: Budget in Regional Court of Bratislava

| | Approved budget | Fact-drawn |
|-----------------------------|------------------|------------------|
| Wages | 5.547.315 | 6.457.947 |
| Insurances | 1.800.824 | 2.116.100 |
| Goods and services | 741.030 | 848.427 |
| Current transfers | 81.479 | 187.786 |
| Capital expenditures | 0 | 49.451 |
| Total | 8.170.648 | 9.659.711 |

The fact-drawn budget appears to be higher than the approved budget (18% higher). Considering the fact-drawn budget, Figure 18 shows the percentages of the 5 major budget lines.

Figure 18: Breakdown of expenditure in Bratislava Regional Court



Wages represent 67% of the total budget, while, as already pointed out above, expenses for goods and services are only 9% of the total budget. 91% of budget is spent for the staff (judges and non-judge staff). A supplementary budget is allocated for experts and utilities at the end of the year:

Table 15: Supplementary budget in Bratislava Regional Court

| Fact-drawn budget | |
|--------------------------------|----------------|
| Utilities | 251.314 |
| Experts, lawyers, interpreters | 39.564 |
| Compensation for delays | 14.800 |
| TOTAL | 305.678 |

Table 17 shows a breakdown between judges and non-judge personnel. Data show that the average salary for a judge is almost 5 times the average salary of a member of staff. Using the average salary calculated in Table 17, it is possible to calculate more accurately the “Human resources cost-per-case” for civil, criminal, and administrative cases (the so called “agendas”).

Table 17: Cost per HR in Bratislava Regional Court

| Drawing of Wages, Salaries, Service Income and Other Personal Compensation | | | | | | |
|--|------------|------|--------|----------------------|------|-----------------------|
| | Total 2016 | % | FTE HR | Cost per HR per year | % | Cost per HR per month |
| Judges | 3.791.467 | 59% | 77 | 49.240 | 82% | 4.103 ²⁸ |
| Other staff | 2.666.480 | 41% | 250 | 10.687 | 18% | 891 |
| Total | 6.457.947 | 100% | 327 | 19.749 | 100% | 1.646 |

Table 18: cost per case in the Regional Court of Bratislava

| | Number of staff | Number of judges | % judges | Decided cases | Cost per case (HR) |
|------------------------------|-----------------|------------------|----------|---------------|--------------------|
| Criminal agenda | 7 | 13 | 16% | 2524 | 334 |
| Civil agenda | 40 | 37 | 45% | 10281 | 374 |
| Commercial agenda | 22 | 17 | 20% | | |
| Administrative agenda | 9 | 16 | 19% | 2145 | 485 |
| Other functions | 169* | | | | |
| TOTAL | 247 | 83 | 100% | 14.950 | 383 |

* Please note that within the Regional court of Bratislava there is a Judicial Treasury Department with 93 people out of 169 that has jurisdiction over the entire territory of the Slovak Republic.

Cost per case is calculated multiplying the number of staff and judges for their average salary, and then dividing it for the number of decided cases. The cost of staff with “other functions” is allocated proportionally to the number of judges for each case category (agenda). As far as the Regional Court of Bratislava is concerned the cost of staff with “other functions” has been calculated without the 93

²⁸ One should take into account that expenditures include the 13th and the 14th salaries of judges, paid in accordance with the legislation, whereas employees are entitled only to 12 salaries.

people who work within the Treasury Department. Assuming that the average salary for judges and staff is the same in every regional court, the cost per case for different registers/agendas can be calculated for Košice and Žilina (for Banská Bystrica data on Human Resources are not available) using the same method.

Table 19: Cost per case in Regional Court of Košice

| | Number of staff | Number of judges | % judges | Decided cases | Cost per case (HR) |
|------------------------------|-----------------|------------------|----------|---------------|--------------------|
| Criminal agenda | 10 | 13 | 22% | 1661 | 547 |
| Civil agenda | 27 | 28 | 47% | 11996 | 226 |
| Commercial agenda | 13 | 9 | 15% | | |
| Administrative agenda | 19 | 10 | 17% | 1339 | 612 |
| Other functions | 70 | | | | |
| TOTAL | 139 | 60 | 100% | 14.996 | 296 |

Table 20: Cost per case in Regional Court of Žilina

| | Number of staff | Number of judges | % judges | Decided cases | Cost per case (HR) |
|------------------------------|-----------------|------------------|----------|---------------|--------------------|
| Criminal agenda | 9 | 6 | 16% | 976 | 495 |
| Civil agenda | 16 | 21 | 55% | 6171 | 310 |
| Commercial agenda | 6 | 5 | 13% | | |
| Administrative agenda | 8 | 6 | 16% | 1030 | 458 |
| Other functions | 54 | | | | |
| TOTAL | 93 | 38 | 100% | 8.177 | 350 |

According to this analysis, a **criminal case** is costing, in terms of human resources, 334 € in Bratislava, 547 € in Košice and 495 € in Žilina. An **administrative case** is costing 485 € in Bratislava, 612 € in Košice and 458 € in Žilina. A **civil or commercial case** is costing 374 € in Bratislava, 226 € in Košice, and 310 € in Žilina.

The methodology exemplified above may be fine-tuned having regard to the peculiarities of different courts, depending on their specialisation and eventual differences in the complexity of certain cases due to objective reasons. **The suggestion is to start analysing in detail the operational costs of courts, which could encourage a better efficiency.**

Concluding remarks on the budgetary issues

1. The budget process in the judiciary of the Slovak Republic is very similar to many other European countries. The drafting of the budget is based on historical data; apparently, other criteria are marginally taken into consideration. In the next phases of the project, it may be explored what kind of other criteria and techniques (e.g. performance-based budgeting) may be applied.
2. As the first analysis performed by the CEPEJ team shows significant differences across the courts in terms of allocation of resources, these differences, as well as their causes should be better

investigated. In particular, the analysis could be deepened and detailed in the second phase of the Project, with more accurate data on such issues as:

- Budget allocated for civil, criminal and administrative matters;
 - Human resources invested in enforcement and payment orders division that, as of today, is not clear in which “agenda” are included;
 - Detailed costs for each of the 12 selected courts, similar to the ones already supplied for Bratislava Regional Court;
 - Distinction between the budget allocated to all the regional courts and the budget allocated to all the district courts etc.
3. It could be envisaged a substantial increase in the involvement of judges, in particular presidents of the courts, heads of administration, and members of the Judicial Council, in the budget preparation, to better plan the resources needed, and coordinate the needs with the resources available.²⁹ A constant, inclusive dialogue between the Ministry of Justice and the judiciary, based on court performance analysis and involving the judicial self-governing, on availability and allocation of resources is usually helpful to the court functioning. For example, in Finland and in Estonia the allocation of the budget of each court is carried out through a negotiation process between the Ministry of Justice and the court president. The negotiation is based on previous performance data, resources available, and new targets that each court is supposed to achieve. In particular, in Estonia additional resources are allocated if an improvement in the performance is targeted.³⁰ However, if data on court performance are not reliable, this exercise will be jeopardised.
 4. As the analysis carried out revealed differences in the budget allocation across courts, the allocation criteria are to be further developed. The allocation of funding should be based upon explicit and transparent criteria (correlated to the workload, complexity of the caseload, performance etc.), which should be clear to the entire judiciary and to other stakeholders. Discrepancies in funding not substantiated by objective factors should be eliminated.
 5. Based on the data available, the unbalanced allocation of the budget across courts is mainly due to lacking a streamlined allocation of court personnel. Courts are still labour intensive organisations and, generally speaking, 80-90% of the court budget goes to personnel costs. In Slovakia, data show a disproportion in number of judges and non-judge personnel per incoming cases in various courts. As a consequence, there is a disproportion in budget per incoming cases and significant differences in the cost-per-case in different courts.

²⁹ As one of the judges commenting on a draft of the present report put it: *“Increased involvement of presidents of the courts and judges in the preparation of the budgets should result in their increased responsibility and should yield other than a historical overview. It is crucial to look for the answers when it comes to the difference among comparable courts – for example huge discrepancies in the costs per agenda etc. Higher expenses can demonstrate deficiencies in the organisation of work etc.”*

³⁰ Representatives of the Slovak Ministry of Justice (Analytical Centre) participated to the Round Table “Court and judicial systems’ budget”, carried out on 7 November 2017 in Riga, Latvia and organised by the CEPEJ and Court Administration of Latvia. During this event were presented different innovative ways to draft and to manage the budgets of courts and of the judicial systems in France, Estonia, Finland, Ireland, and the Netherlands.

Therefore, it is of paramount importance to explore which method can be used to analyse and then to plan the personnel needs for each court. Detailed information on the criteria used in Slovakia to allocate judicial personnel in the various courts are not available yet, but the criteria used, and maybe their revision, should be a point of attention for the next phases of the project. These criteria may be compared with the ones used in other European countries. For example, in Austria, Denmark, Germany, Norway, the Netherlands cases are “weighted” based on their complexity, which means that they are classified based on the amount of time needed to handle them.

In Germany the weighted caseload system is called “PEBBŞY”. Cases are classified according to different criteria and a study is carried out to “estimate” how much time is needed to dispose of them. Then, an estimation of the court personnel is based on the expected caseload.

In Norway a similar analysis is carried out for each case type. Time per case is calculated keeping into consideration the judges’ work and the administrative process. This analysis is used to foresee both the needs in judges and clerks.

6. It should be further explored and discussed with the Ministry of Justice the possibility to centralise at the Ministry’s level the management of some budget lines related to personnel costs, and to leave more discretionary powers on the budget for the court organisation to the presidents of courts, heads of administration and local councils of judges. The implementation of this step will necessitate changes in the internal organisation of both the Ministry of Justice and the courts.
7. The data analysis performed for the purpose of this report demonstrated that any further plans should be based on robust and reliable data. Therefore, a priority should be a major investment to improve the capacity of the Analytical Center, and analogous structures within the Ministry of Justice, to produce reliable data on the performance of the justice system, and to analyse it systemically, which is the foundation of any future reform initiative.

C. Judges and judicial staff

a. Selection criteria and appointment procedure for judges

When the workload is generally considered to be (too) high, this may be partly caused by the low number of judges and by the deficiencies in their recruitment/appointment. According to some counterparts interviewed during the fact-finding mission, currently the judicial vacancies in the Slovak Republic are filled in very slowly, in addition to the fact that no “anticipative” selection and training for recruitment is carried out. Therefore, there seems to be constantly some 100 vacancies (some sources alleged they are as many as 200) for the position of judge, meaning that the system is constantly lacking some 8 to 15% of its planned capacities.

Recruitment procedure

Until 1 July 2017 the procedure of recruitment of a judge was as follows. The Minister of Justice assigned the vacant post of a judge for the particular court. The vacancy could be filled in by the way of the transfer of a judge from another court of the same level. If the transfer was not possible, the President of the court where the vacancy was to be filled in announced the public selection procedure.

The selection committee consisted of 5 members selected by the President of the concerned court from the database of candidates, among which 1 member was from the candidates nominated by the National Council of the Slovak Republic (the Parliament), 2 members from the candidates nominated by the Judicial Council of the Slovak Republic, 1 member from the candidates nominated by the Minister of Justice. The fifth member was elected by the Council of judges of the court where the vacancy is to be filled in.

The selection procedure consisted of an exam with a written part (multiple choice professional test, drafting of judgments in civil and criminal law cases, case study, translation of a legal text from a foreign language into Slovak language), the oral interview, and the psychological tests.

The successful candidate was presented to the Judicial Council of the Slovak Republic which was deciding on his or her suitability for appointment to a judicial office (on the basis of a security screening that was performed by the National Security Office) and, upon acceptance of the candidate, submitted the nomination for the appointment of a judge to the President of the Slovak Republic.

As from 1 July 2017 and new procedure is put in place. This new procedure has three stages:

1. a “mass selection” procedure for an undefined number of vacancies
2. a preparatory training
3. the appointment to a specific vacancy.

The selection for the vacant positions of district court judges shall be carried out as a mass selection procedure for an undefined number of vacancies. The mass selection procedure will be announced by the Chairperson of the Judicial Council of the Slovak Republic, at least once a year (in spring and/or autumn competitions). On the basis of the results of the mass selection procedure, the Ministry will create a *database of candidates for the post of a judge* (with separate lists for jurisdictions of each regional court). The successful candidates will be ranked on the basis of their results in the mass selection procedure. The ranking will be binding for filling in the vacancies.

Having in mind the newly introduced “mass selection procedure”, the CEPEJ expert team would like to remind that, according to § 46 of the Recommendation on Judges: *“The authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers”*. Therefore, this conditions should be respected in the establishment of any selection commission.

Subsequently, the selected candidates for the appointment as a judge will be required to complete preparatory training aimed at acquiring the necessary practical skills, and to notify the Ministry of the completion of this training. The successful candidates will undergo the procedure to verify his or her suitability for appointment to a judicial office (the security screening).

The vacancy at the level of district court will still be possible to fill in by the way of a transfer of a judge from another court of the same level (the list of applications for transfer is kept by the Judicial Council). If the transfer is not possible the candidate with the highest ranking from the list created for the particular regional court is the candidate for the vacancy. The question is whether the candidate with the highest ranking will have to accept the first vacancy which will appear (or will be proposed to him or her), or whether he or she will have the choice (based on the ranking merit) between several vacancies which may exist at a certain moment or appear throughout a certain period of time. This issue is to be clearly regulated and transparently managed, not to give the impression of manipulation and favouritism in regard to certain candidates.

If there will be no successful candidates on the list for the particular regional court, the vacancy may be filled in by a successful candidate from the list of other regional court.

Statutory prerequisites for a candidate for judicial appointment³¹:

- Slovak citizen who can be elected to the National Council of the Slovak republic,
- reached the age of 30 years on the date of appointment,
- received a master degree in Law,
- has full legal capacity and is fit for judicial office,
- is a person with integrity (has not been convicted of an intentional criminal offence),
- fulfils the prerequisites of compliance with a judicial office, which guarantee that the judge’s function will be properly performed,
- has a permanent residence on the territory of the Slovak Republic,
- passed a professional judicial examination or other recognised legal professional examination (bar, notary, prosecutor),
- successfully completed the selection procedure,
- agrees to being appointed as judge and being assigned to a predetermined court
- takes an oath.

As a judge cannot be appointed a person who has already been a judge and was dismissed by a decision of the Disciplinary Board for an act incompatible with the performance of the office of a judge, or a person who has been the subject of a disciplinary measure of depriving him/her of the office of a notary,

³¹ § 5 of the Act no. 385/2000 coll. On judges

of a prosecutor or of a bailiff, or the removal from the list of attorneys, or from the list of commercial lawyers.

The prerequisites for holding a judicial office are moral standards and integrity of a judicial candidate for the proper and responsible performance of judge's function, and, simultaneously, they specify the content of the materials which are processed by National Security Office and which are taken into consideration by the Judicial Council of the Slovak Republic when reviewing the candidate for a judicial appointment. It is the assessment of facts whether the candidate for judge is not under demonstrable influence because of his financial situation, whether he is not addicted to alcohol or drugs, whether he does not receive unauthorised payments, gifts or other benefits, or whether he does not abuse his position and function in order to get unauthorised benefits, whether he does not have property the value of which is disproportionate to declared incomes and the legal origin of which he is not able to prove, he does not have any business, property or financial relations with persons involved in the organised crime, or whether he does not behave in a way that could be perceived as corrupt.

As currently regulated, all the preliminary activities (for example the time consuming background check) should be done in the first and second stage. It may be judicious to conduct the background check (or the so-called "security screening") before the mass selection or, at least, before engaging the candidates in the training. In this way a waste of resources on training will be avoided and the perspective of appointment of selected and trained candidates will be more or less certain. This could result in a swift third stage. Even so the whole selection procedure will still take a lot of time.

There will be no training on the job as part of the preparatory training for candidates. A training on the job (as an apprenticeship or internship) could improve the quality of the training, could be useful for the evaluation of a candidate and could also shorten the training and subsequent integration of the appointed judge in the profession.

A long procedure and especially any uncertainties, if they are not excluded, carry the risk that the best and most qualified candidates will not be willing to apply for the job.

Filling in a vacancy is complicated and time consuming. It is a current situation that courts are temporarily understaffed. To avoid that, it is a good practice to analyse every year what vacancies will arise next year. Not all vacancies are foreseeable, but many (e.g. retirements) are. The procedure to fill in a vacancy has to start in time, envisaging in advance the vacancies and taking into consideration the length of the selection, training and appointment steps, in order to avoid unnecessary gaps.

The Judicial Council shall play a central role in the appointment of judges. Half of its members (9 out of 18) are judges elected by their peers. In the present composition of the Council some of the nominees of the President, the Parliament and the Government are also serving judges. The competences of the Judicial Council seem to indicate that there is no major political influence on the selection of judges. But much depends of course on the question who (which body) makes the selection of the candidates. As is widely acknowledged, the selection should be done mainly by judges. Judges are not necessarily the majority in the selection committees.

Having clear criteria for the selection and common standards for evaluation of candidates, as well as the compliance with a streamlined procedure, are important aspects to be taken into consideration. The absence of such "safeguards" or the perception of their uneven implementation will create more public

distrust and suspicion of nepotism and corruption. Having in mind the number of bodies involved until recently in the selection of candidates (each court organised the competition for its vacancies determined by the MoJ), the uniformity of standards and procedures could hardly be ensured. The expert team was informed of a recent incident in which a candidate who passed through all stages of selection, initial training and approval, up to the nomination by the Judicial Council, was turned down by the President for reasons related to “irregularities in the selection procedure at the court level”. This is much too serious to be neglected. It seems that both the MoJ and the judiciary acknowledge the problem.

In a number of courts, the actual number of judges is lower than officially allocated. Courts complain that the number of judges is not sufficient. It is recommended to set up a system which provides the data necessary to determine in an objective way how many judges a court needs and is entitled to. This can be done on the basis of a survey (questionnaire) aimed at investigating how many minutes (average) it takes for a judge to decide a case in a certain category. All categories of cases that a court has to deal with will have to be taken into account. The average number of minutes in a certain category of cases must be set nationally. That number can be multiplied with the number of cases of that category that the court decides yearly. All the categories together make up the number of minutes which judges in a court need to decide the cases. That total number of minutes must then be divided by the number of minutes an average judge works on cases yearly.³²

Example:

for a judge it takes 30 minutes (average) to decide a divorce case.

The court decides 200 divorce cases yearly.

In total $200 \times 30 = 6.000$ minutes

for a judge it takes 30 minutes (average) to decide a consumer case

The court decides 1.000 consumer cases yearly.

In total 1.000×30 minutes = 30.000 minutes

for a judge it takes 45 minutes (average) to decide a burglary case

The court decides 200 burglary cases yearly.

In total 200×45 minutes = 9.000 minutes

Added together divorce cases, consumer cases and burglary cases: 45.000 minutes.

A judge works 1.500 hours a year. That makes 90.000 minutes a year. Therefore, this court would need 0,5 judge to decide these cases.

The outcome of this exercise is the number of judges the court needs for deciding the cases it has to deal with. Of course, other relevant circumstances will have to be taken into consideration when deciding the allocation of human resources. In the same way can be ascertained how much secretaries and other staff

³² As repeatedly emphasised by one of the judges commenting on a draft of the present report and cannot be ignored by the CEPEJ expert team, as it concurs with many of its own findings: “Courts should provide explanation, why is it necessary to increase the number of judges, since hundreds of judicial assistants joined the system, whereas they perform those activities that were till the year 2003 performed by judges. Simultaneously, other employees took over various routine and administrative duties of the judges. Until 2003, judges were doing nearly all, save for purely administrative tasks. Currently they „only“ conduct hearings and write decisions in a relatively small amount of cases. The rest is performed by judicial assistants. Therefore it is crucial to answer the questions: where are those “capacities” that should have been created after the introduction of the judicial assistants? It is possible that in certain years the amount of cases has soared. Yet, despite that possibility, it seems that it is not necessary, nor efficient to hire new judges to deal with the old unresolved cases, given the fact that the number of cases has been decreasing in recent years.

a court needs to decide its cases. By repeating that kind of survey every few years and comparing the performance of different courts, the number of judges for each court can be adjusted in accordance with changes in numbers of incoming and decided cases.³³

b. Training of judges

In its Opinion No. 4 “On appropriate initial and in-service training for judges at national and European levels”, the CCEJ recommends that initial training of judges, by programmes appropriate to appointees’ professional experience, is mandatory (§ 26). Quite apart from the basic knowledge they need to acquire before they take up their posts, judges are “condemned to perpetual study and learning”. According to CCJE: *“It is unrealistic to make in-service training mandatory in every case. The fear is that it would then become bureaucratic and simply a matter of form. The suggested training must be attractive enough to induce judges to take part in it, as participation on a voluntary basis is the best guarantee for the effectiveness of the training”* (§ 34).

The CCJE further recommends (§ 17) that under the authority of the judiciary or other independent body, training should be entrusted to a special autonomous establishment with its own budget, which is thus able, in consultation with judges, to devise training programmes and ensure their implementation. In the Slovak Republic this authority is the Judicial Academy. To what extent it is acting under the authority of the judiciary or of an independent body and to what extent its autonomy is enforced could not be evaluated as part of this report.

New judges do not receive any vocational training before taking their office, nor during the performance of their duties. Generally, 70 to 80% of newly-appointed judges are former judicial staff. Even if new judges are former judicial assistants, in courts they performed specialised tasks and, for this reason, they really need to acquire more knowledge and skills. All the others would have to attend the preliminary mandatory training at the Judicial Academy. There are some very short preparatory courses (3 weekends). The interlocutors of the CEPEJ team of experts were not satisfied with this situation.

According to the Association of judges (ZSS), in the past there used to be a very good training method of - so-called judicial aspirants, but it has been abandoned. It is finally re-introduced recently and there are currently 16 judicial aspirants. Whether these judicial aspirants undergo a specific training programme is not certain. Furthermore, not all stockholders agree that the institute of judicial aspirants yielded positive results. As explained by one of the judges, the judicial aspirant was a person who was in an employment relationship with the court system – undergoing a preparatory service for 3 years. Its purpose was to prepare judicial aspirant for the performance as a judge. However, the institute of judicial aspirant was abolished in 2011 because of its lack of transparency. Regrettably, the position of

³³ As commented by one of the judges reviewing this report: “At the beginning it is necessary to figure out what is the judge currently doing in general agendas and what he or she should do. Only this could serve as the basis for the calculation of needs of other employees. For example, if a judge, in a certain agenda, conducts hearing and the preparation of the case, whereas he or she leaves the finalisation of the judgement to the judicial assistants, the cases will be resolved at a slower rate, because one judicial assistants works for 1-2 judges. At the same time, if another judge, in the same agenda, works independently and uses judicial assistants only for simpler cases and decisions, his or her efficiency and quality will be much higher. Paradoxically, the former judge will be in greater need of assistants than the latter.”

judicial aspirants was often filled in with persons that had close ties to the persons from the judiciary. Although the institute of judicial aspirants was reintroduced recently, yet the openness of the admission in this preparatory service remained, apparently, intact. This situation as described, taken in the context of the new selection, training and appointment procedures, raises some scepticism.

Continuing education should be mandatory or at least facilitated in order to make sure that judges and court professionals have access to the knowledge and skills they need in the performance of their tasks and the advancement of their career. The interlocutors complained on the scarce offer of trainings by the Judicial Academy, and that the offer is not relevant for experienced judges. There is no obligation to attend continuous training at the Judicial Academy.

Court managers interviewed declared they did not receive any special training before they took their positions and since they are acting as presidents or vice-presidents of courts. The MoJ, the Judicial Academy and the Judicial Council of the Slovak Republic should develop a culture of management within the judiciary, to both raise awareness of future presidents and heads of courts, train newly appointed ones and educate while on tenure the different professionals involved in areas in which their legal skills and the judicial career do not prepare at all: management, budget, human resources, etc.

The contribution of the Judicial Academy to the efficiency and quality of justice in the Slovak Republic should be part of a monitoring plan by the MoJ or the Judicial Council, through a specific open assessment method and review of curricula. In many European States the financing of judicial training institutions is directly related to the training programmes approved for implementation.

c. Judicial discipline and ethics

Scholars nowadays tend to separate ethics from disciplinary rules. In their view ethics should be that branch of moral science which treats of the moral and professional duties a judge owes the public, the lawyers and his professional brethren. Of course this definition also applies to discipline, but ethics should conform to values, rather than only to written rules. The latter should define the discipline. Moreover, ethics should guide conduct which is less felt to be compulsory, than suitable or convenient. Discipline, on the contrary, should rest upon firm and mandatory rules. Therefore, judicial codes of ethics should be drawn up by associations of judges and their provisions cannot have a value equal to provisions of law. On the other hand, the members of a legal – and not philosophical or religious – profession experience difficulties attributing to judicial ethics a meaning other than that which results from the principles of judicial discipline contained in the statutes regulating this matter. As a consequence, in the judicial scenery can be often witnessed a kind of amalgamation between ethical standards and disciplinary exigencies as, for example, often a repeated or serious breach of a code of ethics will be regarded and sanctioned as a disciplinary offence.

Public trust in the judiciary is acknowledged as low in Slovakia. So the credibility of the judicial system seems to be a problem. Performing according to high standards of judicial discipline and ethics can improve the functioning of the judiciary and are thus important elements in view of improving public trust. What are these standards? It is impossible to give a definition and senseless to try to do so, but these standards comprise independence, impartiality, integrity and professionalism as core values of the judiciary.

Apart from national codes a number of international institutions have laid down these standards in several codes or other acts, such as:

- The United Nations Basic Principles on the independence of the judiciary
- The CCJE Magna Carta of Judges (Fundamental Principles);
- The CCJE Opinion No. 3 (2002) "On the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality";
- The Bangalore Principles of judicial conduct.

Standards like that and laws regarding judges' discipline or judicial ethics are valuable tools but will, as such, never be sufficient. The ethical behaviour should be "part of the DNA" of judges. To attain and preserve those high standards, it is advisable to pay attention to judicial discipline and ethical behaviour regularly, from the selection of judges and, afterwards, during the whole career of judges.

During the selection procedure priority should be given to this aspect by evaluating the moral standing of the candidates and, possibly, by performing psychological tests. Also a periodic training on the issue is highly recommended. Training for judges (and court staff) therefore should include courses and workshops on this subject. It is recommended that these courses and workshops are obligatory for all judges. They can be organised on a national level, by the Judicial Academy, or on a local level, by the court itself. The workload must not be allowed to stand in the way. Furthermore, ethical questions could be described and discussed on the internal website of the court.

It is important to stress that the requirement of ethical behaviour concerns all aspects of the life of a judge, his professional as well as his private life. Otherwise the judge will not only jeopardise his own image, but also the public image of the judiciary.

We understand that judges working in courts in relatively small towns are more visible and are being regarded as "VIP" members of the local community. In such a situation it is even more important that the judge doesn't socialise with certain people, doesn't accept presents, etc., in order to prevent that his independence and ethical standing can be questioned by the public. For the same reason he also has to be restrained to socialise with lawyers.

The judge must be constantly attentive that he is able to treat the cases which are assigned to him in an impartial way.

A judge must also be willing to account for his performance. The court president and court management (and preferably colleagues as well) should accost a judge in case they question his (professional or private) behaviour.³⁴

In the Slovak Republic the issuance of the principles of judicial ethics belongs to the competence of the Judicial Council, in cooperation with other authorities of judicial self-governance. According to the

³⁴ As one of the judges commenting on a draft of the present report mentioned: "Councils of judges of each court have the competence to handle complaints on judges which do not pertain to the work of the judge and his decision-making activity, but touches upon his behaviour and private life. In general, courts/their councils of judges try to avoid examining this kind of complaints or situations, usually arguing in the following way „let the president of the court/minister submit the motion on a disciplinary proceeding, if they think it is justified."

principles of judicial ethics, it is the Judicial Council that performs the general oversight regarding their application, compliance with and also their actualisation. The Judicial Council also provides and unifies the interpretation of the principles of judicial ethics, as well as their application, publishes related statements together with recommendations on its website. The compliance with the principles of judicial ethics belongs to the elementary duties of a judge, pursuant to § 30 of the Law on judges and lay judges. Therefore, the breach of these principles can lead to the submission of a motion on the commencement of disciplinary proceedings against the judge.

In his ordinary life, both when holding the office of a judge and even after its termination, the judge has to abstain from everything that can interfere within the integrity and dignity of the function of a judge, or endanger the trust in independent, impartial and just decision making of courts. In order to provide guarantees of independence and impartiality of their activity, judges are obliged especially to:

- a. promote and enforce the independence of the judiciary and its good fame,
- b. reject any interference, pressure, influence or request, the purpose of which could put the independence of the judiciary at peril,
- c. not allow himself to be influenced by the interests of political parties, political movements, public opinion or by the media,
- d. act impartially and treat parties to the case without economic, social, racial, ethnical, sexual or religious prejudices,
- e. act in a way that his impartiality could not be reasonably questioned,
- f. comply with requirements of judicial competence during his tenure as a judge,
- g. comply with the principles of judicial ethics.

Further details as regards the behaviour required from a judge are laid down in the law and the Code of judicial conduct.

In the Slovak Republic the judge is responsible for disciplinary offenses, as regulated also by the Law on judges and lay judges. The array of disciplinary offences is regulated by the § 115 and the following of the cited law. It distinguishes between:

- 1) disciplinary offence;
- 2) grave disciplinary offence;
- 3) grave disciplinary offence incompatible with the office of judge.

Each category of disciplinary offences is detailed, listing all the possible behaviours which will fall under one or another category and will, obviously, be sanctioned with an increasing severity, up to the dismissal from judge's office.

The disciplinary liability shall be determined and disciplinary measure shall be imposed by the Disciplinary Board. Disciplinary proceedings against the President of the Supreme Court of the Slovak Republic and Vice-President of the Supreme Court of the Slovak Republic are carried out by the Constitutional Court of the Slovak Republic.

The First Instance Disciplinary Board consists of 3 members. Its chairman and one other member must be judges and one member other than a judge. The Appellate Disciplinary Board consists of 5 members, and its chairman and two other members must be judges, and two members other than judges.

The motion to initiate the disciplinary proceedings may be submitted by the Minister of Justice, the Chairperson of the Judicial Council, the Public Defender (Ombudsperson), the president of the regional court against any judge serving within the jurisdiction of this court, the president of the court against a judge of his court, the Council of Judges of the court – against a judge from the respective court, including its president.

d. The role of judicial staff

According to the Recommendation on Judges (§ 35), a sufficient number of appropriately qualified support staff should be allocated to the courts. Currently, in the Slovak Republic, there is a ratio of 2,5 court personnel per judge, including judicial, administrative and technical staff (managers, accountants, IT support, drivers, etc.) Judges have one person who works with them – the assistant³⁵. In courts there are senior judicial officers – a relatively new function – who work for judges. The ratio of judicial officers to judges depends on the type of the agenda. 1 judicial officer can be assigned to up to 3 judges. However, judges dealing with cases regarding minors, for example, are assisted by 1 judicial officer each. Judicial officers can formulate/draft the decision – it depends on the responsibilities delegated to them by judges. There are also court secretaries, each of whom usually serves 2 judges. A regulation sets the ratio of assignment of court personnel.

Although the CEPEJ team has no clear evidence (apart offices and courts' halls with cases piling up all the way in sight), a certain sense of dissatisfaction could be felt through the visits to courts and a few brief occasions to witness the work of court staff and to address their representatives some questions.³⁶ Conducting satisfaction surveys among court personnel is recommended in view of a proper evaluation of the working conditions and of the views and feelings of this crucial resource of the court system (as crucial as only human beings can be). Of course, the surveys have to be followed by measures to improve the satisfaction and professional commitment of court staff. The CEPEJ Handbook for conducting satisfaction surveys aimed at court users in Council of Europe member States (CEPEJ(2016)15) has been successfully applied in view of carrying out surveys of court personnel and the CEPEJ expert team is ready to support such exercises as part of the Project.

Problems related to the lack of financial and other incentives for qualified judicial staff, along with the increasing responsibilities, especially for judicial assistants, high turnover and lack of initial or very sporadic in-service training etc., are reflected in different parts of this report and shall not be repeated. It is assumed that this situation is in the loop of political decision makers and of judicial administration, and that measures will be taken to continuously improve the situation of court personnel.

³⁵ As some of the judges commenting on a draft of the present report put it: “Judicial assistants are an welcoming help in Slovakia. At the beginning, judges were rejecting the so-called “judge’s team”, but today they delegate more work to this team, sometimes maybe too much. On the other hand, the problem is the high turnover of such staff, because these judicial assistants often become judges or choose another legal profession.”

³⁶ One of the judges commenting on a draft of the present report also described the condition of court employees in the following terms: “...toxic work atmosphere, as well as the lack of empathy from the side of judges also contribute to the adverse working conditions”.

Concluding remarks on the human resources of courts

1. As the procedures for selection of judges, training of candidates and their appointment to judicial offices is in the process of a reform, it is advisable to draw some conclusions from the criticisms addressed to the previous system. Transparency of the selection and appointment systems, along with competitiveness, clear criteria of evaluation of candidates and streamlined procedures with a significant involvement of the judiciary, are the pillars of a selection system which will be accepted as fair by the society and, what is not less important in the context of the Slovak Republic, regarded as a proper safeguard of judicial independence.
2. The number of judges and court staff to be allocated to courts is to be connected to clear and objective criteria, based on an analysis of the caseload, administrative workload, and an estimation of the average time needed to perform different judicial and non-judicial functions in the courts. The courts shall be afforded the necessary resources, including human resources, policies should be in place to respond quickly to the changing needs.
3. The initial training of judges shall be mandatory and requires further development. The in-service training should be facilitated by an adapted, qualitative and sufficiently vast offer of the Judicial Academy, as judges and court personnel shall have access to the knowledge and skills they need in the performance of their tasks and professional advancement.
4. The authorities of judicial self-governance should take a more active stance in regard to matter related to ethics and discipline of judges. The local councils of judges should not hesitate to discuss the ethical values and how they are complied with and promoted by judges of the respective courts. It is recommended that the Judicial Council publishes regularly statistics on the number of disciplinary proceedings conducted in regard to judges and details on their outcomes.
5. It is proposed to judicial authorities to pay more attention to the situation of court staff, and to take action for improving its conditions. A first step may be a conducting court system-wide satisfaction survey for personnel, in order to identify the most urgent measures to stop the high turnover of employees and to ensure sufficiently qualified and committed personnel.

D. Court management. Efficiency of courts

This section on internal organisation of the courts of the Slovak Republic is based on the information kindly supplied by the Ministry of Justice (specific reference in this case is reported between “inverted commas”), and additional information collected during the interviews carried out in the course of the fact-finding mission by the CEPEJ team. On this specific subject more investigation in-the-field is certainly required to better understand the internal organisation of the Slovak courts, as it may vary from court to court. A questionnaire was submitted to the CCJE members in preparation of the CCJE Opinion No. 19 (2016) “On the role of court presidents”. Although 38 countries have replied to the questionnaire³⁷, there has been no reply on behalf of Slovakia. Therefore, the MoJ is encouraged to fill out and submit this questionnaire for the use by the CEPEJ expert team (the reply would be also published on the CCJE webpage). For the reasons explained above, this section is more a description of facts, to be further developed. The Ministry of Justice is invited to verify whether the collected information is relevant and represent a correct understanding by the CEPEJ experts of actual circumstances.

a. Court management

In accordance with the provisions of the Law 757/2004, the court’s management and administration bodies are:

- President of the Court
- Vice-presidents of the Court
- Council of Judges at court level
- Court Administration
- Head of the court administration

The Ministry of Justice and the Judicial Council of Slovak Republic also have competences in courts’ management and administration.

“The objectives of the management and administration of courts is to create for the courts of Slovak Republic conditions enabling proper functioning of the judiciary, especially in personal, organisational, economic, financial and professional areas, and to oversee the proper functioning of the judiciary through means and in limits prescribed by the law. Management and administration of courts cannot interfere into the decision-making activity of the courts.” (§ 32 of act no. 757/2004 of Col.).

President of the court

The President is responsible of the court’s functioning. “President of the court ensures the management of the court in the area of performance of judicial functions, especially regarding:

- a) Work schedule,
- b) Supervision over dignity and fluency of judicial proceeding and principles of judicial ethics,
- c) Employ of results from internal revision,
- d) Handling complaints” (§ 49 of act no. 757/2004 Col.)”.

The president of the court is not expected to deal with cases. Some judges, during the interviews carried out in the inception mission in selected courts, said that presidents may have their own caseload. This

³⁷ Please see under the link: http://www.coe.int/t/dghl/cooperation/ccje/textes/Travaux19_en.asp

mainly depends on the size of the court and, therefore, on the amount of managerial duties of each president.³⁸ A big deficiency, recognised by stakeholders interviewed by the CEPEJ expert team, is that court presidents and other managers do not benefit of specialised training and have to auto-educate themselves in the sophisticated area of court management. Even the chance to exchange on good practices and to build a common managerial culture seems to be very limited.

Vice-president of the court

“Vice-president of the court substitutes the president of the court when he is absent or his function is vacant, and in the limits of rights and duties vested in the president of the court. The president may authorise the vice-president also in other cases to substitute him/her, in the limits of president’s rights and duties. Vice-presidents of the courts are appointed at both regional as well as district court level. Courts with less than 20 judges have one vice-president, courts with 21 to 70 judges have 2 vice-presidents while the courts with more than 70 judges and the district court of Banská Bystrica have 3 vice-presidents.” (Legal Framework provided by MoJ)

“If the function of the vice-president of the court is not established or filled, the president of the court may authorise any judge of respective court to perform some of the tasks belonging to the competence of president of the court” (§ 39 of the Act no. 757/2004 Col.).

The judges to be appointed as vice-presidents are proposed by the president of court and approved by the Minister of Justice. In addition to managerial functions, they still adjudicate cases as judges. A reduction of the caseload is not formalised.

Council of Judges

The courts’ Councils of Judges are the bodies of the judicial self-governance (§ 33 (3), § 45 to § 48 of Act No. 757/2004 Coll., “on courts and on amendments to certain laws”). They are involved in the management and administration of courts to the extent stipulated by the law.

The Courts’ Councils of Judges are established at the district court, regional court, Supreme Court and Special Criminal Court levels. If the Court’s Council is not elected, the attributions of the Court’s Council shall be exercised by the court plenary. The Court’s Council shall have at least three members and no more than nine members. The members of the Court’s Council are elected and dismissed by the plenary of the respective court, from among judges of this court, and by a secret ballot. The office of the president and the vice-president of the court is incompatible with membership of the Court’s Council.

³⁸ As one of the judges commenting on a draft of the present report put it: *“The problem with the preparedness of judges to administer courts is general and difficult to resolve. Judges, generally, do not possess the necessary skills. Another limitation is related to the fact that, after their term of office as presidents/vice presidents expires, they became judges again. Hence, they are afraid not to take any “inconvenient” measure, because they can become unpopular and even to get “punished” for it later on. Moreover, many presidents of courts also perform the normal work of a judge, and often in quite noticeable ratio to the administration of the court. The fellow judges expect that the court president would also perform his “normal duties” as a judge. This is especially problematic in bigger courts. Judges and presidents of the courts will hardly admit these difficulties, stemming from collegial and human relationships. Even the employees of the courts admit that, should the court administration be entrusted to skilled management (e.g. a professional agency), the productivity will increase with a decreased number of judges and employees...”*

Where the jurisdiction of the Court's Council is exercised by the plenary, the president of the court and the vice-president of the court shall not have the right to vote in plenary decisions in matters within the jurisdiction of the Court's Council.

Jurisdiction of the court's Council of Judges:

- (a) comments on the draft budgets of the courts,
- (b) discusses the report of the President of the Court on the use of appropriations,
- (c) discusses the draft work schedule of the court and takes an opinion,
- (d) decides on the objections of the judges in matters under a special law (e. g. the judge's objection to his assessment, the objection that he is not assigned tasks according to the schedule of work so that he could discuss the matters and decide on them without undue delay),
- (e) elects the members of the selection board (in the selection procedure for the position of the President of the Court),
- (f) files a proposal to initiate disciplinary proceedings in the cases provided by this law,
- (g) co-decides on some judges' salary matters,
- (h) approves the rules of procedure of the Court's Council,
- (i) at the request of the President of the Court, it takes an opinion on matters falling within the jurisdiction of the President of the Court,
- (j) decides on other matters, if so provided by a special law.

The term of office of members of court's Council of Judges is of five years. Members of the court's Council of Judges can be re-elected and there is not a limit in the number of terms that a judge can serve as a member of the Court's Council. The function of a member of the Court's Council is an honorary function (757/2004 Coll., and written answers provided by the MoJ).

The court's Council of Judges is basically an advisory body. It acts as a "counterpart" when president and vice-presidents draft the plan to assign cases to judges. The Council's comments are usually taken into consideration, but the last word on the working plan for case assignment is of the President of the Court.

Head of the court administration

Part of the administration of courts is also the Head of the court administration. Administrative management takes care of economic affairs, budget issues, personnel issues. Its role and the interplay with presidents of the courts and other management bodies vary, depending on the size of the court. Some of the head of the court administration participate more thoroughly in the administration of the courts; in bigger courts they are responsible especially for the administration of economic, accounting, and financial matters. However, their authority is often not accepted by judges – they accept only the authority of the president of the court, of the Ministry of Justice, of the Council of Judges and of the Judicial Council of the Slovak republic.

b. Judges' and staff organisation within courts

"Courts decide in panels, if the law does not provide that the case is decided by single judge or the president of the panel. Relevant act provides in which matters can act and decide the judicial assistant" (§ 11 of act no. 757/2004 Col.).

Panels have in their composition the president and two judges, the Grand panel (in the Supreme Court) has the president and six judges.

In district courts a single-judge decides in civil, administrative, and criminal matters in pre-trial proceedings, and in cases that can entail a prison sentence lower than 8 years. Criminal cases with prison sentences higher than 8 years and cases involving minors are handled by a panel of professional judges and lay judges.

In regional courts only judges sitting in panels deal with civil, administrative, and criminal matters.

In the Supreme Court, panels or grand panels decide in civil matters; panels composed of 3 or 5 members or grand panels decide in administrative judicial matters.

Cases are registered in different types of court registers (also called “agendas”) for respective matters. Letters or acronyms are attributed to sub-registers within the main register.

District courts:

- Criminal law (register/docket/agenda T): T, Tk, Tv, Nt, Pp, Td, Tp, Tcud, Pr, M, Ntt;
- Civil law (agenda C): C, Cpr, Cr, Csr, Csp, Ca, Cd, Ccud;
- Commercial law (Agenda Cb): Cb, CbPv, Cbcud, CbR, Cbd, CbBu, CbHs, Cbi, CbZm, CbVO, CbVyl;
- Bankruptcy and restructuring: K, R, NcKR, OdK, OdS, Odi;
- Family, legal guardianship and custody of minors (agenda P): P, PPOm, Pc, Ps, Po, Pu, Pd, Pcup;
- Inheritance (agenda D): D, Dd, Dcup;
- Enforcement of the decision (agenda E): Em, Ed, Ecup;
- Cases necessitating the enforcement through bailiff (agenda E): Er, Ek, Erd, Ercud,
- Electronic order for payment Up;
- Custody: Ú;
- Cases enabling to substitute written document that have been destroyed or lost: UL
- Judicial treasury: JP;
- Administrative Judiciary (agenda S): S, Scud.

Regional courts 1st instance:

- Civil law registers: C, Cd, Cudz;
- Commercial law registers: Cbi, K, V, NcKV, NcCb, Cbnl;
- Criminal law registers: T, Ntok, Ntol, Ntod, Ntc, Ntt, Td;
- Judicial treasury registers: JP;
- Administrative Judiciary: S, Sa, SaZ, NcS, Scud.

Regional courts 2nd instance

- Civil law: Co, CoPr, CoR, CoSr, CoD, CoP, CoUp, CoE, CoEk, CoPom, CoPno, NcC;
- Commercial law: Cob, CoPv, CoZm, CoKR, CobVO, Ncb;
- Criminal law: To, Tov, Tpo, Tos, Nto, Ntro.

In bigger courts, judges are “specialised” in some matters (usually, civil, criminal, commercial, administrative, bankruptcy and restructuring), but, in accordance to the provisions of the law, they must deal with several registers/agendas concurrently.

The lawful condition of random case assignment must be respected. For this reason, specialisation is applied in courts with a higher number of judges. Functioning of the case assignment system is another matter that should be further investigated, especially in courts with different number of judges. The specialisation will necessarily evolve with the reform of the court map. These are all interrelated issues, as the enhanced specialisation, in conditions in which the random assignment of cases has to be respected, requires bigger courts. In some Council of Europe member States the review of the court map was started with only “administrative” merging of smaller courts (at least in the initial phase the resulting bigger courts would function in the premises of merged courts). Having proceeded with merging in this way, specialisation can be pursued by courts’ different branches/offices. For example, the judges from the branch/office of a former smaller court may be specialised in a certain category/categories of cases for the entire jurisdiction of the new court. Of course, the size/composition of the covered population, the placement of different authorities (prosecution offices, prisons etc.), as well as the existence of public transport and other convenient means of communication etc. need to be taken into consideration.

When specialisation is possible, judges are organised into divisions. Judges of each division elect the chair of the division, who gives opinions on professional work and judicial activity.

Meetings among judges are organised regularly in order to discuss about the case-law³⁹ of the court.

As to the “legal framework” provided by the MoJ, the basic element of the internal organisation of the court is the judicial department, which is created for the single judge or panel. A judicial department can be created also for the judicial assistant to whom was delegated the power to act and decide or who is performing other court’s tasks according to a specific act on those matters, in which does not act or decide a judge or a panel. (§ 13 sec. 1, 2 act no. 757/2004 Col.)

The judicial department created for a judge or a panel consist of:

- a) judicial assistant,
- b) court assistant,
- c) other court clerk.

The judicial department created for a judicial assistant consist of:

- a) court assistant,
- b) other court clerk.

To the extent to which the judicial agenda demands it, employees are allowed to perform their tasks in multiple judicial departments. For that purpose, they can be assigned, according to the work-plan, to several judicial departments. Judicial assistants have a degree in law, while court clerks and court assistants must have a full secondary education.

Judicial assistants (sometimes referred to also as “high judicial officers”) can decide in specific matters, such as enforcement or inheritance procedures, while a court assistant “is an employee of the court

³⁹ The use of the term “case-law” is spreading and often refers to the jurisprudence/practice of national courts, as the concept of case-law specific to common law countries is not applicable in the Slovak jurisdiction.

which mainly performs the tasks related to the management of court files and court records of the relevant judicial department, performs the description of the court's decision, as well as other administrative activities specified in the work schedule (written answers provided by MoJ).

The following table shows the division of responsibilities between the two roles, accordingly to the “legal framework”.

Table 21: Judicial assistant and court assistant competences

| Judicial assistant | Court assistant |
|--|---|
| <p>The acts of the judicial assistant are:</p> <ul style="list-style-type: none"> a) acting and deciding in the extent specified by this law, b) factual and legal analysis of the matter, c) other acts of the court. | <p>Acts of the court assistant are:</p> <ul style="list-style-type: none"> a) Acting and decision-making in the extent provided by this law, b) Other activities of the court. |
| <p>Judge can authorise in written judicial assistant to act and decide:</p> <ul style="list-style-type: none"> a) in limited range of matters according to the work schedule, b) in specific subject matter. | <p>Judge can authorise in written court assistant to act and decide:</p> <ul style="list-style-type: none"> a) in limited range of matters according to the work schedule, b) in specific matter. |
| <p>Judicial assistant acts and decides independently on the basis of authorisation given by the judge. Authorisation is part of the work schedule or part of the court file.</p> | <p>Court assistant acts independently on the basis of authorisation of judge, which is part of the work schedule. (§ 9 of the act no. 549/2003 Col.).</p> |
| <p>Judicial assistant performs factual and legal analysis of the case assigned by judge together with his suggestion regarding further course of action in the proceedings and with the reference to the legal sources, literature, jurisprudence of the court, which he utilised for such analysis (§ 3 of act no. 549/2003 Col.)</p> | |
| <p>Judicial official in preparatory state service may perform acts according to this law save as the competence to decide the case.</p> | |
| <p>Judicial assistant performs entry of data to the business register, entry of their changes or he may refuse to enter data to the business register pursuant to relevant act.</p> | |
| <p>Judicial assistant performs entry of data to the register of partners of public sector, entry of their changes or he refuses to enter data to register of partners of the public sector pursuant to relevant act (§ 4 of the act no. 549/2003 Col.)</p> | |

Civil proceedings

Judicial assistant acts and decides in civil proceeding on the basis of authorisation of the judge:

- a) regarding the motion to issue order for payment or to abolish order for payment,
- b) in the inheritance proceeding,
- c) in the enforcement proceeding according to specific act save as the approval of knock down (in auction) by the court,
- d) in the enforcement proceeding regarding decision on upbringing of minors,
- e) in the proceeding regarding the enforcement of decision on unpaid court fees,
- f) In electronic order for payment proceeding.

Court assistant acts and decides in civil proceedings on the basis of authorisation of a judge:

- a) in legal guardianship matters,
- b) in the proceeding regarding the enforcement of decision on unpaid court fees according to specific act,
- c) in the enforcement proceedings according to specific act in the extent of enforcement of decision on unpaid court costs according to specific act, save as:
 - 1. approval of the knock-down by the court,
 - 2. plan of the distribution of residual liquidation assets (liquidation balance).

Administrative proceedings

Judicial assistant decides in administrative judicial proceeding and in civil proceeding on the basis of authorisation of the judge on:

- a) The amount of court costs,
- b) Penalty and disciplinary penalty,
- c) Expert witness, translation and witness costs,
- d) Preliminary payments covering the costs of the evidence,
- e) Court fees,
- f) Exemption from court fees,
- g) Removal of motion's faults and errors,
- h) Measures according to specific act,
- i) Jurisdiction and competence of the court to act,
- j) Admissibility of the intervenient accession,
- k) Interruption of the proceeding according to § 163 of Civil litigious code,
- l) Merging of two cases for single proceedings,
- m) Accession of another participant to the proceeding,
- n) Admissibility of the change of the pleading at the beginning of the proceeding,
- o) On other procedural decisions.

Court assistant can in civil procedure and administrative judicial procedure:

- a) request the payment of the court fee for the submission of application to the bankruptcy proceeding
- b) prepare the applications for the inquiry hearing
- c) arrange the delivery of summons on the inquiry hearing,
- d) arrange the publication of a date of inquiry hearing in the Business gazette,
- e) prepare the inquiry hearing,
- f) prepare the decision about acknowledging bankruptcy creditor that was not present on inquiry hearing regarding the fact that his claim has been denied and about the date for the submission of complaint,
- g) lead the meeting of bankruptcy creditors in cases established by the specific law,
- h) register applications after inquiry hearing,
- i) arrange the works associated with the statistical survey,
- j) issue confirmation about fact known from the court file and issuing official copies, extracts or confirmations demanded by participants,
- k) prepare court file for the judge including the review of conditions of the proceedings (judicial management)
- l) prepare the court file before the submission of the case to appellate decision or revision,

- m) prepare the court file in register proceedings before judge takes decision
- n) mark the supplement on the copy of the judicial decision regarding validity and enforceability of the decisions,
- o) prepare and review the court file before its storage in the record office,
- p) appoint legal guardian for the proceeding,
- q) execute procedural acts regarding the consensual declaration of parenthood by both parents,
- r) perform other tasks according to specific laws,

Court assistant cannot issue decision, against which the law does provide appeal or cassation complaint (§ 6 of the act no. 549/2003 of Col.)

Judicial assistant performs in civil proceedings and administrative proceedings:

- a) Requests,
- b) Acts associated with the reconstruction of court file,
- c) Acts associated with the preparation of the hearing,
- d) Assessment of the conditions for issuing default judgment or judgment based on acceptance or waiver of the claim,
- e) Assessment of conditions for the declaration of bankruptcy
- f) Preparation of the evidence's evaluation after proving of facts terminated,
- g) Preparation of decisions for a judge,
- h) Acts in the enforcement proceedings,
- i) Acts associated with the preparation of court file regarding its submission to the appellate court or to courts deciding revisions,
- j) Acts in the administrative cases and preparation of cases for decision,
- k) Other procedural acts. (§ 7 act. No. 549/2003 Col.).

Criminal proceedings

Judicial assistant acts and decides in criminal proceedings on the basis of authorisation of the judge on:

- a) Returning of important case to the criminal proceeding after the decision in subject

matter case became valid,

- b) Costs of criminal proceedings,
- c) Appointment of legal counsellor,
- d) Expert witness, translation and witness costs
- e) Counting custody and punishment,
- f) Appointing legal guardian for the injured party in cases, when the legal representative of the injured party cannot execute his rights.

Judicial assistant performs in criminal proceedings:

- a) Acts directed to the delivery of complaint and other written documents of the courts,
- b) Handling requests,
- c) Measures necessary for the enforcement of imposed sanctions, protective measures and disciplinary fines,
- d) Acts associated with the reconstruction of court file,
- e) Acts associated with the preparation of main proceedings and other proceedings including the evaluation of evidence in preparatory proceedings,
- f) Preparation of decisions,
- g) Other procedural acts (§ 8 of act no. 549/2003 Col.).

In criminal proceedings, court assistant can predominantly:

- a) assemble the materials regarding the decision on the conditional release, conditional discharge of the sentence or ban of activity, prohibition of residence as well materials regarding decision that should determine how the prison sentence will be served and regarding the deletion of criminal records,
- b) send notification regarding conditional release and deletion of criminal record,
- c) submit report to the criminal register,
- d) ensure the control of correspondence of accused that were detained, because there is a risk they will escape,
- e) participate in the visits of accused that were detained, because there is a risk they will escape,
- f) mark the supplement on the copy of the judicial decision regarding validity and enforceability of the decisions,
- g) arrange the works associated with the statistical survey,
- h) works associated with issuing of official confirmation regarding matters that are known from the court file (§ 11 of act no. 549/2003 Col.).

Focus on the 12 selected courts

Tables 22 and 24 show the internal organisation of the 12 selected courts, distinguishing between staff and judges dealing predominantly with each register/agenda, and staff employed in other court's operational and administration activities.

Table 22: Judges and staff organisation in regional courts Source: Ministry do Justice

| | RC Bratislava | | RC Košice | | RC Žilina | |
|---------------------------------|---------------|-----------|------------|-----------|-----------|-----------|
| | Staff | Judges | Staff | Judges | Staff | Judges |
| Ag. T: Criminal | 7 | 13 | 10 | 13 | 9 | 6 |
| Ag. C: Civil | 40 | 37 | 27 | 28 | 16 | 21 |
| Ag. Cb: Commercial | 22 | 17 | 13 | 9 | 6 | 5 |
| Ag. S: Administrative | 9 | 16 | 19 | 10 | 8 | 6 |
| Sub-total | 78 | 83 | 69 | 60 | 39 | 38 |
| Operation of the court | 28 | | 20 | | 13 | |
| Administration of the court | 25 | | 25 | | 20 | |
| General department of the court | 23 | | 25 | | 21 | |
| Judicial treasury | 93* | | | | | |
| Sub-total | 169 | | 70 | | 54 | |
| Total | 247 | | 139 | | 93 | |

* Please note that the Judicial treasury within the Regional court of Bratislava has jurisdiction over the entire territory of the Slovak Republic, therefore these 93 people work within the Regional Court of Bratislava, but they should be divided and allocated among the various Regional courts.

Table 23 and 25 analyse the ratio between staff and judges, distinguishing between staff working at the register/agenda, and staff employed in other court's operations.

Table23: Ratio between staff and judges – 3 Regional courts

| | RC Bratislava | RC Košice | RC Žilina |
|--|---------------|-----------|-----------|
| Staff working in register's offices | 50% | 50% | 42% |
| Staff working in other operation (but Judicial Treasury) | 50% | 50% | 58% |
| Staff working in register's office per judge | 0,94 | 1,15 | 1,03 |
| Other staff per judge | 2,04 | 1,17 | 1,42 |
| Total staff per judge | 2,98 | 2,32 | 2,45 |

In the 3 regional courts the judges and staff distribution is quite similar: approximately 50% of judges are dealing mainly with civil cases, while the other judges are equally distributed between the other three agendas (commercial, administrative, criminal).

The ratio in the registers offices is approximately 1 assistant per judge. Data show that staff is equally divided (50/50) between agendas and other operation, The Regional Court of Bratislava has supplementary staff employed in the judicial treasury department, which has a nationwide jurisdiction.

Table 24: Judges and staff organisation in 9 district courts

| | DC Bratislava I | | DC Banská Bystrica | | DC Bánovce nad Bebravou | | DC Galanta | | DC Košice I | | DC Martin | | DC Piešťany | | DC Senica | | DC Stará Ľubovňa | |
|----------------------------------|-----------------|-----------|--------------------|-----------|-------------------------|----------|------------|-----------|-------------|-----------|-----------|-----------|-------------|-----------|-----------|----------|------------------|----------|
| | S | J | S | J | S | J | S | J | S | J | S | J | S | J | S | J | S | J |
| Ag. T: Criminal | 12 | 6 | 8 | 4 | 4 | 2 | 10 | 3 | 15 | 7 | 10 | 3 | 5 | 2 | 6 | 1 | 2 | 1 |
| Ag. C: Civil | 55 | 15 | 45 | 14 | 11 | 3 | 43 | 12 | 58 | 22 | 34 | 10 | 34 | 12 | 24 | 7 | 15 | 5 |
| Ag. Cb: Commercial | 29 | 12 | 16 | 7 | 1 | | | | 23 | 9 | 4 | 2 | | | 1 | | 3 | 1 |
| Sub-total | 96 | 33 | 69 | 25 | 16 | 5 | 53 | 15 | 96 | 38 | 48 | 15 | 39 | 14 | 31 | 8 | 20 | 7 |
| Operation of the court | 6 | | 19 | | 5 | | 3 | | 7 | | 3 | | 3 | | 4 | | 4 | |
| Administration of the court | 6 | | 12 | | 3 | | 5 | | 4 | | 4 | | 4 | | 4 | | 3 | |
| General department of the court | 23 | | 18 | | 4 | | 6 | | 14 | | 5 | | 6 | | 5 | | 5 | |
| Commercial register | 23 | | 3 | | | | | | 9 | | | | | | | | | |
| Enforcement/Executive department | | | 107 | | | | | | | | | | | | | | | |
| Department of order for payment | | | 23 | | | | | | | | | | | | | | | |
| Sub-total | 58 | | 182 | | 12 | | 14 | | 34 | | 12 | | 13 | | 13 | | 12 | |
| Total | 154 | | 251 | | 28 | | 67 | | 130 | | 60 | | 52 | | 44 | | 32 | |

The District Court of Banská Bystrica is the only court dealing with electronic enforcement cases, and, for this reason, a large part of staff is employed in the departments “order for payment” and “enforcement”.

The District Courts of Bratislava I, Banská Bystrica and Košice I are business registry courts, for this reason part of staff is dealing with commercial registers. The allocation of personnel and the caseload of this “business registry courts” should be better investigated to have a better idea of the real caseload of the various courts.

Table 25: Ratio between staff and judges – 9 district courts

| | DC Bratislava I | DC Banská Bystrica | DC Bánovce nad Bebravou | DC Galanta | DC Košice I | DC Martin | DC Piešťany | DC Senica | DC Stará Ľubovňa |
|----------------------------|-----------------|--------------------|-------------------------|------------|-------------|-----------|-------------|-----------|------------------|
| Staff in agendas | 62% | 27% | 57% | 79% | 74% | 80% | 75% | 70% | 63% |
| Other staff | 38% | 73% | 43% | 21% | 26% | 20% | 25% | 30% | 38% |
| Staff in agendas per judge | 2,91 | 2,76 | 3,20 | 3,53 | 2,53 | 3,20 | 2,79 | 3,88 | 2,86 |
| Other staff per judge | 1,76 | 7,28 | 2,40 | 0,91 | 0,89 | 0,80 | 0,93 | 1,62 | 1,71 |
| Total staff per judge | 4,67 | 10,04 | 5,60 | 4,47 | 3,42 | 4,00 | 3,71 | 5,50 | 4,57 |

In district courts, excluding the three specialised courts mentioned above, distribution of judges and staff is quite variable: from 60% to 80% of staff is allocated in registries offices working on cases (“agendas”) while 40%-20% has court operation and administration functions. The ratio in registries/agendas is

approximately 3 assistants per judge. From 60% to 80% of judges are dealing mainly with the civil agenda.

c. Statistics. Performance of courts.

As explained by the MoJ, the courts' judicial data in the Slovak Republic are gathered in two ways:

- ICT based⁴⁰ – the Court Management System (“CMS”) - the central information system⁴¹;
- Through the system of judicial statistics – primarily based on papers, collected and aggregated at the central level by the Ministry of Justice of the Slovak Republic⁴².

The CMS is a decentralised system consisting of:

- 8 databases (in line with the regional courts system) containing the full set of entered data;
- 1 centralised DB – merged data from those 8 decentralised DB – the scope of merged data is limited (does not contain all the data from those 8 decentralised DBs)

Data on courts' judicial statistics are collected by the MoJ in two ways:

- Statistical statements – paper based – collected from the courts monthly, quarterly, semi-annually and annually;
- Statistical sheets – paper based/electronic – filled in and collected from the courts once the case has been finally decided

The most obvious thing noted by the CEPEJ team is that cases are registered twice: once in the paper registry and the second time in the CMS (but the implementation of this registration is not streamlined and apparently not even compulsory of all national courts). Both systems seem not to be fully aligned, neither in registered content nor in the procedural steps. Having in mind the above, it is no surprise that court statistics in general are not reliable as they could be. Therefore, to focus on modernising the CMS and rendering its implementation compulsory and consistent across the entire court system is an unconditional must. A suitable implementation of this objective will require proper training of court staff, which should include training on the purpose of court statistics to raise awareness and accuracy.

All the information which may be needed for statistical purposes later, has to be included into the CMS, preferably without overloading the work of handling the input. The modern ICT tools offer solutions for rendering more efficient the input of primary data and automatic exchange between different functional modules and databases. The objective of “facilitation” of the work of court staff to input primary data on the cases shall be always kept in mind.

⁴⁰ A dedicated report assessing the concept, functionalities, practical use and benefits of the ICT systems and tools currently implemented in the Slovak judiciary and including recommendations for their development will be presented as part of the Project, by the CEPEJ experts.

⁴¹ See the MoJ Order No. 543/2005.

⁴² See the MoJ Guideline on Court Statistics, Order No. 31/2005.

The CMS should serve two major objectives: 1) tracking down easily and with precision the information on each case entered into the court system and 2) providing statistics and support for analytical reports for management purposes.

Under the current circumstance, it seems that every month lost in trying to implement the existing system and not developing the CMS, is loss of money and human resources. For example, it has been reported that a “medium” court is using monthly (!) about 132 man-days in producing statistical reports (which represents about 7 units of court personnel FTE (full time equivalent) in human resources, which are usually in high demand for other purposes. Corroborating this information with other findings, for example those related to the number of courts and staffing of the judiciary, or on the quality of statistical data gathering and analysis for the purpose of court management, the expert team have to insist on the seriousness of the situation and the need for reforms based on strategic thinking.

The data collected “on paper” by district courts are sent to the regional courts and put into a “MS Access” databases (8 databases, as per the number of regional courts). It goes without saying, that the procedure itself – without semi-automated feeding of data and consistency checks – is an entry-point for mistakes.

Further on, it seems there are no clear rules of how to collect data and how to enter them into the CMS (categorisation, types of case, steps of procedure to register etc.). But such rules and following them is the key of the success of reliable court statistics. It is necessary to elaborate such rules, train on the application and monitor their application thoroughly (involve court inspection and disciplinary sanctions).⁴³

In the context of the evaluation of European judicial systems, the rules and standards in regard to general principles, procedures and mechanisms, transparency and accountability of data are explicitly referred to in the CEPEJ’s Guidelines on Judicial Statistics (GOJUST) and their appendix EUGMONT - European uniform guidelines for monitoring of judicial timeframes⁴⁴. The set of statistics, of applied indicators, and of the analysis of performance explained and exemplified in the present report are considered enough to get the information needed to manage the system.

Nevertheless, the overall amount of statistical reporting in the Slovak judiciary should be reconsidered. It has been stated that a lot of these reports are being produced as the result of a long-term routine. Likely

⁴³ As one of the judges commenting on a draft of the present report put it: *“Using only electronic registers and electronic court files (CMS) by all courts, all judges and employees, is a crucial matter and the condition of further progress. However, some judges reject the transit towards the “informatisation” of courts and proceedings for two reasons: 1. They are the worst users of tools and what is more, they are not keen to learn and adapt (specialised training is necessary); 2. The CMS monitors every step of the judge. Judges’ activity is more transparent and they are more accountable, which might be the source of their concerns. According to by-laws on court administration, judges have to use the ICT tools approved by the MoJ. However, regulation by by-law is obviously not enough for judges. Hence, the regulation of the respective obligation by law seems to be necessary”.*

⁴⁴ CEPEJ Guidelines on judicial statistics (GOJUST) (CEPEJ (2008)11). Please see the translation in Slovak language on the Project’s webpage: http://www.coe.int/t/dghl/cooperation/cepej/cooperation/slovaquie/default_en.asp?

some of them are not providing any useful information (content) anymore or could serve the purpose through less efforts (e.g. reduce the frequency of their production).

One of the critical parts of the current system of court statistics (and, implicitly, of important aspects of case management) is the fact that the existing CMS, besides being outdated, seems to be managed by a single person (who, as the CEPEJ team was explained, for historical reasons, seems to be the only one having a full understanding, control, steering, further development and crisis handling capacities). In other countries similar tasks of developing integrated case management systems, maintaining them, producing statistical and management reports is done by as many as 300-400 outsourced employees (as, for example, in Austria). Even from the point of view of risks of failure of critical infrastructure this issue has to be addressed immediately.

Analysis of the caseload structure and CEPEJ indicators

Ministry of Justice of the Slovak Republic delivered to the CEPEJ expert team a set of key statistical data for 2012-2016, for all courts of first instance, as well as for each of the 12 selected courts. These data have been analysed by the experts and, although they contain certain inconsistencies which may affect the quality of the analysis, tables and graphs were drawn up for the most important CEPEJ indicators:

1. Clearance Rate (CR);
2. (Forecasted) Disposition Time (DT);
3. Age of Pending Cases (APC);
4. Case Per Judge (CPJ);
5. Case Per Staff (CPS)
6. Staff Per Judge (SPJ);
7. Cost Per Case (CPC);
8. Appeal Rate (AR);
9. Rate of Quashed and Modified Decisions (QMD).

Brief overall analysis of the statistics:

Analysis of the available statistical data of all courts of first instance showed the following results concerning the key indicators:

- Budget: slight increase of the budget excluding capital investments (from 152 million in 2012 to 183 million in 2016), but almost doubled for capital investments (3,7 million in 2012, 6,3 in 2016). Further analysis is provided in the chapter “Budget of the judicial system”.
- Number of judges and staff: almost the same - slight decrease in the number of judges (from 1227 to 1215) and slight increase in the number of staff (from 4339 to 4363). Passing from 3,54 staff per judge to 3,59 in 5 years;
- New and disposed of cases per judge: In 2012 all Slovak first instance courts received 1.481.009 cases and solved 1.254.455 cases. In 2016 there were 1.072.813 new cases before the courts and 1.143.707 have been solved. The number of judges, as already mentioned, slightly decreased to reach 1215 judges in 2016 (compared to 1227 judges in 2012). Thus, the CPJ indicator in 2012 was 1207 for new and 1022 for disposed of cases, while the CPJ indicator in 2016 was 883 for new and 941 for solved cases;

- Case per staff: Slight increase in the number of staff (from 4339 in 2012 to 4363 in 2016), combined with the above mentioned decrease in the number of solved cases (1.254.455 in 2012 to 1.143.707 in 2016), resulted in decreasing of the CPS indicator for the disposed of cases from 289 in 2012 to 262 in 2016;⁴⁵
- Workflow/movement of total number of cases: Inflow of 1.481.009 cases in 2012 raised to 1.592.818 in 2013, but was gradually decreasing since to finally reach 1.072.813 new cases in 2016. The disposing/deciding of the cases was following this pattern (1.254.455 disposed of cases in 2012, 1.561.855 in 2013, and then falling constantly to 1.143.707 in 2016), which leads to inevitable conclusion that, if the annual inflow was bigger, first instance courts were solving more cases, if it was an “easier” year, they were solving less. All of these trends lead to the significant increase of the pending cases (2.185.985 in 2012 to 2.891.895 in 2016);
- Age of pending cases: This a particularly worrying segment; only 32,4% of all of the cases before the first instance courts seems to be solved in terms up to 2 years, all other cases are getting older. Almost half of the total number of cases (47,1%) are older than 4 years. What can be seen from the delivered data, though, is that almost all of the oldest cases are enforcement cases. It has been explained to the CEPEJ expert team that, due to the overall conception of the legal regulation, the court, after issuing the authorisation to the bailiff, loses any „procedural control over the case“, since the enforcement is performed by the bailiff and the court steps in only in instances that are prescribed by the law. Hence, the outcome and duration of the enforcement proceedings primarily depend on the activity of bailiffs. Further analysis is provided in the “time management” chapter.
- Clearance rate was very troubling at the beginning of the reporting period (82,3%), but reached almost satisfying levels already in 2013 (98,1%), and from then on is in every reporting year above 100% and gradually increasing, so it reached 106,6% in 2016;
- Disposition time, on the other hand, is showing negative trends. In 2012 DT was 636 days, it fell to 599 days in 2013 (all the indicators show that this was the most hard-working year with the best results in a 5-year reporting period), but is increasing from then on, especially rapidly last year, when it reached 923 days;
- Workflow/movement of specific types of cases:
 - a) civil and commercial litigious cases: generally showing positive trends; in 2012 and 2013 inflow was higher than solving (in 2012 inflow was 709.014, in 2013 790.794, and the solving was 623.758 in 2012 and 754.204 in 2013), but in last three years the trend is opposite, which is resulting in the decrease of the pending cases (it reached its peak in 2013: 294.546 and was 227.382 at the end of 2016). This is helped by the fact that both inflow and solving are constantly decreasing from 2013, with the inflow decreasing more rapidly (new cases: 713.760 in 2014, 597.197 in 2015, 501.647 in 2016; solved cases: 720.371 in 2014, 656.823 in

⁴⁵ As one of the judges commenting on a draft of the present report put it: *“It is important to take into consideration the evolution of the number of, the efficiency of courts, as well as the structure of undecided cases in recent years. For example, it is clear from the statistics that the number of judges and employees of the courts remains constant, while the number of incoming cases is decreasing each year, together with the efficiency. Another question to be investigated is: what is the structure of undecided cases?”.*

2015, 564.003 in 2016);

- b) administrative cases: positive trends. The situation was extremely troublesome at the beginning of the reporting period with the big inflow of cases (18.984 in 2012) and very modest solving (9.633) which resulted in the big number of pending cases (14.437). It improved significantly in the most successful 2013 (11.463 new, 18.496 solved and 7.639 pending cases) and afterwards was continuing with the good trends of solving being higher than the inflow of cases which resulted in constant decrease of the pending cases to 5.849 in 2016;
- c) criminal cases: positive trends. Except for the year 2012, all the years covered by the report demonstrates that the number of resolved cases was higher than the number of incoming cases. Also, the trend of constant decrease of the new cases is visible (only in 2013 it was higher, but, again, in that year the solving was at its peak);
- d) criminal cases in pre-judicial proceedings: stable income and solving of cases. When the year is “harder”, more cases are being disposed of, when it’s “easier”, less are being solved, so there is a space for improvement. The situation was only troublesome in 2012. The number of pending cases is very low (slightly over 400);
- e) enforcement of a judgement or other final court decision in civil cases: apparently the most worrying segment of the Slovak judiciary. Although the number of new cases has decreased (2012: 654.637, 2013: 693.215, 2014: 565.881, 2015: 566.691, 2016: 480.086), unfortunately, as in the other segments of the work of the first instance courts, this has been followed by the decreasing of the disposed of cases which is hard to explain because there hasn’t been an equal fall in the number of judges and staff (2012: 538.632, 2013: 685.611 (“the best year”), 2014: 569.135, 2015: 542.166, 2016: 482.401!). This is particularly alarming for this type of cases because they are the highest in total numbers. This trend of working as much as needed (or even less) resulted in extremely high increasing of the pending cases (2012: 1.896.303, 2013: 2.237.665, 2014: 2.354.199, 2015: 2.522.176, 2016: 2.632.805!). As explained, in the Slovak Republic the courts do not perform a comprehensive steering of the implementation of enforcement proceedings, therefore their duration is perceived as depending mostly on the activity of bailiffs. The CEPEJ team was not assigned to comment on the possible deficiencies of the system of enforcement of court decisions. It is worth noting that an unreasonably long delay in enforcement of a binding judgment may breach the ECHR. In civil length-of-proceedings cases, enforcement proceedings are the second stage of the proceedings on the merits and the right asserted does not actually become effective until enforcement.⁴⁶ In this respect we would like to mention that the reform of enforcement proceedings was introduced in 2017, however the CEPEJ expert team does not have the capacity to assess its impact;
- f) cases from other categories: inflow of cases was high in 2012 (3.340), then decreased to 668 in 2013 and even 341 in 2016. Although the solving is much higher than the inflow (again, it was highest in 2013: 1.744, and 1.010 in 2016), the number of pending cases has been increased from 6.123 in 2012 to 7.848 in 2016).

⁴⁶ See the [Guide on Article 6 of the European Convention on Human Rights](#), ECtHR, April 2017, p. 367-371.

- Clearance rate of specific types of cases: increasing in all types of cases;
 - a) civil and commercial litigious cases: from 88% in 2012 to 112,4% in 2016;
 - b) administrative cases: from 50,7% in 2012 (with the extraordinary increase to 161,4% in 2013!) to 112% in 2016;
 - c) criminal cases: from 90,3% in 2012 to 107,8% in 2016;
 - d) criminal cases in pre-judicial proceedings: from 69,2% in 2012 to 99,7% in 2016;
 - e) enforcement of a judgement or other final court decision in civil cases: from 82,3% in 2012 to 100,5% in 2016;
 - f) cases from other categories: from 65% in 2012 to 296,2% in 2016;
- Disposition time of specific types of cases:
 - a) civil and commercial litigious cases: staying at almost the same level over the 5-year reporting period (146 days in 2012, 143 days in 2013 and 2014, 140 days in 2015, 147 days in 2016);
 - b) administrative cases: significant fall from 547 days in 2012 to 151 days in 2013, and after that a permanent, but not too worrying constant increasing to 215 days in 2016;
 - c) criminal cases: staying at the same level (108 days in 2012, 102 days in 2016), with the exception of “the best year” 2013 (82 days), since the CR has been stable during the whole reporting period);
 - d) criminal cases in pre-judicial proceedings: staying the same (8 days in 2012, 7 days in 2016);
 - e) enforcement of a judgement or other final court decision in civil cases: increasing constantly over the reporting period (2012: 1285 days, 2013: 1191 days, 2014: 1510 days, 2015: 1698 days, 2016: 1992 days);
 - f) cases from other categories: constant and worrying increase over the years (2012: 1028 days, 2013: 1122 days, 2014: 1510 days, 2015: 2120 days, 2016: 2836 days).
- Appeal rate for the total of first instance courts’ cases: the ratio of appealed decisions has been stable (2,8% in 2012, 2,3% in 2013, 3,2% in 2014, 3,6% in 2015 and 3,0% in 2016). Ratio of decisions quashed or modified in appeal has been doubled from 2013 (0,8%) to 2016 (1,6%). The accuracy of statistical data which served for calculating the AR and QMD has to be verified because those results seem to be too low. If true, these results may be recognised as rather remarkable.
- Appeal rate of the specific types of cases:
 - a) civil and commercial litigious cases: ratio of appealed decisions staying the same (2012: 4,4%, 2016: 4,5%), with the lowest rate in 2013 (3,6%) and the highest in 2015 (5,4%). Ratio of decisions quashed or modified in appeal has been doubled from 2012 (1,3%) to 2016 (2,6%);
 - b) administrative cases: ratio of appealed decisions falling from 19% in 2012 to 12% in 2013 and then increasing to 39% in 2014 and 32% in last two years. Ratio of decisions quashed or modified in appeal has been almost doubled from 2012 (6,5%) to 2016 (12,3%);
 - c) criminal cases: ratio of appealed decision fell from 3,5% in 2012 to 3,1% in 2016 (although it

was constantly raising in between, with reaching the peak of 5,5% in 2015). Unlike the previously mentioned types of cases which are showing the worrying trend of increasing of the quashed or modified decisions (and thus raising concerns about the quality of the first instance decisions), criminal cases are improving – ratio of quashed or modified decisions is gradually decreasing from 3,3% in 2012 (almost all appealed decisions!) to 2,4% in 2016;

- d) criminal cases in pre-judicial proceedings: ratio of appealed decisions slightly increased from 1,8% in 2012 to 2,1% in 2016, but the quality/quashed or modified decisions stayed the same (0,9%).

Focus on the four selected regional courts

In this paragraph, data and indicators from the four selected regional courts (Bratislava, Banská Bystrica, Košice, Žilina) are analysed. Data are broken down by first or second instance for each court, and are presented separately.

As 1st instance court, regional courts are dealing mainly with administrative cases and few civil and criminal cases. As 2nd instance courts they are dealing mainly with the appeals of civil, criminal, and enforcement cases.

Table 26 presents the caseload from 2013 to 2016 for each court. For every year there are the total number of incoming cases, cases disposed of, and pending cases at the end of the period. Data from 2012 were excluded because declared insufficiently reliable by the Ministry of Justice itself.

Table 26: Caseload for 4 regional courts

| | | Regional Court of Banská Bystrica as Appeal Court | Regional Court of Banská Bystrica as 1 st instance court | Regional Court of Bratislava as Appeal Court | Regional Court of Bratislava as 1 st instance court | Regional Court of Košice as Appeal Court | Regional Court of Košice as 1 st instance court | Regional Court of Žilina as Appeal Court | Regional Court of Žilina as 1 st instance court |
|-------------|-------------|---|---|--|--|--|--|--|--|
| 2013 | Incoming | 15.237 | 2.273 | 12.799 | 3.497 | 12.699 | 1.927 | 11.336 | 1.221 |
| | Disposed of | 12.379 | 2.157 | 12.882 | 11.420 | 12.704 | 1.906 | 11.613 | 1.250 |
| | Pending | 4.489 | 1.000 | 5.218 | 3.514 | 3.990 | 1.180 | 1.474 | 384 |
| 2014 | Incoming | 17.445 | 2.075 | 14.343 | 3.198 | 13.418 | 1.814 | 11.062 | 1.498 |
| | Disposed of | 15.713 | 2.228 | 12.790 | 4.687 | 11.032 | 1.930 | 10.976 | 1.457 |
| | Pending | 6.227 | 929 | 6.771 | 2.230 | 6.376 | 1.040 | 1.560 | 458 |
| 2015 | Incoming | 14.829 | 1.988 | 12.591 | 2.980 | 12.397 | 1.767 | 8.864 | 1.283 |
| | Disposed of | 16.636 | 2.094 | 12.826 | 2.861 | 12.041 | 1.784 | 9.122 | 1.452 |
| | Pending | 4.426 | 870 | 6.536 | 2.542 | 6.732 | 1.010 | 1.302 | 364 |
| 2016 | Incoming | 9.587 | 1.387 | 10.630 | 3.559 | 11.505 | 1.455 | 6.707 | 1.049 |
| | Disposed of | 11.411 | 1.662 | 11.554 | 3.396 | 13.375 | 1.621 | 7.042 | 1.135 |
| | Pending | 2.602 | 682 | 5.612 | 2.864 | 4.862 | 844 | 967 | 353 |

Data show that the caseload of 2nd instance incoming cases in Bratislava, Banská Bystrica and Košice are similar, Košice showing a significant increase in the number of solved cases in 2016. The Regional Court

of Žilina has the smallest caseload among those four regional courts, and its peculiarity is the important decrease of incoming cases in 2015-2016. As to 1st instance, and as expected, Bratislava is the court with the biggest number of incoming cases.

Table 27 can be useful to understand the evolution of caseflow during the reported period of 4 years.

Table 27: Percentage variation from the previous year

| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|---|-----------|--------------|----------|-----------|--------------|----------|-----------|--------------|----------|-----------|--------------|----------|
| | Incom ing | Dispo sed of | Pendi ng | Incom ing | Dispo sed of | Pendi ng | Incom ing | Dispo sed of | Pendi ng | Incom ing | Dispo sed of | Pendi ng |
| Banská Bystrica as appeal court | -4% | -20% | 170% | 14% | 27% | 39% | -15% | 6% | -29% | -35% | -31% | -41% |
| Banská Bystrica as 1 st instance court | 37% | 38% | 20% | -9% | 3% | -7% | -4% | -6% | -6% | -30% | -21% | -22% |
| Bratislava as Appeal Court | -12% | | -2% | 12% | -1% | 30% | -12% | 0% | -3% | -16% | -10% | -14% |
| Bratislava as 1 st instance court | -73% | | -69% | -9% | -59% | -37% | -7% | -39% | 14% | 19% | 19% | 13% |
| Košice as Appeal Court | 25% | 36% | 0% | 6% | -13% | 60% | -8% | 9% | 6% | -7% | 11% | -28% |
| Košice as 1 st instance court | 9% | 42% | 1% | -6% | 1% | -12% | -3% | -8% | -3% | -18% | -9% | -16% |
| Žilina as Appeal Court | 49% | | -16% | -2% | -5% | 6% | -20% | -17% | -17% | -24% | -23% | -26% |
| Žilina as 1 st instance court | 17% | 2% | -2% | 23% | 17% | 19% | -14% | 0% | -21% | -18% | -22% | -3% |

As the Figures 19 and 20 show, incoming cases and pending cases decreased in 2015 and 2016 with the only exception of Bratislava 1st instance.

Figure 19: Total incoming cases in 4 regional courts

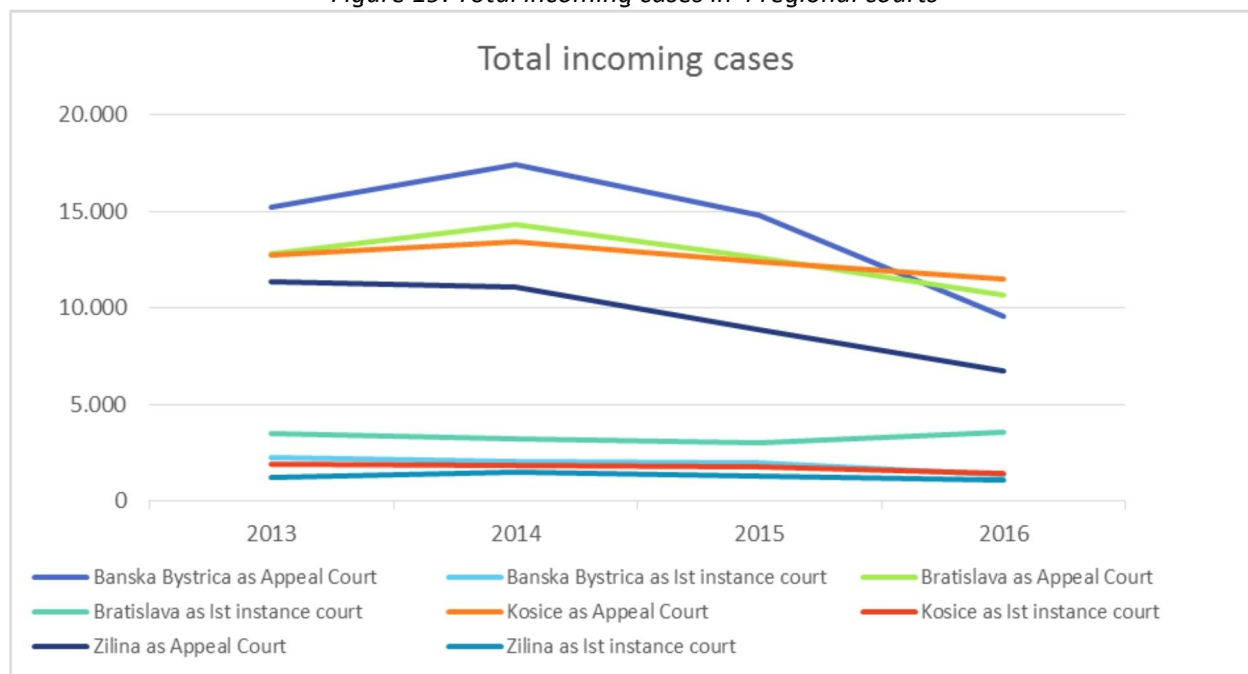


Figure 20: Total pending cases in 4 regional courts

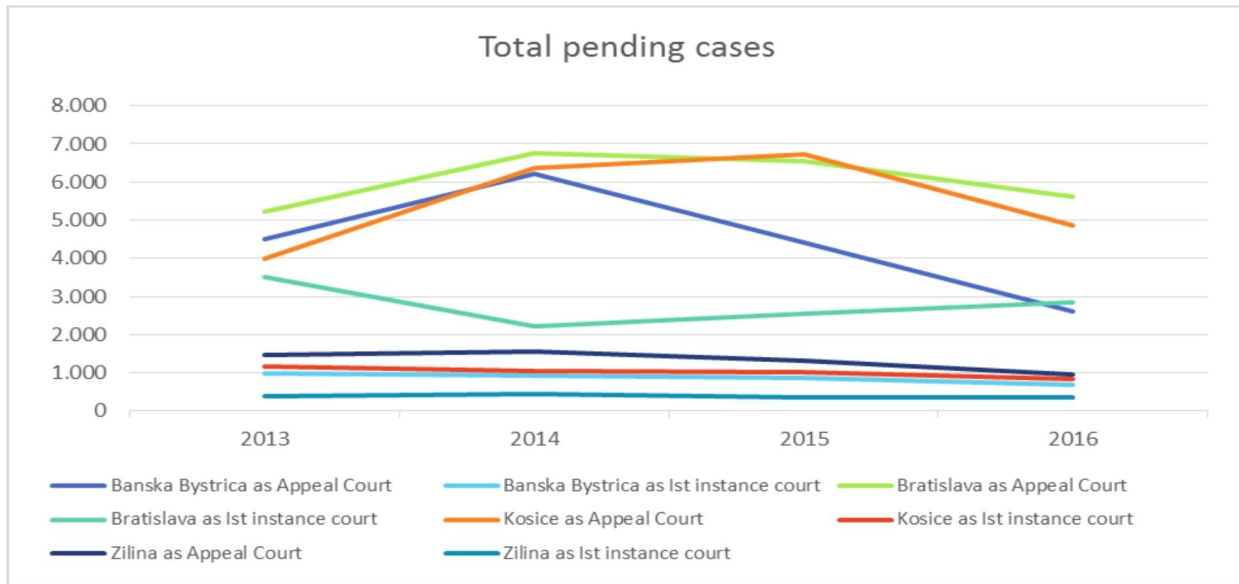


Table 28 shows the values of three indicators (clearance rate, disposition time and appeal ratio) and their evolution in the last 4 years. Clearance rate values are coloured in red when they are below 1, in green when they are above. Disposition time values are coloured in a red-white-green scale, where red is the highest value and green is the lowest one. Appeal ratio values are coloured in a red-gold-green scale, where red is the highest value and green is the lowest one.

Table 28: Indicators in 4 regional courts

| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|---|------|-----|-------|------|-----|-------|------|-----|-------|------|-----|-------|
| | CR | DT | AR | CR | DT | AR | CR | DT | AR | CR | DT | AR |
| Banská Bystrica as appeal court | 0,81 | 132 | 0,0% | 0,90 | 145 | 0,0% | 1,12 | 97 | 0,0% | 1,19 | 83 | 0,0% |
| Banská Bystrica as 1 st instance court | 0,95 | 169 | 16,6% | 1,07 | 152 | 16,7% | 1,05 | 152 | 24,5% | 1,20 | 150 | 38,2% |
| Bratislava as Appeal Court | 1,01 | 148 | 0,0% | 0,89 | 193 | 0,0% | 1,02 | 186 | 0,0% | 1,09 | 177 | 0,0% |
| Bratislava as 1 st instance court | 3,27 | 112 | 5,3% | 1,47 | 174 | 58,8% | 0,96 | 324 | 28,6% | 0,95 | 308 | 24,9% |
| Košice as Appeal Court | 1,00 | 115 | 0,0% | 0,82 | 211 | 0,0% | 0,97 | 204 | 0,0% | 1,16 | 133 | 0,0% |
| Košice as 1 st instance court | 0,99 | 226 | 19,0% | 1,06 | 197 | 31,5% | 1,01 | 207 | 36,3% | 1,11 | 190 | 28,5% |
| Žilina as Appeal Court | 1,02 | 46 | 0,3% | 0,99 | 52 | 0,2% | 1,03 | 52 | 0,3% | 1,05 | 50 | 0,1% |
| Žilina as 1 st instance court | 1,02 | 112 | 18,5% | 0,97 | 115 | 39,7% | 1,13 | 92 | 39,1% | 1,08 | 114 | 32,9% |

In the last two years, the clearance rate had positive values in almost every court, with the exception of Bratislava as 1st instance, which had also a high disposition time (almost 1 year) and a high appeal ratio, that could indirectly indicate on a low quality of decisions. On the other hand, it should be taken into consideration that this court adjudicates in the capital of the Slovak Republic, where the parties are more often represented by attorneys, and many companies also have their seat in the jurisdiction of this court. This court also handles cases that are more complex both from substantive and legal point of view.

Figures 21 and 22 show the incoming and pending cases structure, broken down by kind of cases (civil and commercial, administrative, criminal pre-judicial, criminal, enforcement).

Figure 21: Incoming cases structure in 4 regional courts in 2016

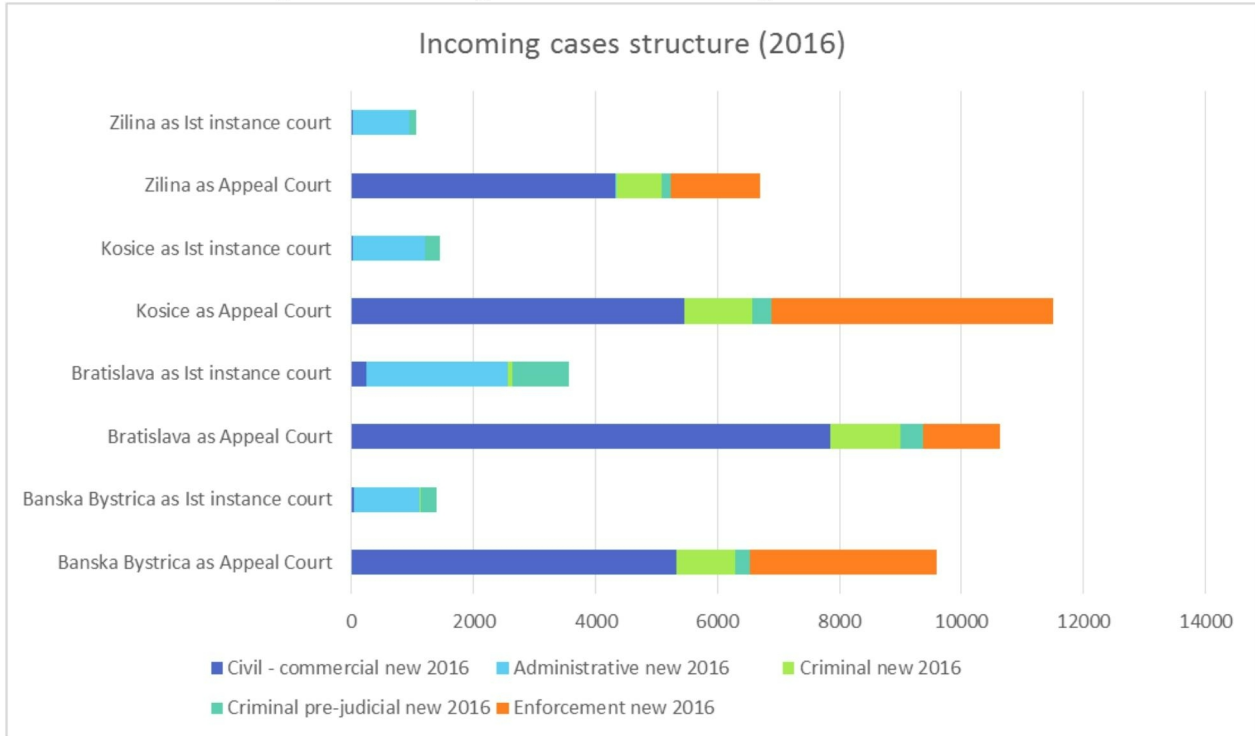
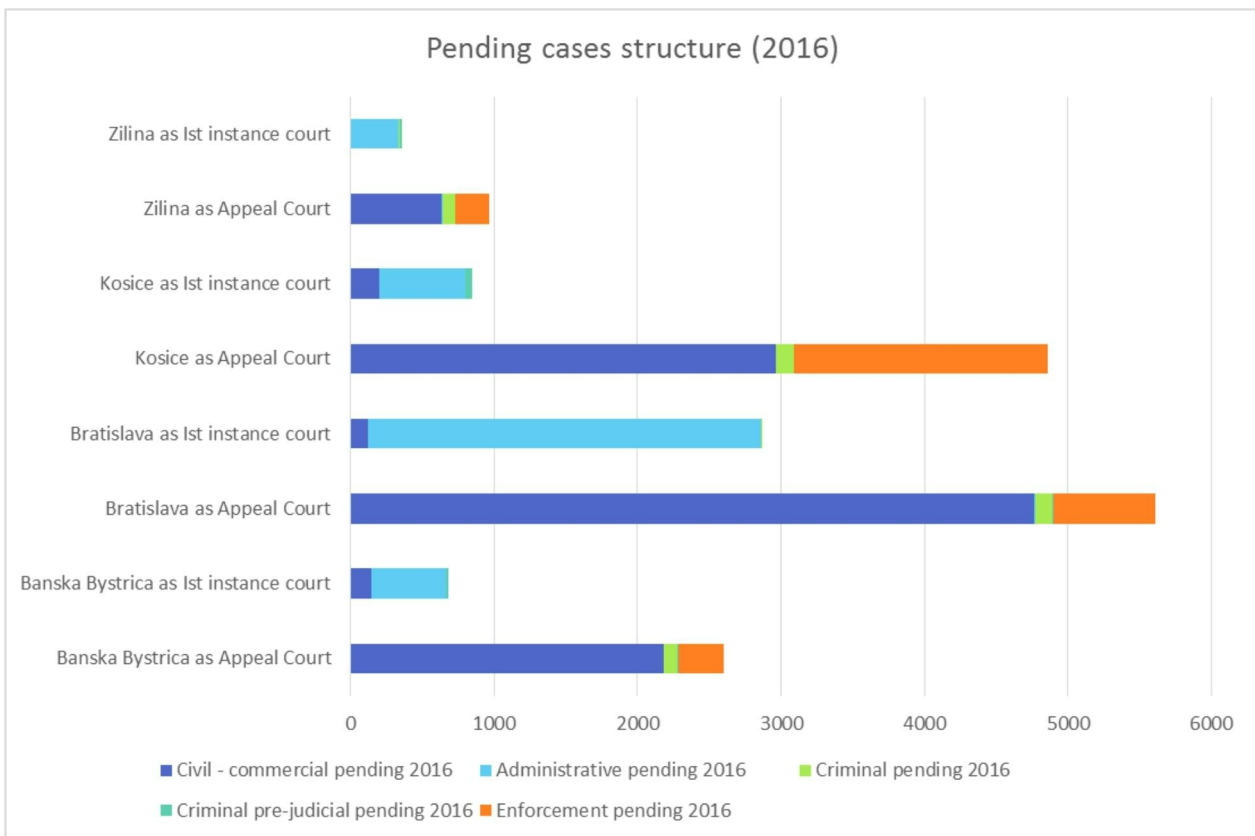


Figure 22: Pending cases structure in 4 regional courts in 2016



Compared to the other courts, Bratislava as 1st instance has a large number of incoming administrative cases and criminal pre-judicial, while as 2nd instance it has more civil and commercial incoming cases. Košice I as appeal court in 2016 dealt with a higher number of enforcement cases.

As to the pending cases, Bratislava has the highest number of cases, both as 1st and 2nd instance, especially in administrative and civil-commercial proceedings, while Košice in 2nd instance has a large number of enforcement pending cases. The age of pending cases and the concept of backlog is analysed in the time management chapter.

The following tables show the “**case per judge**” and “**case per staff**” indicators.

Table Table 29 shows the evolution of the case per judge indicator over the years, calculated per incoming, disposed of and pending cases, while Table 30 shows the case per staff indicator, calculated in the same way.

Incoming and pending cases per judge and staff are coloured in a red-white-green scale, where red is the higher number and green is the lower one. Disposed of cases per judge and staff are coloured in a red-white-green inverted scale, where green is the higher number, and red is the lower one.

Since judges and staff data provided are not broken down by instance, data of the same courts have been aggregated.

Table 29: Case per judge - 2013 to 2016 – 4 Regional courts

| | Incoming per judge | | | | Disposed of per judge | | | | Pending per judge | | | |
|-----------------|--------------------|------|------|------|-----------------------|------|------|------|-------------------|------|------|------|
| | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 |
| Banská Bystrica | 384 | 431 | 366 | 241 | 319 | 396 | 407 | 287 | 120 | 158 | 115 | 72 |
| Bratislava | 213 | 229 | 204 | 180 | 318 | 228 | 206 | 190 | 114 | 118 | 119 | 108 |
| Košice | 226 | 239 | 228 | 208 | 225 | 203 | 223 | 241 | 80 | 116 | 125 | 92 |
| Žilina | 332 | 323 | 254 | 196 | 340 | 320 | 265 | 206 | 49 | 52 | 42 | 33 |

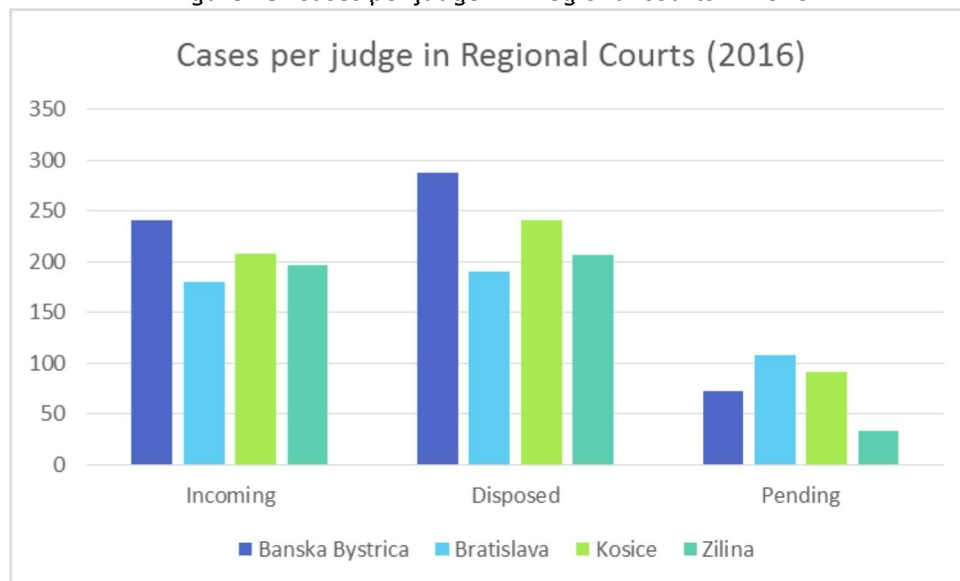
Table 30: Case per staff - 2013 to 2016 – 4 regional courts

| | Incoming per staff | | | | Disposed of per staff | | | | Pending per staff | | | |
|-----------------|--------------------|------|------|------|-----------------------|------|------|------|-------------------|------|------|------|
| | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 |
| Banská Bystrica | 170 | 190 | 160 | 93 | 141 | 174 | 178 | 111 | 53 | 69 | 50 | 28 |
| Bratislava | 68 | 73 | 65 | 57 | 101 | 73 | 65 | 60 | 36 | 37 | 38 | 34 |
| Košice | 115 | 118 | 112 | 94 | 115 | 100 | 110 | 109 | 41 | 57 | 61 | 41 |
| Žilina | 164 | 163 | 130 | 85 | 168 | 161 | 135 | 90 | 24 | 26 | 21 | 14 |

Incoming per judges and staff decreased in all the courts, but the more substantial fall took place in Banská Bystrica and Žilina. Banská Bystrica maintained a high number of disposed of cases per judge and staff; Košice increased the number of cases disposed of, while in Bratislava and Žilina the number fell. As to the pending cases per judge and per staff, the number decrease in all the courts except in Košice.

The following Figure 23 shows the cases per judge in Regional courts in 2016.

Figure 23: Cases per judge in 4 regional courts in 2016



Banská Bystrica is the court with more incoming and disposed of cases per judge. Bratislava is the court with more pending cases, Žilina is the one with less pending cases.

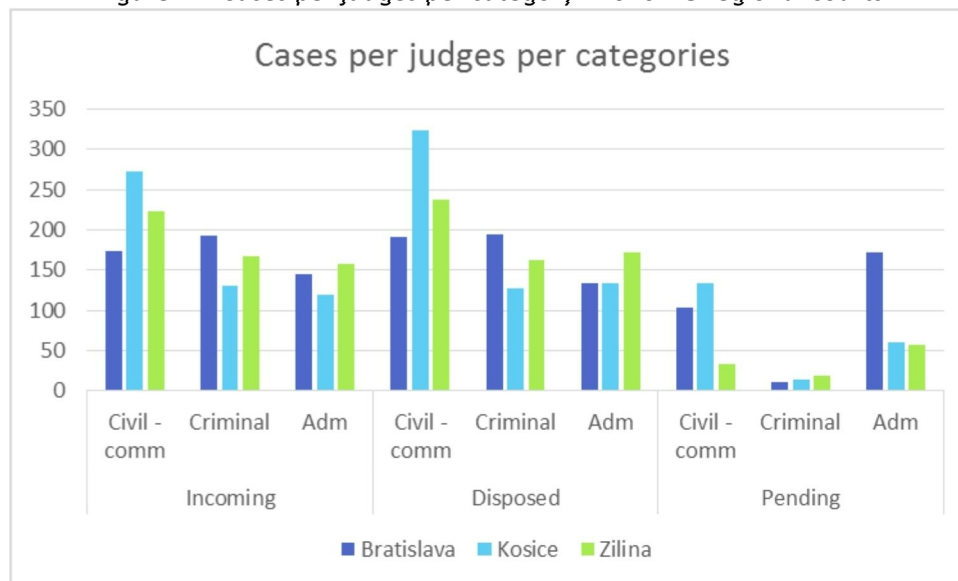
In the following tables data are broken down by categories of cases. For this purpose, enforcement cases were considered part of the category of civil and commercial cases, while criminal pre-judicial cases were added to the category of criminal cases. This merging was necessary to calculate this indicator, because, as of today, data on the number of judges are available only divided into the wide categories of civil, commercial, criminal and administrative. Data of Banská Bystrica about the distribution of staff and judges were not available.

Table 31: Cases per judge per macro category – 3 regional courts

| | Incoming | | | Disposed of | | | Pending | | |
|------------|--------------|----------|-----|--------------|----------|-----|--------------|----------|-----|
| | Civil - comm | Criminal | Adm | Civil - comm | Criminal | Adm | Civil - comm | Criminal | Adm |
| Bratislava | 173 | 193 | 145 | 190 | 194 | 134 | 104 | 10 | 172 |
| Košice | 273 | 130 | 119 | 324 | 128 | 134 | 134 | 13 | 60 |
| Žilina | 224 | 167 | 158 | 237 | 163 | 172 | 34 | 18 | 56 |

Differences in distribution of cases through the different categories are better shown in the following Figure 24.

Figure 24: Cases per judges per category - 2016 – 3 regional courts



The distribution of cases per judges for different categories is quite uneven across the courts: Košice is the court with most civil /commercial incoming cases, while in Bratislava judges deal with more criminal cases. Žilina is the court with the highest number of administrative cases (incoming and disposed of) per judge. In Žilina judges have few pending cases (all categories), while in Bratislava they have a higher number of administrative and civil / commercial pending cases.

Focus on eight selected district courts

In this paragraph data provided by the Ministry of Justice and indicators from the 8 district pilot courts (Bratislava I, Banská Bystrica, Galanta, Košice I, Martin, Piešťany, Senica, Stará Ľubovňa) are analysed.

Table 32: Caseflow for 8 district courts

| | | Banská Bystrica | Bratislava I | Galanta | Košice I | Martin | Piešťany | Senica | Stará Ľubovňa |
|-------------|-------------|-----------------|--------------|---------|----------|--------|----------|--------|---------------|
| 2013 | Incoming | 46.054 | 74.346 | 39.939 | 55.904 | 24.053 | 17.070 | 15.389 | 8.629 |
| | Disposed of | 46.533 | 77.068 | 39.042 | 56.285 | 25.873 | 16.610 | 15.463 | 8.346 |
| | Pending | 67 466 | 61.598 | 95.313 | 83.123 | 64.069 | 56.127 | 37.263 | 21.736 |
| 2014 | Incoming | 38.040 | 65.440 | 35.788 | 45.779 | 21.791 | 12.135 | 13.228 | 7.684 |
| | Disposed of | 38.241 | 72.251 | 34.345 | 46.825 | 22.744 | 14.931 | 13.389 | 7.558 |
| | Pending | 71 282 | 59.208 | 103.310 | 87.891 | 69.866 | 55 679 | 38.973 | 23.429 |
| 2015 | Incoming | 34.554 | 61.611 | 31.439 | 47.167 | 19.864 | 9.240 | 12.397 | 6.451 |
| | Disposed of | 36.105 | 63.784 | 32.473 | 44.795 | 20.889 | 11.067 | 13.321 | 6.270 |
| | Pending | 73 227 | 59.275 | 108.908 | 97.904 | 73.267 | 51.686 | 39.611 | 24.032 |
| 2016 | Incoming | 33.584 | 57.864 | 23.749 | 40.927 | 18.184 | 8.700 | 10.492 | 5.387 |
| | Disposed of | 33.812 | 61.579 | 26.660 | 43.212 | 18.980 | 9.444 | 11.268 | 5.561 |
| | Pending | 76 425 | 56.649 | 113.512 | 101.186 | 76.548 | 51 450 | 41.606 | 24.900 |

Table 33 shows the yearly variation in incoming, disposed of and pending case from the previous year. Data in red are probably wrong, because they excessively fluctuate. Furthermore, pending cases do not equal to previous year pending cases + incoming cases – disposed of cases.

Especially in the course of the last 3 years, in almost all the courts (except for Bratislava I) incoming cases fell, disposed of cases decreased to a minor extent, and pending cases slightly increased.

Table 33: Percentage variation from the previous year

| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|-----------------|---------------|------------------|--------------|---------------|------------------|--------------|---------------|------------------|--------------|---------------|------------------|--------------|
| | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing |
| Banská Bystrica | 12% | 17% | | -17% | -18% | 7% | -9% | -6% | -14% | -3% | -6% | 4% |
| Bratislava I | 11% | 7% | 8% | -12% | -6% | -4% | -6% | -12% | 0% | -6% | -3% | -4% |
| Galanta | 5% | 2% | 13% | -10% | -12% | 8% | -12% | -5% | 5% | -24% | -18% | 4% |
| Košice I | 24% | 98% | 9% | -18% | -17% | 6% | 3% | -4% | 11% | -13% | -4% | 3% |
| Martin | -2% | 13% | 12% | -9% | -12% | 9% | -9% | -8% | 5% | -8% | -9% | 4% |
| Piešťany | -15% | -13% | 6% | -29% | -10% | -1% | -24% | -26% | -7% | -6% | -15% | 0% |
| Senica | -3% | -4% | 12% | -14% | -13% | 5% | -6% | -1% | 2% | -15% | -15% | 5% |
| Stará Ľubovňa | -6% | -8% | 16% | -11% | -9% | 8% | -16% | -17% | 3% | -16% | -11% | 4% |

The charts below show the total incoming cases and the total pending cases flows during the five-year period, graphically showing the trends above mentioned.

Figure 25: Total incoming cases in 8 district courts

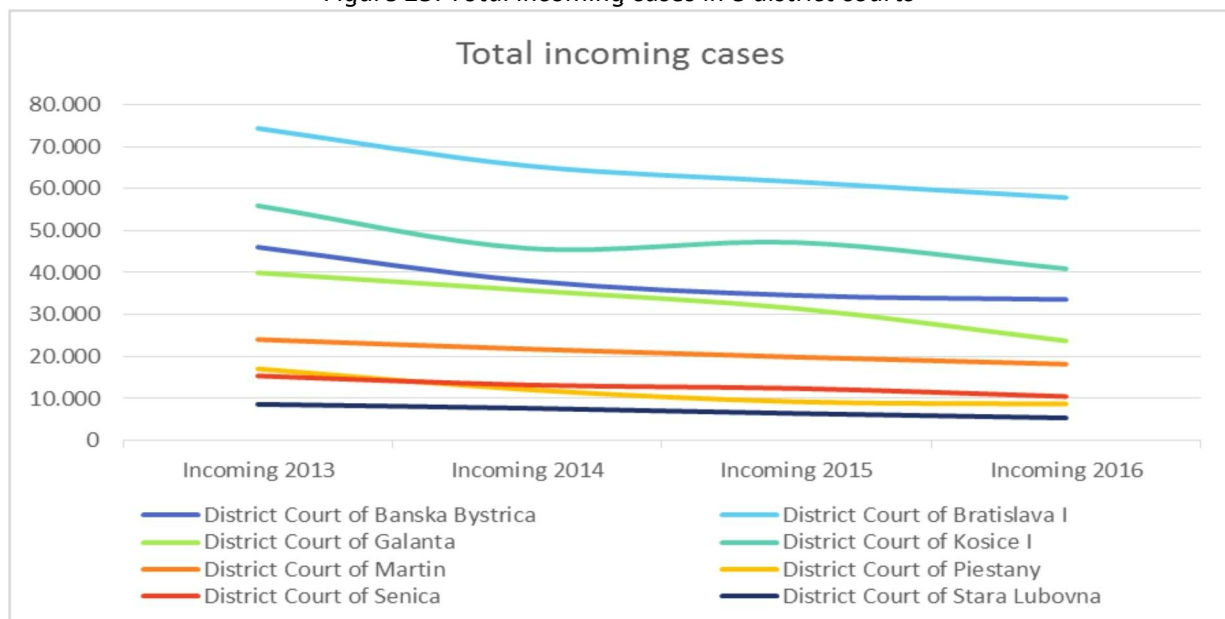


Figure 26: Total pending cases in 8 district courts

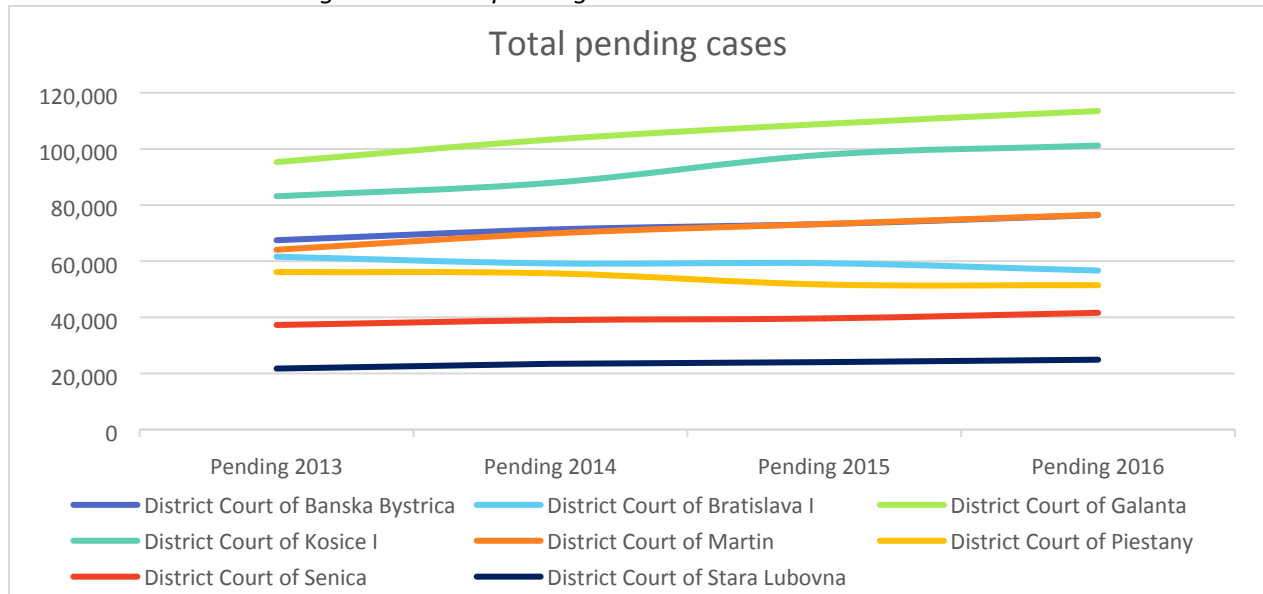


Table 34 presents the evolution in 4 years of the three indicators: Clearance Rate, Forecasted Disposition Time, and Appeal Rate.

Table 34: Indicators in 8 district courts

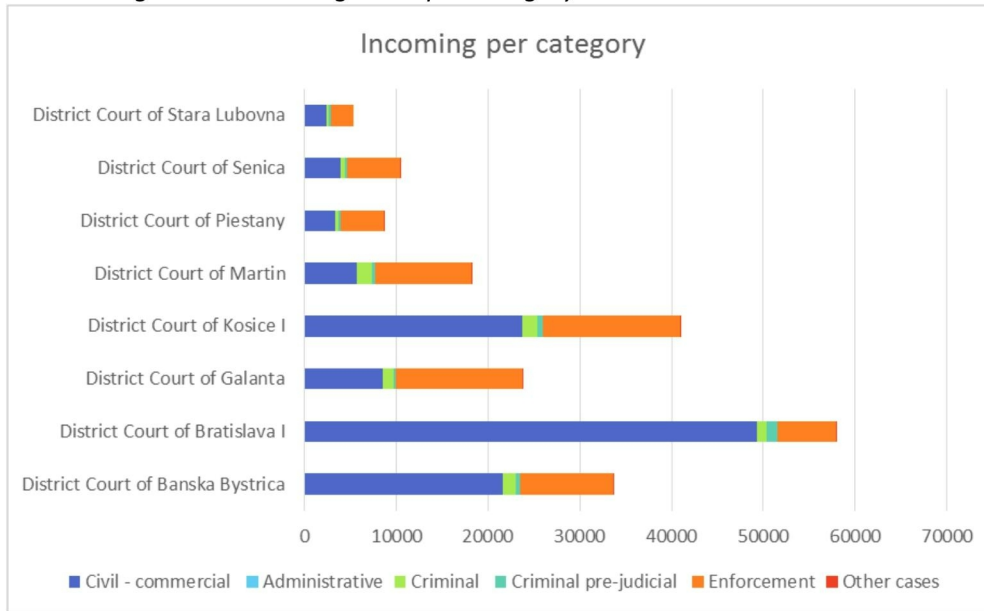
| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|-----------------|------|-------|------|------|-------|------|------|-------|------|------|-------|------|
| | CR | DT | AR | CR | DT | AR | CR | DT | AR | CR | DT | AR |
| Banská Bystrica | 1,01 | 529 | 0,8% | 1,01 | 680 | 1,6% | 1,04 | 740 | 2,0% | 1,01 | 825 | 1,7% |
| Bratislava I | 1,04 | 292 | 2,2% | 1,10 | 299 | 2,8% | 1,04 | 339 | 3,1% | 1,06 | 336 | 2,7% |
| Galanta | 0,98 | 891 | 1,5% | 0,96 | 1.098 | 3,9% | 1,03 | 1.224 | 3,6% | 1,12 | 1.554 | 3,6% |
| Kosice I | 1,01 | 539 | 2,4% | 1,02 | 685 | 3,0% | 0,95 | 798 | 4,0% | 1,06 | 855 | 3,9% |
| Martin | 1,08 | 904 | 1,6% | 1,04 | 1.121 | 1,4% | 1,05 | 1.280 | 2,2% | 1,04 | 1.472 | 2,0% |
| Piešťany | 0,97 | 1.233 | 3,0% | 1,23 | 1.361 | 6,0% | 1,20 | 1.705 | 5,3% | 1,09 | 1.988 | 1,8% |
| Senica | 1,00 | 880 | 2,5% | 1,01 | 1.062 | 3,9% | 1,07 | 1.085 | 3,8% | 1,07 | 1.348 | 2,7% |
| Stará Ľubovňa | 0,97 | 951 | 3,2% | 0,98 | 1.131 | 2,6% | 0,97 | 1.399 | 4,1% | 1,03 | 1.634 | 3,8% |

The Clearance Rate, especially in the last three years, has been higher than 1. This means that more cases have been disposed of than the incoming ones. However, the upward trend in pending cases shows that the number of cases disposed of is not enough to tear substantially down the number of pending cases. Moreover, such a trend, if the CR is constantly above 1, indicates on the deficiency of statistical data.

As Table 34 shows, the forecasted Disposition Time indicator is very different across the courts, from a minimum of 57 days to a maximum of 1 634 days (in 2016).

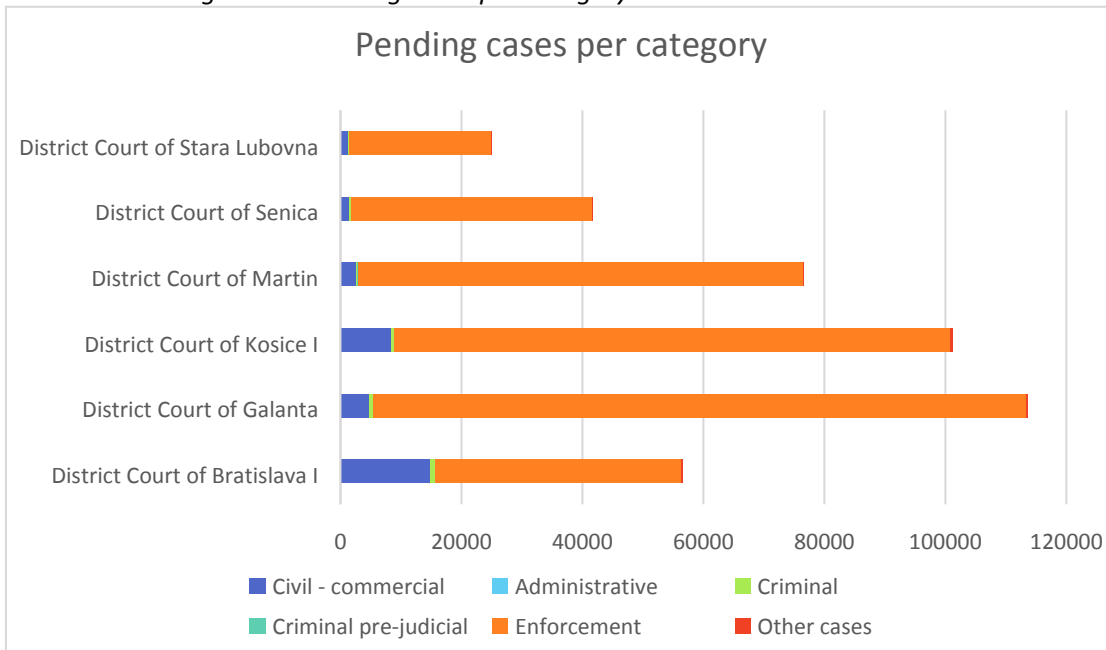
As already mentioned, data supplied should be checked because there are doubts about their reliability that can jeopardise any analysis. The same concern about the reliability of data is also raised for the Appeal Ratio indicator that has very low values.

Figure 27: Incoming cases per category in 2016 in 8 district courts



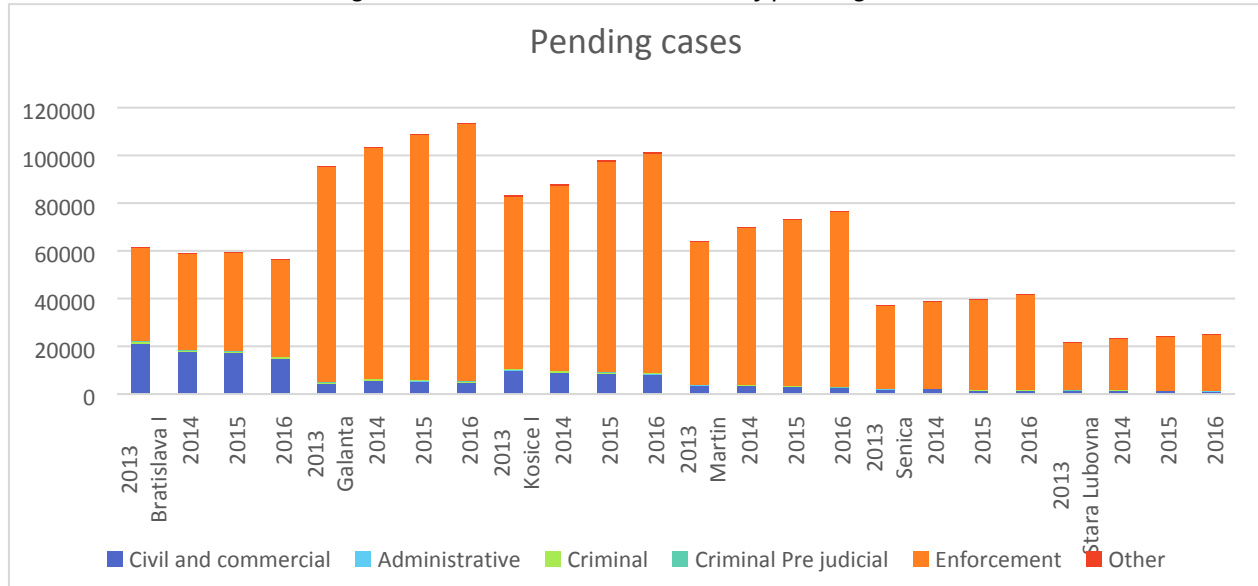
As Figure 27 shows, the incoming cases structure (case categories) is quite different in the 8 district courts. In 2016, in Bratislava I, Banská Bystrica and Košice I, more than half of the incoming proceedings were civil and commercial, while in Senica, Piešťany, Martin and Galanta most of the proceedings were enforcement cases. In every court, even in those where incoming cases are mostly civil and commercial proceedings, enforcement cases were by far the majority of pending cases, as Figure 28 shows.

Figure 28: Pending cases per category in 2016 in 8 District courts



Analysing the evolution of the pending cases of each district court in the four-year period (Figure 29), it is crystal clear that the increasing of pending cases is due to the constant rise of enforcement pending cases, while the other case categories are quite steady.

Figure 29: Structure and evolution of pending cases



The following tables show the “case per judge” and “case per staff” indicators. Table 35 shows the evolution of the case per judge indicator over the years, calculated per incoming, disposed of and pending cases, while Table 36 shows the case per staff indicator, calculated in the same way.

Incoming and pending cases per judge and staff are coloured in a red-white-green scale, where red is the higher number and green is the lower one. Disposed of cases per judge and staff are coloured in a red-white-green inverted scale, where green is the higher number, and red is the lower one.

Table 35: Case per judge - 2013 to 2016 – 8 district courts

| | Incoming per judge | | | | Disposed of per judge | | | | Pending per judge | | | |
|-----------------|--------------------|-------|-------|-------|-----------------------|-------|-------|-------|-------------------|-------|-------|-------|
| | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 |
| Banská Bystrica | 1.842 | 1.534 | 1.440 | 1.411 | 1.861 | 1.542 | 1.504 | 1.421 | 2.699 | 2.874 | 3.051 | 3.211 |
| Bratislava I | 1.868 | 1.508 | 1.443 | 1.422 | 1.936 | 1.665 | 1.494 | 1.513 | 1.548 | 1.364 | 1.388 | 1.392 |
| Galanta | 2.481 | 2.309 | 1.929 | 1.963 | 2.425 | 2.216 | 1.992 | 2.203 | 5.920 | 6.665 | 6.681 | 9.381 |
| Kosice I | 1.456 | 1.211 | 1.203 | 1.041 | 1.466 | 1.239 | 1.143 | 1.100 | 2.165 | 2.325 | 2.498 | 2.575 |
| Martin | 1.440 | 1.337 | 1.342 | 1.129 | 1.549 | 1.395 | 1.411 | 1.179 | 3.836 | 4.286 | 4.950 | 4.755 |
| Piestany | 1.399 | 971 | 776 | 879 | 1.361 | 1.194 | 930 | 954 | 4.601 | 4.454 | 4.343 | 5.197 |
| Senica | 1.452 | 1.350 | 1.550 | 1.295 | 1.459 | 1.366 | 1.665 | 1.391 | 3.515 | 3.977 | 4.951 | 5.137 |
| Stara Lubovna | 1.233 | 1.372 | 1.075 | 829 | 1.192 | 1.350 | 1.045 | 856 | 3.105 | 4.184 | 4.005 | 3.831 |

Table 36: Case per staff - 2013 to 2016 – 8 district courts

| | Incoming per staff | | | | Disposed of per staff | | | | Pending per staff | | | |
|-----------------|--------------------|------|------|------|-----------------------|------|------|------|-------------------|-------|-------|-------|
| | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 | 2013 | 2014 | 2015 | 2016 |
| Banská Bystrica | 437 | 353 | 328 | 335 | 441 | 354 | 343 | 337 | 640 | 661 | 695 | 761 |
| Bratislava I | 465 | 405 | 384 | 369 | 482 | 447 | 397 | 393 | 385 | 367 | 369 | 362 |
| Galanta | 552 | 513 | 450 | 354 | 540 | 493 | 465 | 397 | 1.318 | 1.482 | 1.560 | 1.692 |
| Kosice I | 395 | 337 | 352 | 312 | 398 | 345 | 334 | 330 | 587 | 648 | 730 | 772 |
| Martin | 377 | 335 | 316 | 305 | 406 | 350 | 333 | 318 | 1.004 | 1.075 | 1.167 | 1.282 |
| Piestany | 304 | 218 | 175 | 172 | 296 | 269 | 209 | 186 | 1.000 | 1.001 | 977 | 1.015 |
| Senica | 336 | 288 | 275 | 240 | 338 | 291 | 296 | 257 | 814 | 847 | 880 | 950 |
| Stara Lubovna | 263 | 234 | 198 | 171 | 254 | 230 | 192 | 177 | 663 | 714 | 737 | 790 |

The variation of the indicators through the years is mirroring the variation of incoming, resolved and pending cases, since the number of judges and staff did not change significantly over the years.

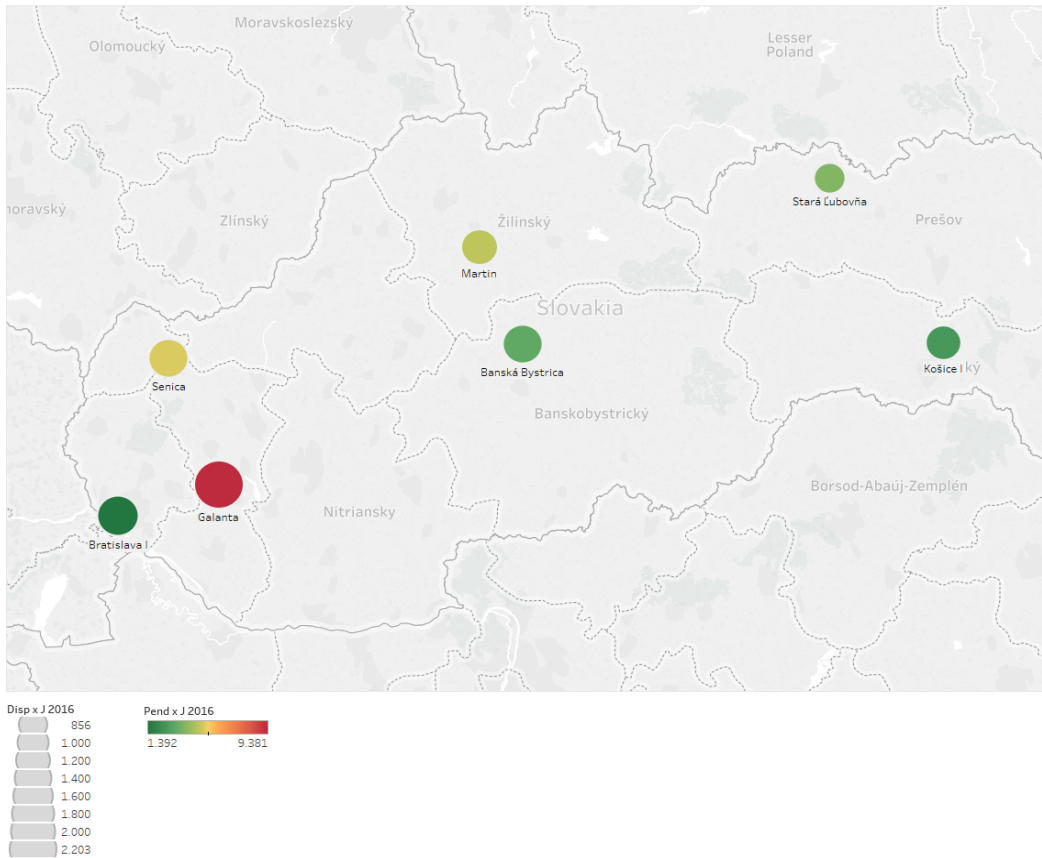
Even though a more in depth analysis of the caseload of every court and a weighted caseload system is not in place, data show that there are dramatic differences in particular in the number of cases per judges, and also per staff, across courts in the four-year period. More in detail, data show that:

- Galanta is the court with the highest number of incoming and, in particular, pending cases per judge and per staff, although the number of cases disposed of per judge (“productivity”) is the highest
- Banská Bystrica and Bratislava I, compared to the other selected courts, have more incoming cases per judges and per staff, but relatively less pending cases.
- Martin, Piešťany, Stará Ľubovňa, and Senica have less incoming cases, fewer cases disposed of per judge, and a high number of pending cases.
- Košice I has a relatively low number of incoming cases per judge and staff, a relatively low number of cases disposed of per judges and staff and a relatively low number of pending cases per staff and judges.

The following map shows the “productivity” (cases disposed of per judge) and the “caseload” (pending cases per judge) distribution in 2016. The number of pending cases per judge is represented in a red-gold-green scale, where red is the highest caseload and green is the lowest one; the size of the mark represents the number of cases disposed of per judge.

Figure 30: Disposed of and pending cases per judge in 2016 – map – 8 district courts

Disposed and pending per judge



The following table shows the “cases per judge” (CPJ) indicator distinguished per case category. In this case, enforcement, administrative and other cases were necessarily considered part of civil and commercial cases, while criminal pre-judicial cases were added to the criminal cases. This merge of case categories is necessary to calculate this indicator, because, as of today, data on the number of judges are available only divided into the macro case categories: civil-commercial, and criminal.

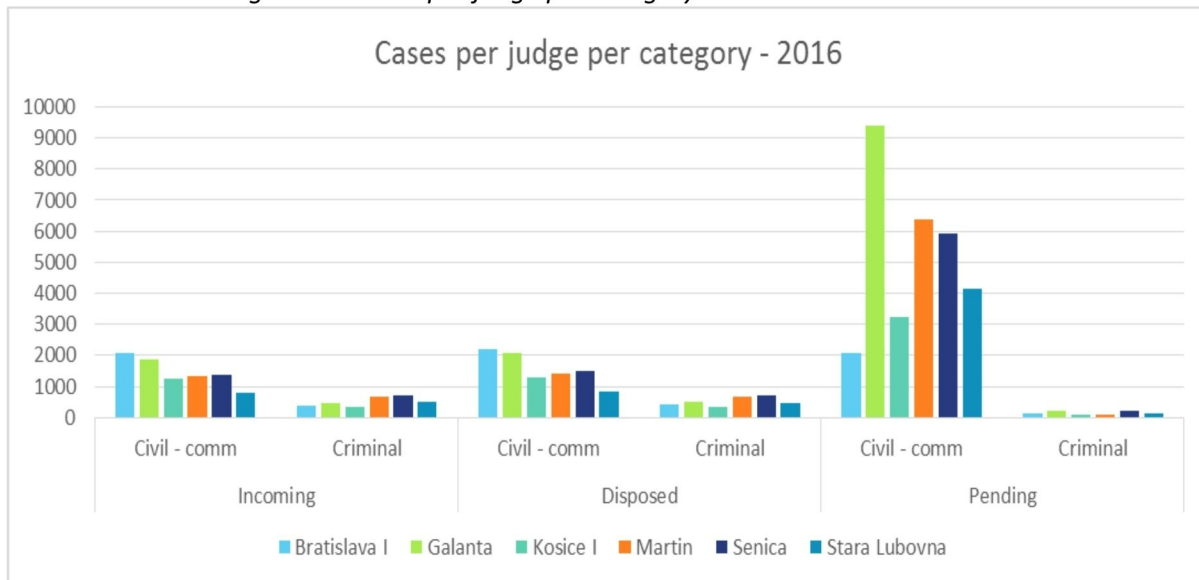
Table 37: Cases per judge in different categories – 8 district courts

| | Incoming | | Disposed of | | Pending | |
|-----------------|--------------------|----------|--------------------|----------|--------------------|----------|
| | Civil - commercial | Criminal | Civil - commercial | Criminal | Civil - commercial | Criminal |
| Banská Bystrica | 1506 | 246 | 1514 | 252 | n/a* | n/a* |
| Bratislava I | 2060 | 376 | 2189 | 407 | 2072 | 119 |
| Galanta | 1860 | 476 | 2087 | 514 | 9408 | 205 |
| Košice I | 1245 | 333 | 1312 | 357 | 3246 | 82 |
| Martin | 1346 | 678 | 1411 | 687 | 6360 | 78 |
| Piešťany | 676 | 295 | 733 | 320 | n/a* | n/a* |
| Senica | 1397 | 713 | 1505 | 731 | 5914 | 211 |
| Stará Ľubovňa | 816 | 489 | 846 | 476 | 4126 | 144 |

*Data of pending cases in these courts were not available (n/a) at the moment of the analysis.

Differences in distribution of cases through the different categories are better shown in the following Figure. Banská Bystrica and Piešťany are not represented for the reasons explained above.

Figure 31: Cases per judge per category - 2016 – 6 district courts



In all the courts, the criminal cases per judge are less than the civil-commercial cases per judge. Bratislava is the court with the highest number of incoming and disposed of cases (civil-commercial) per judge, and the lowest number of pending cases. The number of pending cases per judges is higher in Galanta, Martin and Senica. The number of pending cases confirms the difficulties in managing the caseload effectively in almost all the courts.

Focus on enforcement cases

In this paragraph, data available on enforcement cases are analysed.

Table 38: Enforcement proceedings caseflow in 8 district courts

| | | Banská Bystrica | Bratislava I | Galanta | Košice I | Martin | Piešťany | Senica | Stará Ľubovňa |
|------|-------------|-----------------|--------------|---------|----------|--------|----------|--------|---------------|
| 2013 | Incoming | 16.072 | 12.745 | 22.108 | 15.737 | 12.249 | 8.311 | 8.398 | 4.506 |
| | Disposed of | 16.335 | 12.768 | 22.041 | 16.021 | 13.178 | 8.414 | 8.494 | 4.514 |
| | Pending | 62.194 | 39.126 | 90.085 | 71.949 | 60.035 | 47.877 | 35.042 | 20.031 |
| 2014 | Incoming | 12.081 | 9.039 | 17.841 | 14.473 | 10.695 | 5.597 | 6.112 | 3.807 |
| | Disposed of | 12.042 | 9.196 | 17.659 | 13.912 | 11.015 | 6.237 | 6.273 | 3.708 |
| | Pending | 65.880 | 40.515 | 96.666 | 77.733 | 66.030 | 49.199 | 36.585 | 21.696 |
| 2015 | Incoming | 11.190 | 8.311 | 17.592 | 19.679 | 10.811 | 4.885 | 6.878 | 3.241 |
| | Disposed of | 11.337 | 8.254 | 16.268 | 15.453 | 10.711 | 5.184 | 6.632 | 2.805 |
| | Pending | 68.485 | 41.014 | 102.624 | 88.366 | 69.817 | 46.575 | 37.891 | 22.555 |
| 2016 | Incoming | 10.033 | 6.311 | 13.752 | 14.886 | 10.410 | 4.782 | 5.845 | 2.512 |

| | | | | | | | | |
|-------------|--------|--------|---------|--------|--------|--------|--------|--------|
| Disposed of | 9.857 | 6.373 | 14.158 | 14.951 | 9.838 | 5.048 | 5.946 | 2.644 |
| Pending | 71 569 | 40.795 | 107.930 | 91.801 | 73.671 | 46 524 | 39.862 | 23.461 |

In 2016 the number of pending cases was from 6 (Bratislava) up to 9 (Stará Ľubovňa) times the number of incoming cases.

Table 39 presents the yearly variation in incoming, disposed of, and pending cases in the various courts in the four-year period.

Table 39: Enforcement - percentage variations from the previous year

| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|-----------------|---------------|------------------|--------------|---------------|------------------|--------------|---------------|------------------|--------------|---------------|------------------|--------------|
| | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing | Incom- ing | Dispos- ed of | Pend- ing |
| Banská Bystrica | 9% | 14% | | -25% | -26% | 6% | -7% | -6% | -4% | -10% | -13% | 5% |
| Bratislava I | 4% | 6% | 13% | -29% | -28% | 4% | -8% | -10% | 1% | -24% | -23% | -1% |
| Galanta | 6% | 6% | 13% | -19% | -20% | 7% | -1% | -8% | 6% | -22% | -13% | 5% |
| Košice I | 10% | | 10% | -8% | -13% | 8% | 36% | 11% | 14% | -24% | -3% | 4% |
| Martin | 0% | 21% | 14% | -13% | -16% | 10% | 1% | -3% | 6% | -4% | -8% | 6% |
| Piešťany | -11% | -12% | 6% | -33% | -26% | -3% | -13% | -17% | -5% | -2% | -3% | 0% |
| Senica | 4% | 7% | 12% | -27% | -26% | 4% | 13% | 6% | 4% | -15% | -10% | 5% |
| Stará Ľubovňa | -7% | -3% | 14% | -16% | -18% | 8% | -15% | -24% | 4% | -22% | -6% | 4% |

Enforcement caseflow follows a similar trend in the 8 selected courts. Incoming cases (in green) generally decreased in the last 3 years, disposed of cases decreased (red) to a similar ratio, pending cases slightly increased, in particular in 2016.

Table 40 show the Clearance Rate, Disposition Time, and Appeal Ratio only for enforcement cases. It is worth noting that the CR is quite balanced over the years, but the outstanding number of pending cases affect dramatically the DT that goes between 6 and 9 years.

Table 40: CEPEJ indicators for enforcement proceedings

| | 2013 | | | 2014 | | | 2015 | | | 2016 | | |
|-----------------|------|-------|------|------|-------|------|------|-------|------|------|-------|------|
| | CR | DT | AR | CR | DT | AR | CR | DT | AR | CR | DT | AR |
| Banská Bystrica | 1,02 | 1.390 | 0,0% | 1,00 | 1.997 | 0,0% | 1,01 | 2.205 | 0,0% | 0,98 | 2.650 | 0,0% |
| Bratislava I | 1,00 | 1.118 | 1,6% | 1,02 | 1.608 | 0,0% | 0,99 | 1.814 | 0,3% | 1,01 | 2.336 | 0,6% |
| Galanta | 1,00 | 1.492 | 0,1% | 0,99 | 1.998 | 0,1% | 0,92 | 2.303 | 0,1% | 1,03 | 2.782 | 1,3% |
| Košice I | 1,02 | 1.639 | 1,7% | 0,96 | 2.039 | 2,0% | 0,79 | 2.087 | 2,4% | 1,00 | 2.241 | 2,2% |
| Martin | 1,08 | 1.663 | 0,0% | 1,03 | 2.188 | 0,0% | 0,99 | 2.379 | 0,0% | 0,95 | 2.733 | 0,0% |
| Piešťany | 1,01 | 2.077 | 3,1% | 1,11 | 2.879 | 4,7% | 1,06 | 3.279 | 3,0% | 1,06 | 3.364 | 0,0% |
| Senica | 1,01 | 1.506 | 0,0% | 1,03 | 2.129 | 0,0% | 0,96 | 2.085 | 0,0% | 1,02 | 2.447 | 0,0% |
| Stará Ľubovňa | 1,00 | 1.620 | 4,3% | 0,97 | 2.136 | 0,3% | 0,87 | 2.935 | 5,6% | 1,05 | 3.239 | 2,8% |

d. Case management

In regard to the collected information the following issues have to be noted.

In general:

Obviously cases are handled in paper registries and, in parallel, in the CMS. This is duplicating the effort, producing mistakes and not providing proper court statistics. The use of the CMS should be compulsory immediately. If needed (likely), proper training of court staff has to be offered to follow a unique application of management standards and law.

The case categories are following a good old and well introduced logical scheme. But new case categories might be introduced/adapted according to the needs of managing and analysing the files, especially on “mass categories” like payment-order or the type of handling the case (by the intervention of non-judge staff only or of the judge). For example, it was reported that approx. ¼ of the workload in pre-trial procedures is not reported at all to the MoJ under the current statistical system. Same goes with, e.g. probation-related proceedings, removing of driving licences etc.

If the logic of types of cases and their registering is not according to the management needs, it is not able to monitor and control the business process and the system.

The distribution and plan of work must be finalised by the 15 of December (by president of the court). Disciplinary sanctions are laid down if the deadline is not respected. Every judge can object the planned assignment. The draft plan is submitted to the court’s Council of Judges.

It might be a worthy idea to connect the yearly assignment of the work with the strategic goals of the judiciary. Even if the workload itself remains a question of the independent judiciary, it can be linked to the logic of judicial management and strengthen the necessary understanding for it. In parallel, increasing the responsibility for court presidents to control the resources and enabling them to reallocate those resources is a long-term must. Caution has to be applied, if the call on the part of judges for more human resources (“need of more judges, more court staff...”) is heard: human resources are the most expensive cost driver in the judiciary, with long-term negative cost effects.

As one of the judges commenting on a draft of the present report put it: *“Presidents of courts work as judges, whereas they are not equipped and trained to manage courts and processes. Moreover, they do not have relevant benchmarks. At court level they do not use even those that are accessible. So, the decisive factor is the number of incoming and decided cases per judge. Deeper analysis is an exception. However, the requests from judges and presidents of the courts are deemed justified and are perceived as the expression of their self-governance”.*

The further increase in the use of technologies and improvement of business processes is expected to save personnel costs. This is also a general must in public budgets in Europe – to keep the budgets stabilised in future. Therefore, the judicial decision makers should look for any alternative to improve the handling and the flow of cases, by optimising the procedural law (is it really necessary to have all the different steps in every procedure nowadays?) and implementing as much as possible electronic means of dealing with cases. Hiring more judges and personnel should be the very last option possible.

As stated in several parts of this report, the caseload is considered not fairly distributed (be it because of unbalanced jurisdictions, sizes of courts, or of their resourcing), misbalancing the workload. One of the key effects of this situation is the impact on judges (subjective feeling of lacking fairness), which has to be addressed by objective means. A system of distribution of the resources according to clear and transparent criteria is therefore a must, as is its continuing maintenance and development.

The Supreme Court:

Efficiency of proceedings: the amount of incoming caseload is reported as huge (could not be verified by the expert team, though). Therefore, the Supreme Court decided to increase the number of judicial assistants, as they could not raise the number of judges.

Furthermore, there is no filtering system in place, nor any simplified procedure for appeals that are manifestly ill-founded/well-founded. All appeals are dealt with in the same way, with some priority being given to sensitive cases.

In regard to the incoming cases it must be stressed that a Supreme Court should focus on the most important cases, drawing lines of evolution for the judiciary. It is recommended – even if a mid-term political decision about this is needed – to filter the incoming cases, by stronger legal regulation and according to importance.

e. Time management

Introduction

This section of the report is based on the replies to the CEPEJ Questionnaire on Time Management that has been submitted on-line to 200 judicial officials of the Slovak judiciary, the data made available by the Ministry of Justice, the interviews carried out during the fact-finding mission in Slovakia, and the follow up information collected after the mission.

Article 6 of the European Convention on Human Rights states that “*everyone is entitled to a fair and public hearing within a reasonable time*”. This statement from an organisational and institutional perspective can also be seen as a more general objective that courts have to accomplish, which is the “Timeliness of case processing”. This objective has to be pursued through the development of tools, policies, procedures, and actions by the decision makers, the court personnel, the lawyers, and other stakeholders.

It is worth mentioning that the reasonable length of judicial proceedings is just one of what can be defined as the “trilogy” of goals for judicial systems, the functioning of which should be: *fair, affordable, and in reasonable time*.

Across European judiciaries it is not that easy to calculate the length of judicial proceedings since there is not a common definition of the “*starting date*” of incoming cases, and of the “*ending date*”, when the case is disposed of. In civil matters, in a large majority of European courts, the *starting date* is the date in which the case is filed and registered by the court. However, in some courts the time starts running not from filing, but from service or return of service of the complaint. In criminal matters, the *starting date* is the date of the first appearance in the court, or that on which the formal charge is filed by the public prosecutor. The *ending date* or disposition date, for both civil and criminal matters, is the date when the case has been decided by the judge and the decision is available to the parties.

The definition of the “*starting date*” of incoming cases and of the “*ending date*” of the disposed of/decided/resolved cases should be crystal clear, to avoid any misunderstanding. It has been understood that the starting date of the data collected by the Ministry of Justice is the date when the case has been filed to a court, and the ending date is when the case has been decided by the judge and made available to parties. In any case, the most important issue, to carry out meaningful comparisons across courts, is that they use and make explicit the same definition of starting and ending dates.

As it has been mentioned in other sections of this report, CEPEJ has developed a list of indicators that help to monitor the functioning of justice systems in general and courts. Among them, for the monitoring and the development of policies to improve the pace of litigation there are: Clearance Rate, Disposition Time, Average length of judicial proceedings, and Age of pending cases.

More in detail, the Clearance Rate and the Disposition Time are useful indicators on the overall functioning of courts, but their calculation is based on data that do not really take into consideration the length of judicial proceedings, since they use stock cases data. It is expected that a constant Clearance Rate below 100% is going to increase the number of pending cases, but nothing is really said on the length of these judicial proceedings. The forecasted Disposition Time makes a calculation on how long it is supposed to take for the current pending cases to be disposed of, but it is a forecast, and nothing is said about the age of pending cases.

The average length from filing to disposition is another useful indicator to have an idea on the duration of the proceedings, but it is an “average”, and it does not help to clarify if the “reasonable time clause” is really pursued in all the proceedings. Therefore, to have a detailed idea of how each court, and the judiciary in general, deal with its caseload in a timely way, the most important indicator is the **Age of pending cases**.

As it was already mentioned in other parts of this report, this analysis is funded on the data kindly made available by the Ministry of Justice, including data on the age of pending cases in the Slovak judiciary. It is of paramount importance that data are reliable and consistent for all the courts. If this may not be the case, any analysis would not only be useless, but it could also lead to wrong conclusions that can jeopardise both the actions to be implemented to improve the court functioning and the credibility of the Ministry of Justice.

Therefore, a major effort should be made to **improve the collection of reliable and fact-based data** by the Analytical Center of the Ministry of Justice, as well as to establish the competences to carry out analysis and research that are fundamental for any empirically-based reform and policy-making.

The first part of this section of the report will comment the information collected through the Questionnaire on Time Management. A second part will analyse data on the age of pending cases in the selected 12 courts. The concept of Timeframes will be introduced, and then some suggestions to be further discussed and developed will close the section in the concluding remarks.

The Questionnaire on Time Management

The questionnaire was designed by the CEPEJ expert team and made available on the Google survey platform. It has 18 main questions and 21 additional/related questions. The questionnaire was not meant only for “Yes”, “No” or “Partially” answers, but the respondents were kindly invited to fill in

comments outlining their view of the areas where the relevant regulation, organisation and/or functioning of the Slovak judicial system may be further improved. The goal was to collect information from judges and judicial key personnel on the policies and practices in place for time management in courts, and to identify areas of further investigation.

The questionnaire was translated into Slovak language by the Ministry of Justice, and it was subsequently submitted by the CEPEJ Secretariat to 200 members of the judiciary. 125 judicial officials filled out the questionnaire. 75% of the respondents (94 people) are judges, among them 50 also are presidents of district or regional courts. 25% of the respondents (31 people) are head of the judicial staff. 69% of the respondents have an experience of more than 20 years in the judiciary, 31% less than 20 years, therefore the answers came from experienced members of the judiciary. Most of the respondents (65) work in offices with less than 20 judges, 47 in courts with more than 20 judges.

Although the results were used by the CEPEJ expert team in their present assessment, they shall benefit most and foremost to the national policy-makers, such as the MoJ and the Judicial Council. They are better placed to fully understand the meaning of some answers, eventual misunderstandings, the most thoughtful comments, and the resulting “discrepancies” in answers. Therefore, the MoJ and its Analytical Centre are invited to analyse in detail the results of this exercise and to possibly use such “surveys” in future, to investigate concrete challenges in the work of justice actors and possible solutions. Such surveys may be also used in view of broad consultations with the members of the judiciary, to have a more informed decision making process.

Almost 90% of the respondents say that particular attention is given to cases that may cause a violation of the reasonable time clause of the ECHR. Further investigation is needed to find out what kind of “particular attention” is given in the various courts.

It is also a matter of further investigation that “only” 76% (96 people) mention that the presidents of courts collect information on the overall length of judicial proceeding, while 90% of the judges do it. Respondents say that the president of the court does not systematically collect information on the most important steps of the proceeding, and the length of the various steps of a proceeding is not monitored.⁴⁷ According to 75% of respondents, judges make sure that the period of inactivity in a judicial proceeding, which is usually one of the major cause of the excessive length of judicial proceedings, are not excessively long.

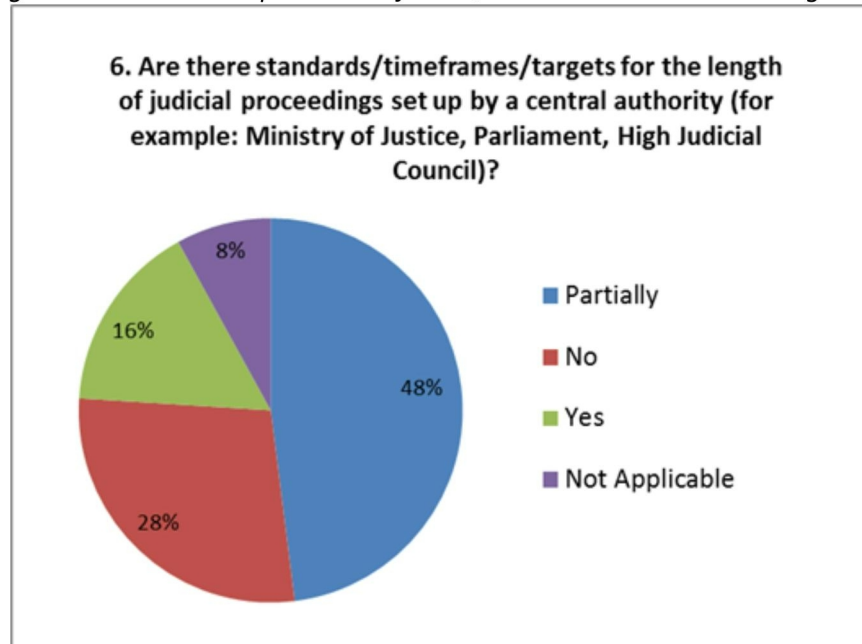
About 90% of the respondents say that the information on the overall length of judicial proceedings is analysed, and this information is available to court administrators, judges, and central authorities. Also this piece of information needs further investigation, because the information collected thanks to the Analytical Centre of the Ministry of Justice does not seem to support in full what has been said by the respondents.

⁴⁷ As one of the judges commenting on a draft of the present report ascertained: *“Presidents of the courts gather only information regarding the number of incoming cases and number of decided cases. Complex interrelationships are analysed only intuitively. If there are flaws, the reasons and possible solutions to problems are sought in the court’s employees (avoiding a critical view on judges’ work)”*.

It is also interesting to note that about 90% of the respondents mention that the information on the length of judicial proceedings is discussed among judges, and it is used to improve the functioning of the court. This information on the overall length of judicial proceedings is only partially available to the parties - 51% of the respondents affirm so, while 18% answer that it is not. According to 85% of the respondents, reports on the overall length of judicial proceeding are regularly produced. "Only" for 37% of the respondents some recommendations to improve the length of judicial proceedings are included in these reports.

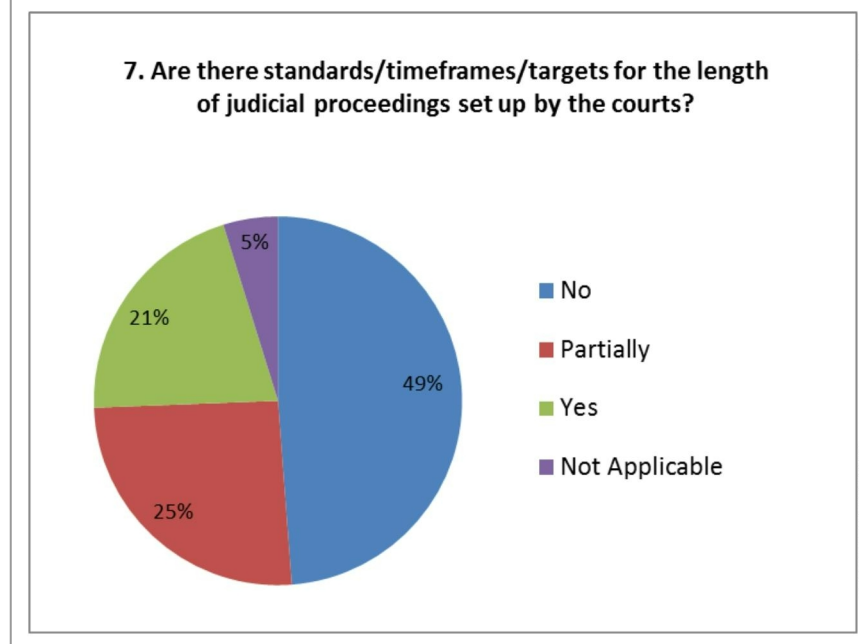
It is quite difficult to give a correct interpretation of the question that deals with the setting of standards/timeframes/targets for the length of judicial proceeding by a central authority (except the respondents are aware of the CEPEJ methodology of setting up timeframes, explained in section D.e. below). 48% of the respondents say "partially", 28% say "no", 16% say "yes" and 8% say "not applicable". The scattered distribution of answers needs further inquiries, but it seems that, at least in the meaning attributed by the CEPEJ, timeframes are not set by central authorities in Slovakia.

Figure 32: Answers to question 6 of the Questionnaire on Time Management



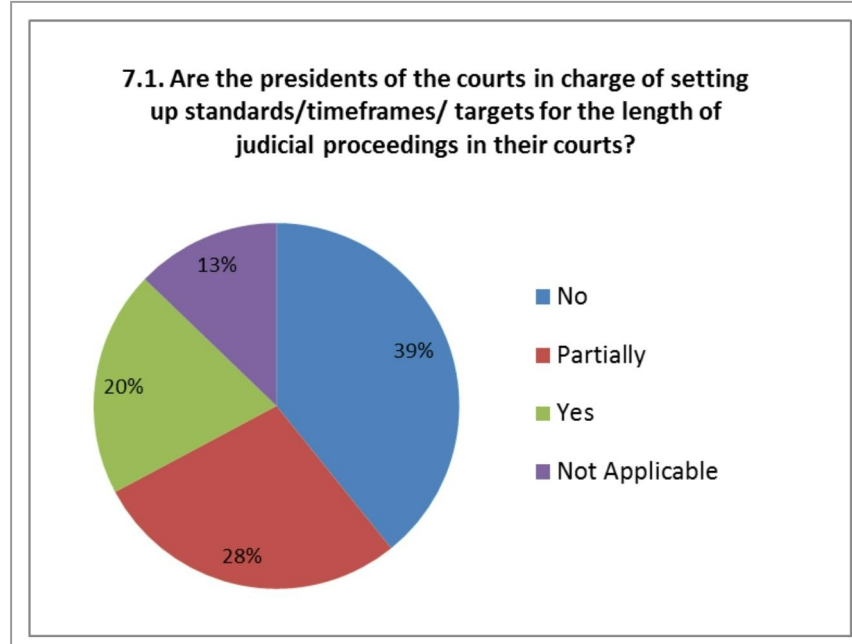
Percentages are different when the same question is related to courts. Timeframes are not set for the 49% of the respondents, while they are partially set for the 25%, and they are set for the 21% of the respondents.

Figure 33: Answers to question 7 of the Questionnaire on Time Management



A similar question deals with the possibility to set timeframe by the presidents of the courts. Answers are again quite different. They can indicate a difficult interpretation of the question, or a wide variety of different situations within the judiciary as far as the setting of timeframes is concerned.

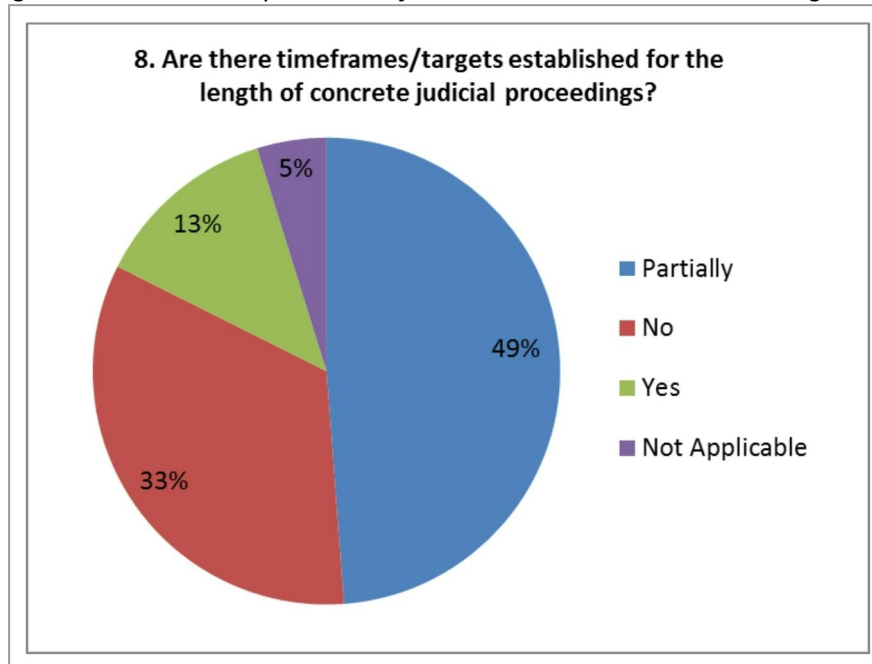
Figure 34: Answers to question 7.1. of the Questionnaire on Time Management



67% of the respondents think that presidents of courts have sufficient authority and autonomy to actively set or participate in the setting of targets, 21% do not think so. It is worth mentioning that 34 presidents think to have, at least partially, this authority, while 12 do not think so.

Also the following question needs further investigation because respondents give scattered answers, which may depend on different working practices in different courts.

Figure 35: Answers to question 8 of the Questionnaire on Time Management



90% of the respondents say that judges and courts are not obliged to anticipate the length of judicial proceeding.

Timeframes and standards are not made public for the 71% of the respondents, partially made public for the 20%, and made public for 2% of the respondents.

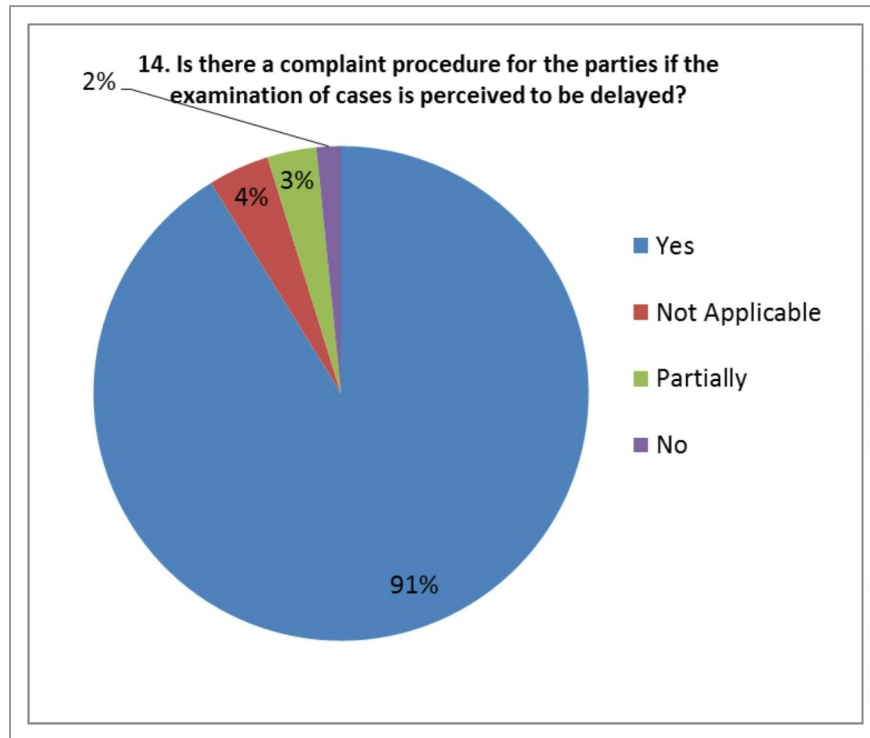
It is also not clear from the answers if the compliance with the standards/timeframes/targets are used in the evaluation of courts' performance. 31% of the respondents say "partially", 26% say "no", but 21% say "yes", so further clarification of this matter is needed.

Similar percentages come from the question if the compliance with the standards and timeframes is used in the evaluation of judges' performance, with 22% of the respondents who say that they are used, 36% "partially used", and 26% "not used".

73% of the respondents say that some prompt actions are undertaken by the presidents of the courts if the courts do not reach the set timeframes for the length of judicial proceedings.

Over 90% of respondents report that there is a complaint procedure for the parties if the examination of cases is perceived to be delayed.

Figure 36: Answers to question 14 of the Questionnaire on Time Management



Respondents (92%) also mention the possibility to set priorities in dealing with cases. It should be further explored what kind of criteria are used to set these priorities, and if they are set nationwide or in every court.

Apparently the parties are entitled to be informed about the length of judicial proceedings. It would be interesting to know how this communication is carried out and based on which data.

The question that deals with the involvement of the parties in setting the dates of the various steps of the procedure has another quite scattered array of answers. 39% of the respondents say that they are partially involved, 22% that they are involved, and 35% that they are not involved.

51% of the respondents say that judges do not have to reach an agreement with the parties to schedule dates of future actions, but 39% say that they “partially” have to reach such an agreement, and 2% that they have to reach it.

It is particularly worth to note that 47% of the respondents say that the courts do not have a specific policy to limit postponements and adjournments requested by the parties or other participants to the proceedings. 18% report that this possibility is partial, while 22% report that they have such a policy.

Quite interesting also is that 24 out of 50 presidents of courts say that they do not have such a policy, 11 that they have it “partially”, 12 that they have it.⁴⁸

Almost all the respondents say that there are sanctions that could be addressed to parties in case of practices that can intentionally delay the proceedings.

Quite scattered also are the answers about common initiatives that involve judges, court personnel, and lawyers to reduce the length of proceedings. 35% of the respondents say that they partially have some initiatives, 34% do not, 18% carry out such initiatives. It would be interesting to explore more what kind of initiatives has been carried out, in which courts, and why they are not developed in all the courts.

To sum up, the scattered answers to several issues dealt with by the questionnaire show that further investigation is needed to better understand why there are such differences in the answers given, and, above all, to try single out good practices that, based on the answers, apparently have been carried out for the time management of cases in certain the courts.

Particularly interesting would be to analyse more in depth the policies that have been undertaken to address the requests of postponements of hearings, the practices put in place to monitor the length of judicial proceedings, the criteria used to set the priority of cases, the setting of timeframes, and the actions carried out to improve the length of judicial proceedings in some courts.

The age of pending cases

CEPEJ recommends to report the “age of pending cases” only for contentious matters. The time constraints in drafting this report did not allow so far to expunge the “non-contentious matters” from the collected data. Therefore, the following analysis is methodologically correct, but data should be cleaned in the following phase of the project. In addition, the reliability of data should be double-checked.

Figures 37 and 38 show the “age of pending cases” in all the courts of the Slovak Republic. Data on the age of the pending cases have been collected by the Ministry of justice on the following time periods: “Up to 6 months”, “between 7 and 12 months”, “between 13 and 24 months”, “between 25 and 48 months”, and “Over 48 months”. Usually, CEPEJ would recommend monitoring the following “time periods”: Up to 12 months, between 13 and 18 months, between 19 and 24 months, between 25 and 36 months, and “over 36 months”, which are reflected in the below CEPEJ Timeframes.

As it may be known, the 24 months for civil and administrative proceedings and 12 months for criminal proceedings are a kind of watershed for the point of attention of the European Court of Human Rights in the assessment of the reasonable time clause.

⁴⁸ As one of the judges commenting on a draft of the present report commented: *“Some judges are not the „masters“ of the proceedings, but let themselves to be „managed“ by attorneys. Furthermore, the postponement of proceedings should be exceptional and, if postponed, the planning of the new term should be automatic. However, judges often adjourn proceedings without setting a new term.”*

As data provided by the Ministry of Justice for 2016 show, **over the 24-month period**, nationwide are pending up to **20 % of criminal cases, 11% of administrative cases, 17% of civil and commercial cases, 72% of enforcement cases, and 91% of “other cases”**.

It does not come as a surprise that the enforcement cases are the most problematic, as far as the length of proceeding is concerned, but also the age of pending criminal cases is a matter of concern. The category “other cases” remains a bit of a mystery, as well as the reasons for their lengthy examination.

As repeatedly mentioned, the process of statistical data gathering for the purpose of this report wasn't straight forward, the team of experts from CEPEJ and the MoJ/Analytical Centre have identified “on the way” important challenges, including disparities in the methodology implied by the CEPEJ and the one used so far by the Slovak authorities. Consultations have been conducted to overcome these challenges, but this work needs to be continued. One aspect, which may have affected the calculation of the Age of pending cases, is the moment the Slovak courts consider as *ending date* or disposition date for cases. For example, the courts monitor the moment when the case is decided (by the respective court) as well as the moment when it is resolved (becomes final – which may happen after proceedings in appeal and cassation). Therefore, if the data that were used refer to the “Age of undecided cases”, they are consistent with the CEPEJ methodology and the provided comments are meaningful. If the data that were used refer to the “Age of unresolved cases”, the situation is more complex and the comments will have to be revised.

Table 41: Age of pending cases 2016 - Republic of Slovakia (all courts)

| Type of cases | Less than 6 months | | 7-12 months | | 13-24 months | | 25-48 months | | Over 48 months | | Total | |
|----------------------|--------------------|-----|-------------|-----|--------------|-----|--------------|-----|----------------|-----|---------|------|
| Civil and commercial | 93244 | 47% | 40110 | 20% | 32570 | 16% | 19770 | 10% | 14198 | 7% | 199892 | 100% |
| Administrative | 1432 | 38% | 1157 | 31% | 748 | 20% | 386 | 10% | 39 | 1% | 3762 | 100% |
| Criminal | 6651 | 45% | 2639 | 18% | 2490 | 17% | 1865 | 13% | 977 | 7% | 14622 | 100% |
| Enforcement | 161346 | 7% | 167476 | 7% | 332139 | 14% | 510585 | 21% | 1205692 | 51% | 2377238 | 100% |
| Other categories | 101 | 2% | 57 | 1% | 227 | 5% | 500 | 11% | 3518 | 80% | 4403 | 100% |
| Total pending | 262936 | 10% | 211471 | 8% | 368197 | 14% | 533149 | 21% | 1224543 | 47% | 2600296 | 100% |

Figures 37 and 38 show graphically the age of the pending case in Slovakia in 2016, accordingly to the 5 time periods.

Figure 37: Age of pending cases in regional courts - criminal, administrative, civil and commercial cases

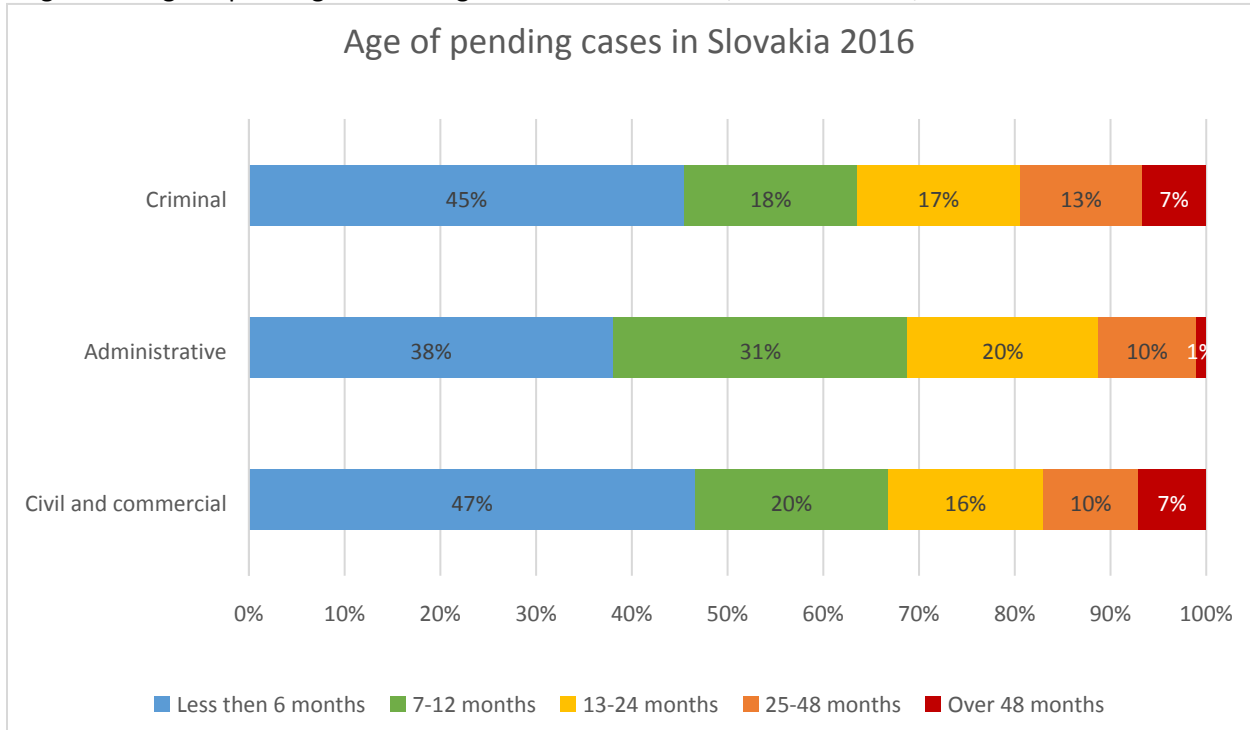
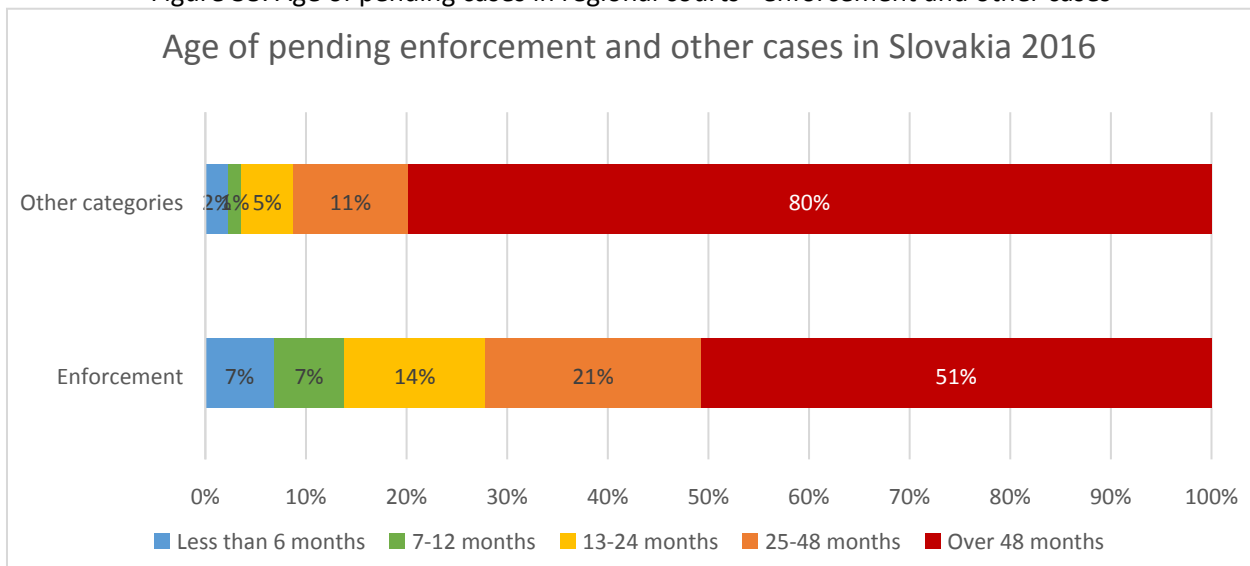
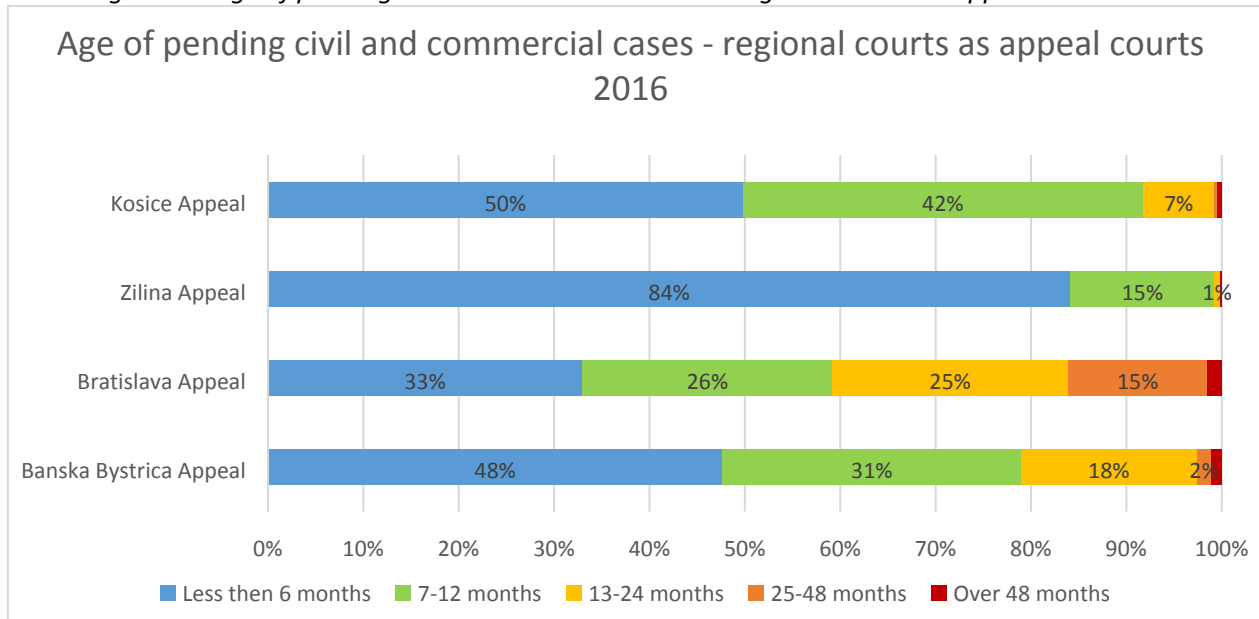


Figure 38: Age of pending cases in regional courts - enforcement and other cases



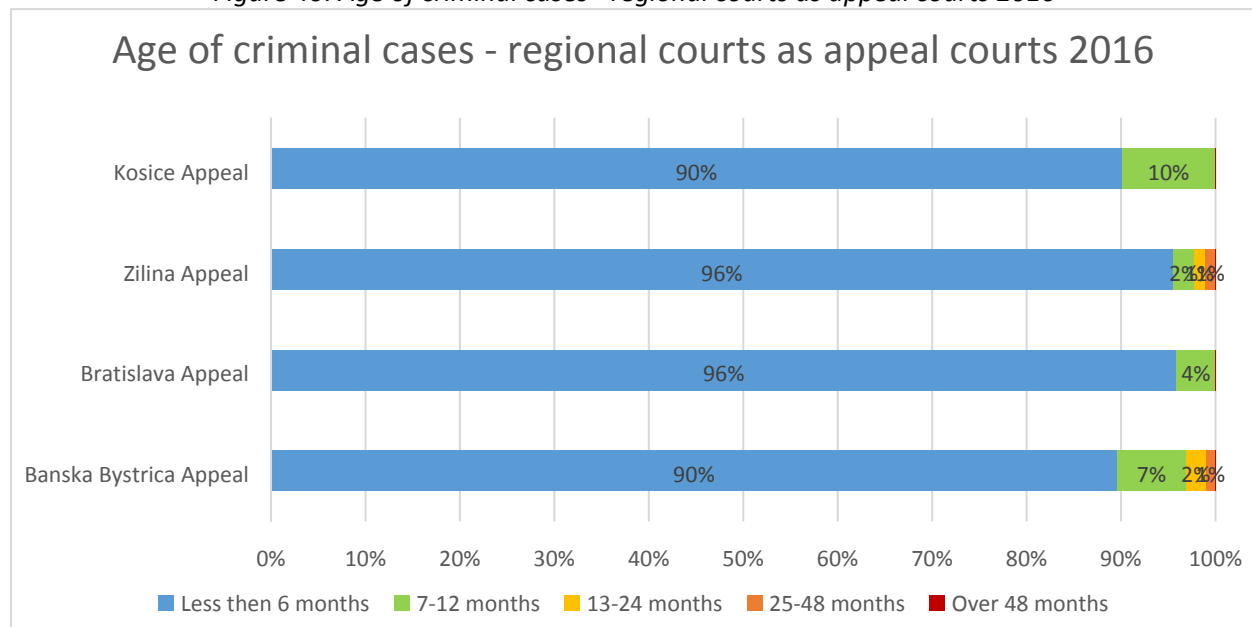
As far as the four selected regional courts are concerned, **civil and commercial** cases at the appeal stage **over the 24-month** period are **8% in Košice, 1% in Žilina, 16% in Bratislava, and 3% in Banská Bystrica**. The distribution of the pending cases in the other time periods is quite clear in the following Figure 39, and it does not need any further comment.

Figure 39: Age of pending civil and commercial cases - regional courts as appeal courts 2016



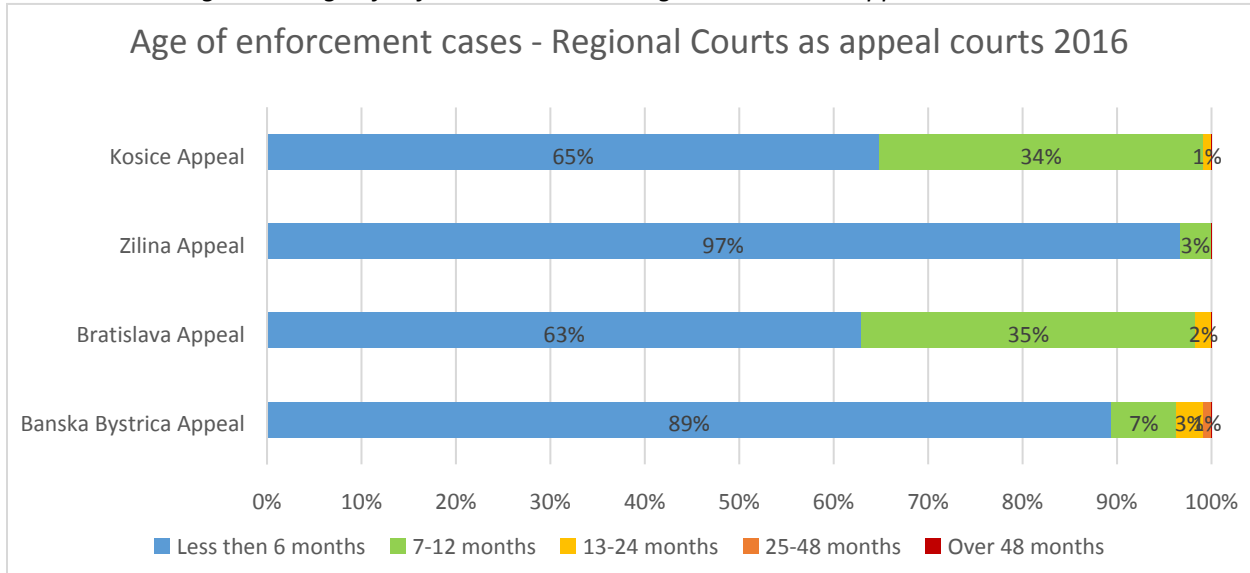
Criminal appeal cases are pending **over 12 months** just in **Žilina 2%**, and in **Banská Bystrica 3%**.

Figure 40: Age of criminal cases - regional courts as appeal courts 2016



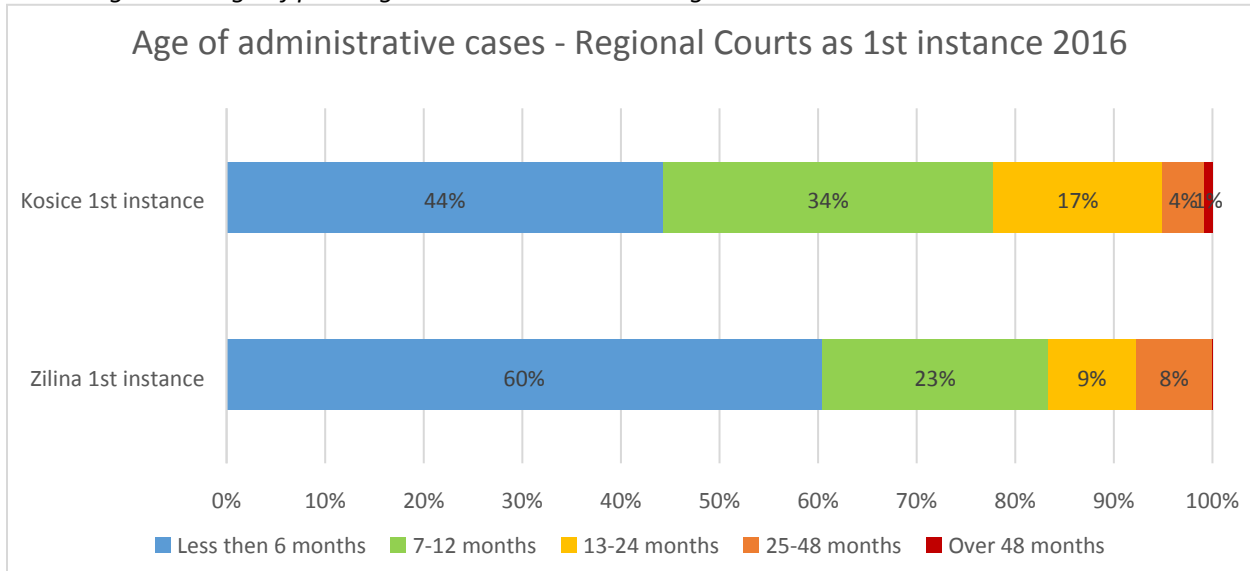
Enforcement cases at the appeal instance **over 12 months** are limited at 1% in Košice, 2% in Bratislava, 4% in Banská Bystrica.

Figure 41: Age of enforcement cases - regional courts as appeal courts 2016



Regional courts also deal with first instance administrative cases. Data from Bratislava and Banská Bystrica are not available. The Regional Court of Košice has 5% of cases that are pending for more than 24 months, Žilina has 8% of this kind of cases, but no case is over 48 months.

Figure 42: Age of pending administrative cases - regional courts as 1st instance courts 2016



The following figures show the situation of the age of pending cases in the 8 selected district courts. In this respect, it is worth mentioning that some of these courts have a specialisation, so data should be further investigated taking it into consideration.

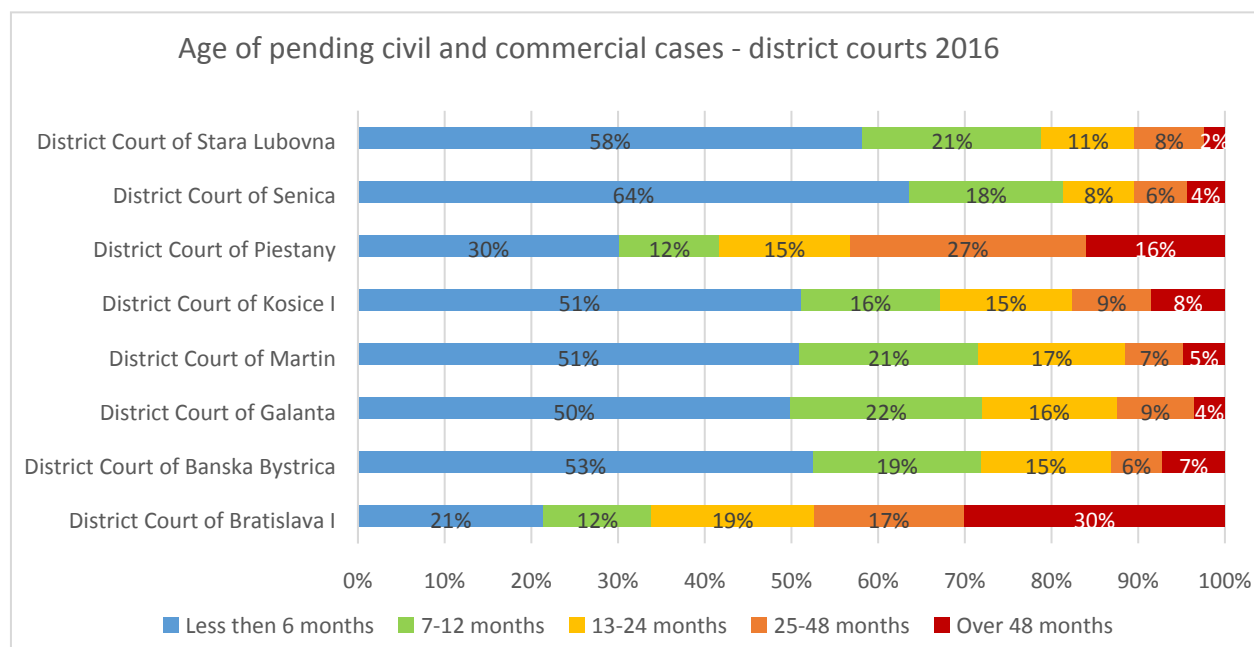
As Figure 43 shows, in 2016 all the selected courts had pending cases that were **older than 24 months**, but with remarkable differences:

| District court | Civil cases older than 24 months |
|-----------------|----------------------------------|
| Bratislava 1 | 47% |
| Banská Bystrica | 13% |
| Galanta | 13% |
| Martin | 12% |
| Košice | 17% |
| Piešťany | 43% |
| Senica | 10% |
| Stará Ľubovňa | 10% |

Figure 43 shows that the situation is particularly critical in Bratislava 1 where 47% of pending civil and commercial cases are older than 24 months, and 30% of them are older than 48 months.

Also the situation in Piešťany is quite critical, since 43% of pending civil and commercial cases are older than 24 months, and 16% of them are older than 48 months.

Figure 43: Age of pending civil and commercial cases - district courts 2016



The Age of the pending criminal cases also needs some attention. Data show that the selected courts have significant percentages of pending cases over 12 months. However, data should be double-checked because, for example, Piešťany has only 22 criminal cases still pending, 3 of which are older than 48 months, which sounds quite peculiar.

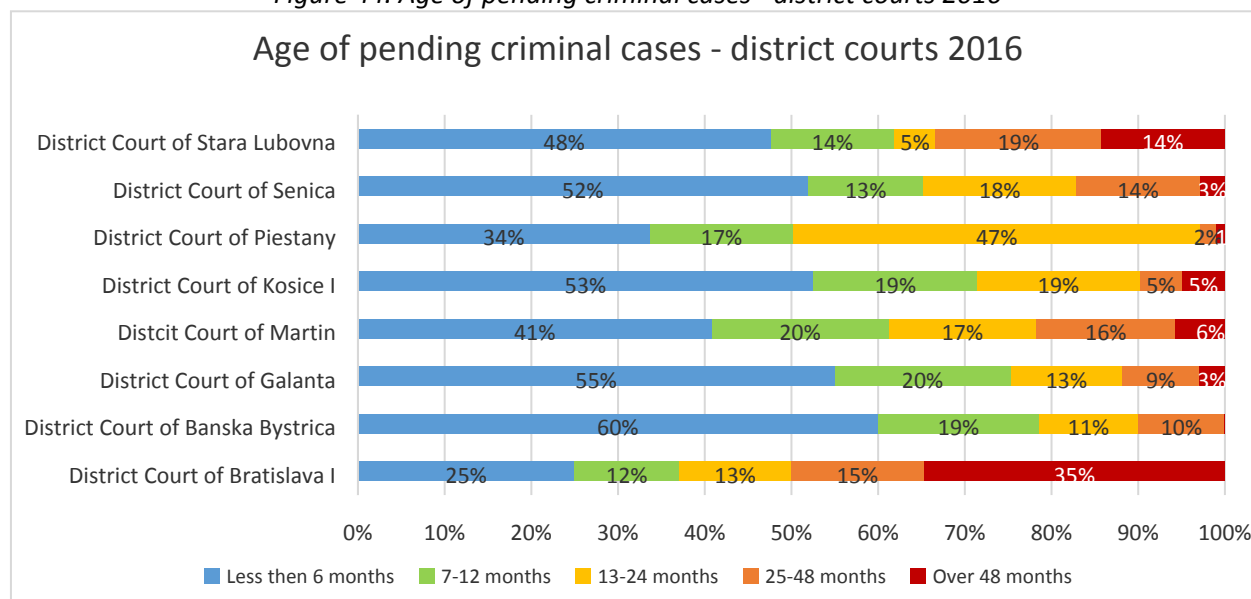
In detail, the percentages of criminal cases still pending that are older than 12 months are as follows:

| District court | Criminal cases older than 12 months |
|----------------|-------------------------------------|
| Bratislava 1 | 63% |

| | |
|-----------------|-----|
| Banská Bystrica | 21% |
| Galanta | 25% |
| Martin | 39% |
| Košice | 29% |
| Piešťany | 49% |
| Senica | 35% |
| Stará Ľubovňa | 38% |

Similar to the situation with the civil and commercial cases, the District Court Bratislava I has a serious problem with criminal cases, with more than 35% of criminal cases (118 cases) that are older than 48 months. Figure 44 shows the situation of the selected district courts.

Figure 44. Age of pending criminal cases - district courts 2016



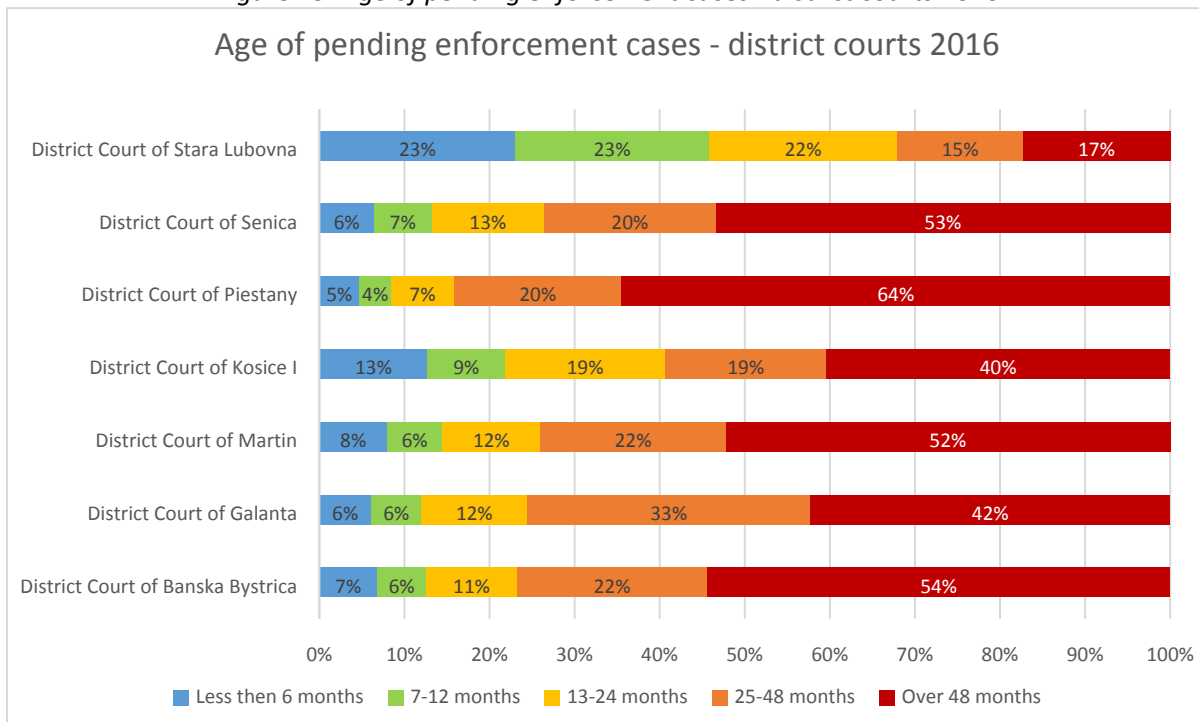
As already pointed out, the amount of enforcement cases still pending are a problem in almost all the courts selected. The following data and Figure 45 show the size of the problem.

The percentages of enforcement cases over 24 months in the selected first instance courts (please note that data about the District Court Bratislava I were not available) are as follows:

| District court | Enforcement cases older than 24 months |
|-----------------|--|
| Banská Bystrica | 76% |
| Galanta | 75% |
| Košice | 59% |
| Martin | 74% |
| Piešťany | 84% |
| Senica | 73% |
| Stará Ľubovňa | 32% |

As the Figure 45 shows, the situation for enforcement cases in almost all the courts is quite dramatic. There are very high percentages of cases that are still pending after 48 months. The situation is particularly critical in Piešťany⁴⁹.

Figure 45: Age of pending enforcement cases - district courts 2016



The setting up of timeframes

As it was already written, there are some doubts about the reliability of the data available in general, and, in particular, on the age of pending cases that were used for this analysis. However, notwithstanding the need to double-check the reliability of the numbers collected, the method used for this analysis is considered the foundation to have a realistic description of the current situation on the courts' functioning as far as time management is concerned, and then start planning some actions.

⁴⁹ It has been explained, that certain judicial proceedings cannot be terminated because they are interrupted. If the proceedings are interrupted, procedural actions are not performed by the courts: procedural periods/deadlines are interrupted. The overview of the length of judicial proceedings presented in this report does not specifically track down the number of interrupted proceedings. This number can be however significant, especially in bankruptcy, criminal, inheritance proceedings.

Regarding the District Court Piešťany it is important to explain that this court was abolished in 2004 and re-established in 2008, when it took over also old cases, which were in years 2004-2008 assigned to district court Trnava. This fact, along with the considerable fluctuation of judges in the District Court Piešťany could explain why there are so many protracted cases in this court.

Time constraints and difficulties in data collection have not allowed to have more detailed data for the different categories of cases that are dealt with in every court. This more granular approach is needed to have a more precise analysis of the real situation of every court, and this is something that should be addressed in the following stages of this project.

Once the correct “age of pending cases” have been detected, the next step should be the setting of timeframes at the national, regional, and district courts’ levels.

Timeframes are not the panacea for decreasing the length of judicial proceedings, but they have been proven as a useful tool to assess the court functioning and policies, and then to improve the pace of litigation.

Timeframes can be considered *operational tools*, because they are concrete targets to measure to what extent each court, and more generally the administration of justice, meets the timeliness of case processing, and then the principle of fair trial within a reasonable time stated by the ECHR.

They are *inter-organisational* tools because the length of judicial proceedings is the result of the interplay of different players (judges, administrative personnel, lawyer, expert witnesses, prosecutors, police etc.).

The added value to setting timeframes is not only in the timeframes themselves but, above all, it is in the whole process used to set and to monitor them. This process should involve all the court personnel, and the stakeholders in an in-depth analysis about the functioning of the court and the possible actions to improve it.

Timeframes have to be goals shared and pursued by all of them. The stakeholders’ involvement is necessary for at least three reasons: 1) it helps to build the commitment among all the key players, 2) it creates a proper environment for the development of innovative policies, 3) it points out that the responsibility for timely case processing is not just in the court operations but also includes other players, first of all the lawyers.

The setting of timeframes is a fundamental step to start measuring and comparing case processing performance and defining conceptually the *backlog*, which is the number or percentage of cases that are older than the approved timeframe. For example, if the timeframe has been set at 24 months for all the civil proceedings, the backlog is the number of pending cases that are older than 24 months.

As stated in the “Implementation Guide Towards European Timeframe for Judicial Proceedings” (CEPEJ (2016)5)⁵⁰: “Timeframes are management tools, which deal with the aggregated caseload of a court or of a judicial system. Therefore, they are not supposed to be considered whatsoever as a safeguard to avoid a conviction of the European Court of Human Rights. The reasonable time clause stated by Article 6 is applicable in the context of individual cases. The ECtHR is the institution having ultimate authority to assess if a case has violated Article 6 of the European Convention on Human Rights”.

⁵⁰ Please see the translation in Slovak language on the Project’s webpage:
http://www.coe.int/t/dghl/cooperation/cepej/cooperation/slovaquie/default_en.asp?

However, it is important to underline that quantitative indicators and timeframes are just “photos” of the functioning of courts and of the desirable goals to be reached. Courts’ policies, rules and concrete actions are the steps to be undertaken to reach these goals. The setting of realistic and measurable timeframes should also stimulate the adoption of CEPEJ tools and qualitative hints to improve the court performance, and they should be the basic measures through which each country can self-evaluate its capacity to dispose cases fairly and in a reasonable time.

For policy makers, court managers, lawyers, the setting of realistic timeframes and monitoring of their implementation is also one of the backbones to assess the results of the efforts made to decrease the lengths of judicial proceedings and then the backlog.

Timeframes in Europe have been used in particular in the Nordic countries, which have, by the way, quite good performance in the pace of litigation. For example, in Norway, average timeframes for both civil/administrative and criminal matters have been established in 1990’s. They do not take into consideration different case categories, but in the criminal matters they do consider if the case is dealt with by one judge or by a panel of judges.

Denmark has a quite detailed list of timeframes for case categories, that each autumn are reconsidered and adjusted in cooperation between the Chief Judge and the Court Administration Office. The timeframes in civil matters take into consideration the value of the case, if it is decided by a panel or by a single judge, if they are family cases, enforcement cases, or small claims etc. In criminal matters, timeframes are different, based on the composition of the “decision making body” (i.e. jury, judge, judge with lay judges), on the circumstance that the accused pleads guilty, and the kind for crime committed (i.e. violent crimes and rapes should be disposed of at a quicker pace). There are also different timeframes if the case is dealt with in the first instance or at the appeal stage.

CEPEJ proposes the following timeframes that are just an example starting from which each judiciary should find its own targets.

Table 42: Timeframes for contentious civil and administrative cases

| Contentious Civil and Administrative Cases | Timeframe | Timeframe | Timeframe | Timeframe |
|---|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| | Target A | Target B | Target C | Target D |
| Priority Cases | Disposed in 6 months | Disposed in 12 months | Disposed in 12 months | Disposed in 12 months |
| Normal Cases + (priority cases) | 95% - 90% | 95% - 90% | 95% - 90% | 95% - 90% |
| | Disposed in 18 months | Disposed in 24 months | Disposed in 30 months | Disposed in 36 months |
| Complex Cases (buffer) | 5% - 10% | 5% - 10% | 5% - 10% | 5% - 10% |
| | Pending cases older than 18 months | Pending cases older than 24 months | Pending cases older than 30 months | Pending cases older than 36 months |

Table 43: Timeframes for criminal cases

| Criminal Cases | Timeframe | Timeframe | Timeframe | Timeframe |
|---------------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| | Target A | Target B | Target C | Target D |
| Priority Cases | Disposed in 3 months | Disposed in 6 months | Disposed in 6 months | Disposed in 6 months |
| Normal Case + (Priority cases) | 95% - 90% | 95% - 90% | 95% - 90% | 95% - 90% |
| | Disposed in 12 months | Disposed in 18 months | Disposed in 24 months | Disposed in 30 months |
| Complex Cases (buffer) | 5% - 10% | 5% - 10% | 5% - 10% | 5% - 10% |
| | Pending cases older than 12 months | Pending cases older than 18 months | Pending cases older than 24 months | Pending cases older than 30 months |

As the tables above show, CEPEJ proposes 4 basic Timeframe targets (A-B-C-D), in order to take into consideration the different situations in the judiciaries of the member States. Timeframe A sets the following targets. Civil and administrative contentious priority cases should be disposed of in 3 months from the date of their filing. 95-90% of all cases from this category should be disposed of in 12 months, 5-10% of cases, the most complex ones, could overcome 12 months. The Timeframe target is reached if 95-90% of all the cases are disposed of in 12 months, meaning that no more than 5-10% of the pending cases should be older than 12 months.

The same reasoning is used for criminal cases, and for the other targets (B-C-D) that extend the timeframes (respectively 18-24-30 months) within which 95-90% of cases are supposed to be disposed of.

The decision to set the “buffer” at 5% or 10% for the most complex cases is left to each member State or court, taking into consideration the percentage of very complex cases that they have to deal with.

It is then open to courts to apply different timeframes for different case categories. For example, a court could be able to apply the following Timeframes: Target A for civil proceedings and Target B for criminal proceedings, and then Target A for family matters, but Target C for bankruptcy cases and enforcement.

Once the timeframes have been established, each court should plan what kind of realistic and concrete actions have to undertake to try to pursue the set targets, in line with general policies that can be planned and recommended at the national level.

The above methodology of setting up targeted timeframes for different categories of cases is flexible and may be applied as the specific circumstances of a judicial system or even of a court require. The CEPEJ expert team is ready to provide further methodological explanations and to support the implementation of this tool in the second phase of the project.

Concluding remarks on court management and efficiency

1. Precise information and well-defined indicators are needed to understand the internal functioning of Slovak courts, before making fact-based policy decisions. In general, it is hard, if possible at all, to define the standards for courts' efficiency, timeliness and quality from the "outside" and independently of the current situation in the courts. To set standards for courts' performance it is necessary first and foremost to have a good and reliable data collection system. Judges can have differences in performance, which should be mitigated at the court level. Comparisons should be made taking into consideration the performance of courts of the same level of jurisdiction and specialisation. If a particular judicial organisation provides for many different profiles of courts of the same level of jurisdiction, the task is becoming more complex, but not impossible. In such case, the judicial business of courts may be divided between different areas, for example, the performance under each agenda will be evaluated and compared. It will be necessary to determine separately, in a unified and transparent way, the resources dedicated to each agenda and only after that to calculate the performance indicators.

Furthermore, analysing in detail the functioning of each individual court may be the task and the role of the respective courts' managers. If the system of measuring the court performance is well thought and is assisted by adapted ICT tools, its continuous application shall not require significant resources.

2. At a first glance, it looks like the internal governance of the courts is very complex. Specific and clear roles should be drawn between the presidents of the courts, vice-presidents, heads of divisions, courts' councils of judges, and heads of administration. It is a general practice in several European judiciaries that management or appointed positions should have a term of service, which tend to be no more than 8-10 years.
3. The composition of the "judge's team" mainly depends on the size of the court, on the court's organisational setting (i.e. specialisations, multiple panels, sections, single-judge formations, etc.), on the procedural setup, and, above all, on the court's resources.

It is a common request of judges across Europe to have at least a judicial/legal assistant trained in law, to help them in legal research and drafting, plus a judicial secretary to manage the register, hearings and other day-to-day operations.

Generally speaking, there are not many European judiciaries that can afford a legal assistant for each judge. In some cases, legal assistants are interns (in French “stagiaire”) from law schools who are employed for a limited period. Their added value is quite controversial, because in many cases their activity is more a training than a real assistance to judges’ work, and usually they leave the position when they start being productive for the court. Yet, in other countries, such as the Netherlands, this position has been institutionalised with positive effects on judicial activity (support with legal research and drafting of decisions, much appreciated by judges).

In these recent years of economic crisis, the overall goal of the public sector is to do more with fewer resources. In the judiciary the general trend is to devolve some of the judges’ functions to non-judge personnel with sufficient training. For example, some matters related to land/business registries, guardianship, family law, inheritance, etc. could be devolved to non-judge personnel to increase the courts’ productivity. Judges should only focus on cases that really need the legal competence of a judge. The possibility to have a “judge’s team”, as desired in the Slovak judiciary, is highly affected by the current size of the courts and by the judicial map, as well as the fragmented judicial agenda. Using more analytical criteria for the allocation of resources, including human resources, may lead to a better distribution of tasks and to the establishment of balanced “judge’s teams” in the larger courts and of aggregated teams for more judges in the other courts.

4. The issue of judges’ specialisation is strongly connected to the specialisations of courts or court divisions. It is matter of fact that being specialised in few tasks is supposed to increase the individual productivity due to learning curves. In addition, also the quality of the decision making process is supposed to increase due to the increasing knowledge on a specific matter. Another issue worth noticing is that judges who are specialised in specific matters are usually more capable to reach an early settlement of the case, due to their deep knowledge of the law and familiarity with that kind of cases. However, judges’ specialisation can be carried out only in specialised courts, or in courts that are big enough to manage a fair caseload for all the judges. After an in-depth analysis of reliable data on the courts’ caseload for case categories, the national decision makers may choose the way for further specialisation for judges.

Most probably, the specialisation of judges should entail not just one narrow category of cases (the prerequisite of such a situation may be created in the Slovak Republic by the proliferation of judicial agendas, although individual judges are currently being assigned 2-4 such agendas, which is also a source of dissatisfaction⁵¹), but , for example, a branch of law, in order to avoid an excessive specialisation that could jeopardise judges’ broader legal knowledge and the possibility to be eventually transferred between branches and courts. Therefore, the level of specialisation and different related matters should be discussed with the judges, based on reliable data about the caseload per case categories for each court.

5. Specialisation of non-judge personnel is not lesser of an objective than specialisation of judges. It seems that in Slovak courts this specialisation advanced even at a quicker pace in the last years. For this reason, in courts there seems to be judicial assistants narrowly specialised into one agenda and therefore supporting the work of several judges who deal with this agenda along several other agendas. In order to pursue “economies of scale” and to improve quality of services through staff specialisation, a different organisation of “support services” may be explored. As information collected indicate, the internal organisation design of the courts is now “divisional” (e.g. civil division,

⁵¹ As a judge commented: *“It is not acceptable that a judge has to work on multiple different agendas”*.

administrative division, etc.) and support services seem to duplicate in each division. From this structure, courts may move towards a “functional organisation”, where “support services” are centralised (e.g. front office, copies’ service, archive, summons’ office etc.). Advantages expected are a more efficient allocation of staff, a better specialisation, which may lead to more productivity and quality of support services. A deeper analysis on internal court organisation is necessary to single out which functions should remain under the full responsibility of the judge’s team, and which functions can be aggregated to a staff pool.

6. It is advisable to acknowledge the tasks of court management and the leadership of the presidents of courts, to strengthen their responsibilities. It is worth mentioning that nowadays witness an increasing professionalization of court management. Therefore, the role of the heads of court administration is to be clarified and streamlined throughout the entire court system.
7. The use of the CMS should be compulsory. Proper training of court staff has to be offered to follow a unique application of management standards and law. The practices of handling paper registries in parallel to the registers of the CMITS, or of statistical reporting based on manual retrieval of data from paper registers or on physical counting of case files should be discontinued to ensure a streamlined use of the CMS and standardisation of data.
8. Annual reports on the activity of the court system and of individual courts, including statistical analysis and court performance indicators, comparative perspectives and chronological developments etc., shall be drawn up and published through a general, well-established practice of court management.
9. The overall amount, as well as the specific data and indicators of statistical reporting in the Slovak judiciary should be reconsidered. A lot of current reports are being produced as the result of a long-term routine and likely do not provide any useful information, or could serve the purpose through less efforts (e.g. use directly the data of the CMS, reduce the frequency of their production etc.). The CEPEJ’s Guidelines on Judicial Statistics should be applied.

Caseload structure and CEPEJ indicators:

10. From 2013 to 2016, the total of incoming cases in all the country and in each of the selected 12 courts, presented a downward trend. This decrease could have been caused by the fact that non-bank companies abstained from submission of mass-actions. Significantly higher number of incoming cases in the year 2012 as compared to the year 2011, at district and regional courts, was caused by approximately 43.000 claims submitted by one non-bank financial institution. These cases were gradually decided and disposed of in the years 2014 and 2015.
11. In the selected regional courts, the decrease in incoming cases led to a parallel decrease in pending cases, while in the selected district courts it did not. Despite the lower number of incoming cases, the number of pending cases in the district courts has grown over the years.⁵²

⁵² As bluntly put by one of the judges commenting on a draft of the present report: “One of the explanations may be that the reform potential has been exhausted (new organisation of courts, judicial assistants, informatisation), while the number of incoming cases is decreasing. An unresolved question is the efficiency of judges, especially when one compares the situation in years 2003 and 2016 (before, the judge was without any support, while now he or she has a „team“).

12. The analysis on the structure of the pending cases shows that their rise in district courts is mainly due to enforcement cases. Enforcement pending cases are 6 to 9 times the number of enforcement incoming cases. Even though the number of enforcement incoming cases decreased from 2014 to 2016, and the Clearance Rate was positive in the last years, this was not enough to improve the disposition time which is still outstanding (between 6 and 9 years).
13. Cases per judge and cases per staff indicators show the need to have a more in-depth analysis of the criteria used to allocate personnel and, most probably, to revise them based on the caseload analysis carried out.
14. The remarkable differences in judges' "productivity" across courts should be better investigated and addressed. It is a matter of both institutional efficiency and fairness.
15. Data collection and analysis for more specific case categories should be implemented, as a basis for the development of a weighted caseload system. The CEPEJ is willing to assist the national authorities with this task in the following stages of the project.

Time management:

16. Reduction of the backlog and of unreasonable delays shall be one of the courts' and judges' priorities. For this purpose it is necessary to analyse the structure of the caseload and establish which are the main sources of the backlog. The backlog is the number or percentage of pending cases not resolved within an established timeframe.
17. The CMS should be updated, to ensure easily available and reliable data for analysis by the courts and the Analytical Centre. This is a *conditio sine qua non* to design, plan and implement any policy on time management.
18. As the initial analysis of the data supplied by the Ministry of Justice shows, a major problem for the Slovak courts is the huge number of pending enforcement cases. The outcomes of the reform that came into effect in April 2017, to file all the new enforcement cases to just one court, should be carefully assessed. However, there is still a huge number of enforcement pending cases which are to be decided in the courts all over the country and which do not meet any reasonable timeframes. Generally speaking, when the problem is of such a magnitude, an "emergency law" that would speed up the proceedings and clean up the registers is needed. Based on the data available, there is no way that, with the actual resources, the huge amount of enforcement proceedings still pending could be disposed of in reasonable time. Therefore, there are strong indications on the need of an urgent political intervention to simplify and speed up the procedures. An overhauling of the enforcement system (excluding the "blockage" of enforcement cases on the registers of courts which have no responsibility and means for steering the enforcement act) and of the profession of bailiffs may be considered.
19. The analysis show that some of the selected courts are suffering, more than others, of an excessive length of judicial proceedings. In these courts, in particular, some more analysis is needed and *ad hoc* policies may be applied to tackle the situation.
20. European countries that try to address the excessive length of judicial proceedings may adopt several policies that often come from the CEPEJ analysis and recommendations, based on practices tested in CoE member States. These actions have to take into consideration the specific context in which courts operate. The inventory below is a good starting point to explore which measures can better suit the judiciary of Slovakia:

- Setting timeframes;
- Strong commitment and judges' leadership to enforce the timeframes;
- Pro-active case management by the judges;
- Constant monitoring of case processing and quick responses to increased caseload and anticipated delays;
- Clear scheduling of court events;
- Strict policy to minimise adjournments and avoid postponements;
- Specific policy to manage court-appointed experts to avoid delays;
- Policy to increase early settlements, pre-trial settlements, mediation and conciliation;
- Some flexibility of the case assignment system;
- Setting a task force to manage unpredictable caseloads;
- Delegation of authority to clerks and other court staff to increase the court productivity⁵³;
- Post-filing filtering of cases to address them through different paths (i.e. specialisation and, if possible, increasing the ratios of summary procedures);
- Templates for procedural acts and legal arguments;
- Active involvement of parties and lawyers in scheduling procedural steps, to avoid unnecessary delays;
- Accountability policies for judges, court personnel, and lawyers, to enforce timeframes and avoid opportunistic behaviours and delay tactics.

These and other possible actions should be further discussed in the following stages of the Project, to see which one, how, and when can realistically be implemented in the Slovak judiciary.

21. The setting of timeframes is one initial step towards a tenacious positive tension to decrease the length of judicial proceedings without any prejudice to the quality of decisions. There is no possibility to improve the length of judicial proceedings without a strong commitment by the president and judges of the court, as well as the whole court personnel towards the accomplishment of the timeframes.
22. Judges are supposed to have a more pro-active role in the management of their caseload. For example, judges should be able to set a realistic calendar of events for the case, in consultation with the parties and other participants, whenever possible, and taking into consideration the complexity of the case (e.g. number of witnesses, evidence to be collected, need for expert witnesses, complexity of the legal matter, level of conflict between the parties, timeframes etc.). The trials should be as concentrated as possible. The Council of Europe Recommendation Rec. 84 (5) advises the establishment of a typical procedure based on "not more than two hearings, the first of which might be a preliminary hearing of a preparatory nature and the second for taking evidence, hearing arguments and, if possible, giving judgment." A case management meeting to set a calendar of

⁵³ At the same time, a balance is to be found. It has been reported that the "delegation" started to go too far in some courts, as the delegation may create a lot of comfort to judges. As one of the judges commenting on a draft of the present report put it: *"Currently this delegation occurs to such extent that the judge becomes a clerk (administrative employee) and the clerk becomes a judge. At the same time, the salary of a judge is five times higher than the salary of the administrative employee. Therefore, one has to think how to return competences to the judge, not how to delegate them"*.

events can help settlements, avoid unnecessary adjournments, concentrate hearings, and hold the timeframes. The decisions taken during such meetings should be strictly enforced by the judges.

23. A clear and strict policy against continuances or postponements should be implemented by all judges in line with the procedural law. The granting of postponements to lawyers should be limited as much as possible, in order to avoid delaying tactics and keep the scheduled pace of litigation. Courts should promote common practices with regard to lawyers, to avoid postponements, which should be only granted if really needed and for a limited period of time. The most common reasons for postponements should be tracked and discussed by court presidents and judges.
24. Generally speaking, European judiciaries have not established *ad hoc* courts to deal with the excessive caseload, but they have increased the number of “temporary judges” working in particular courts or particular jurisdictions. In some countries, these judges moved from one court to another, or they have been recruited to be specifically a “flying squad” or “taskforce” to be deployed when a court is under pressure. Some countries have also used retired and experienced judges to be part of these taskforces. If the excessive caseload and, as a consequence, the outstanding length of the proceedings, involve a particular jurisdiction, members of the taskforce may be people coming from the legal profession, who serve as judges usually for less complex cases, or under the supervision of a professional judge.

However, as far as it is known, systematic assessments of these “flying squads” are not available. It should also be mentioned that most of the time only the number of judges is increased thanks to these “flying squads”, but the “delivery of justice” is a complex function, which entails judging but also several administrative tasks, therefore the number of non-judge personnel may be also part of such squads.

It is also worth mentioning that justice systems that suffer from a chronic excessive length of judicial proceedings may not benefit from these flying squads due to their limited term of service. In addition, apart from retired judges, other legal professionals called upon to be part of the flying squad need some training before being really beneficial to courts’ productivity.

25. Judges should share templates for giving legal arguments in standard cases to save, their time and work. In addition, some common rules for the practice to give legal reasons in writing should be developed and shared among judges, also to avoid excessive and useless length in legal reasoning.
26. Data on the age of pending cases should be collected and analysed, taking into consideration the set timeframes. Ideally, data should be collected as often as possible (ex. every 3-4-6 months) to monitor the courts’ functioning over the year and not just at the end of the year.
27. Judges and court personnel should be able to monitor constantly their caseload (incoming, disposed of, pending, age of pending case etc.), in order to undertake the necessary actions if the targeted timeframes are not met.
28. The data monitored should be the basis for regular (at least once a year) reports to be used for discussions among all judges and court personnel, to improve the pace of litigation and, more generally, the quality of court’s work. Meetings among court staff should take place regularly, possibly every time a report is released. Data on the length of judicial proceedings should also be public and easily accessible.

E. Quality of courts

a. *Fairness and legal certainty.*

Legal certainty is a primordial requirement for any legal and judicial system in order to respect the right to a fair trial and the principle of rule of law. Furthermore, as court decisions can acknowledge, elaborate upon and clarify laws, their accessibility, consistency and comprehensibility are aspects which contribute to ensuring the legal certainty in a given legal system.

➤ Access to and consistency of case-law

One of the pre-conditions towards achieving a high level of legal certainty through consistency of case-law is that of unrestricted and proper access to case-law. This requirement may entail several aspects, such as the existence and availability of databases of case-law and the accessibility and quality of such databases. Case-law must not be accessible only to court users (lawyers, litigants etc.), but foremost, it must be made available to judges themselves. Whether the choice is made towards the creation of two systems, with a specific database accessible only to the judiciary or if the choice is to have only one system available to both the large public and the judiciary, either way, effective access to the case-law must be ensured to judges.⁵⁴

This may entail the need to provide capacity building training to the members of the judiciary for an efficient use of such databases, thus enhancing the necessary IT skills. With regard to this aspect, in the process of developing this report it has been noted by a Slovak judge that users need to have a certain level of IT skills in order to use the relevant case-law databases. In order to ensure an efficient use of case-law databases by all judges, the MoJ and the Judicial Academy could consider offering specific trainings for this purpose to all judges on a regular basis. Furthermore, the database of case-law shall be offering several tools, such as the possibility to conduct a research of the case-law by key-words or the legal provisions applied, or the possibility to easily follow on a specific case through all levels of jurisdiction.⁵⁵

As concerns another aspect of the principle of legal certainty and, namely, consistency of case-law, the following can be drawn from the replies to the Questionnaire on Quality. First of all, 55% of the answers refers to a partial utilisation of mechanisms ensuring the consistency of decisions, while 39% refers to a full utilisation of such instruments.

⁵⁴ This comment is mainly related to the fact that, as learned by the CEPEJ team, in the Slovak Republic there is an advanced database of case-law, which is distributed on a commercial basis. Apparently judges do not have access to this database and, as one of the interviewed judges ascertained: *“often the lawyers, who have access to this database of case-law upon a fee, are better prepared than judges to cite earlier judicial decisions on similar cases or related jurisprudence”*.

⁵⁵ Please see in this connection also the [CCJE Opinion No. 14 \(2011\) “Justice and information technologies \(IT\)”](#) and the [“Handbook describing approaches and best practices in the use of new technologies for case management, circulation of documents, data collection in the legal field and communication of case law to the public”](#), by Xavier Monsó Briñardeli, 2012 © EUROMED Justice III Project.

According to the replies to the Questionnaire on quality, it is a widely spread practice for judges (86 % of fully positive answers, only 2 % of negative answers) to organise periodical meetings within the same court (district or regional) to discuss about the case-law, with the final purpose of unifying the decision-making process. However, it has been specified by one of the members of the working group of the MoJ that these activities are insufficient. Essentially, there are collegiums established within each regional court and composed of judges that are tasked with the unification of the jurisprudence. However, in order to fulfil this objective, conditions should be created for judges, enabling them to work more intensively on the unification, for example by reducing their caseload.

In this regard, it can be added that in the Regional Court of Banská Bystrica special attention has been given to maintaining the coherence of the case-law with reference to the massive and serial flow of applications arising (in 2014/2015) from the debts recovering claims of a non-banking company⁵⁶.

The research for uniformity of the case-law should equally be pursued among the different courts of the same judicial district. In this regard, the experts were pleased to learn that, as it has been reported in the comments to the Questionnaire on Quality, at least once a year, a regional court organises a joint meeting with judges from the chambers of the district courts seated in the same region.

The global picture drawn by the Bar Association and several NGOs is more critical. In general terms, these stakeholders have highlighted a problem of predictability of courts' decisions (at both district and regional levels). Above all, they complained of the absence of streamlined procedures in courts, referring, for instance, to the practice of the specialised business registry courts, each of them requiring different documentation for the same procedure. Furthermore, the Bar Association criticised the lack of a unified practice for granting access for lawyers to the "Register of public sector's partners".⁵⁷

In this regard, asking for different documents or different formal requirements for the same kind of court proceedings can be considered rational only if duly justified by specific circumstances. The lack of uniformity of practices can, generally, derive from unclear primary and/or secondary legislation as well as from different instructions of the presidents of courts. Therefore, the relevant bodies (MoJ, Supreme Court etc.) should act consequently in order to tackle this issue.

The role of the Supreme Court in the unification of the case-law has also to be stressed, insofar as there is room for its intervention and the inconsistency is not limited at the level of administrative practices within the courts. Even if the Slovak legal system does not follow the principle of *stare decisis*, it resulted from the meeting with representatives of the Supreme Court that its jurisprudence should be taken into account by "lower" courts. Judicial decisions of these courts can depart from the case-law of the Supreme Court only provided that a thorough motivation is given.

⁵⁶ More precisely, the flow of applications before the Regional Court of Banska Bystrica arose from the reaction of the non-banking company to the judicial review of the consumer contracts which constituted the cause of action of the aforesaid company's claims.

⁵⁷ According to the clarifications offered by a member of the working group of the MoJ, the specific problem in this regard was the difficulty of lawyers to comply with the imposed deadline in order to register.

As concerns the issue of consistency of the case-law, one must bear in mind that “[t]he principle of legal certainty, guarantees, *inter alia*, a certain stability in legal situations and contributes to public confidence in the courts”⁵⁸.

On the one hand, “[t]he possibility of conflicting court decisions is an inherent trait of any judicial system which is based on a network of trial and appeal courts with authority over the area of their territorial jurisdiction. Such divergences may also arise within the same court. That, in itself, cannot be considered contrary” to the European Convention on Human Rights⁵⁹. Indeed, also lower courts can contribute to case-law development, which “is not, in itself, contrary to the proper administration of justice since a failure to maintain a dynamic and evolutive approach would risk hindering reform or improvement”⁶⁰. Furthermore, a certain room for judicial discretion in the interpretation and the application of legal provisions is inherent to the judge’s internal independence within the court where he is performing his duties⁶¹, even vis-à-vis the president of that court.

On the other hand, “the persistence of conflicting court decisions [...] can create a state of legal uncertainty likely to reduce public confidence in the judicial system, whereas such confidence is clearly one of the essential components of a State based on the rule of law”⁶². To this effect, the role of the Supreme Courts and, above all, the good functioning of mechanisms apt to solve “profound and long-standing differences existing in the case-law”⁶³ are crucial.

The consistency of case-law throughout the entire judicial system can equally be achieved thanks to training activities for judges. For this purpose, it has been reported that the Judicial Academy organises training activities on current case-law with the participation of judges of the Supreme Court. Without undermining the value of the input provided by judges of the Supreme Court in such situations, it is important that, even during training activities, attention is paid to the internal independence of judges from all levels within the judiciary and to the need for their lively contribution to the development of the case-law. Therefore, a softer tool would be the participation in open discussions over new or disputed legal issues during such training activities for judges. The aim of this kind of open discussions is not necessarily to instruct lower court judges on the “correct” solution to adopt, but rather to underline the pros and cons of the various possible solutions and to build a common ground for a consistent legal reasoning in similar cases.

⁵⁸ ECtHR, *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], no. 13279/05, 20 October 2011, §§ 49-58.

⁵⁹ *Idem*.

⁶⁰ *Idem*.

⁶¹ See CM Rec (2010)12, Annex, point 22: «The principle of judicial independence means the independence of each individual judge in the exercise of adjudicating functions. In their decision-making judges should be independent and impartial and able to act without any restriction, improper influence, pressure, threat or interference, direct or indirect, from any authority, including authorities internal to the judiciary. Hierarchical judicial organisation should not undermine individual independence».

⁶² ECtHR, *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], quoted above, § 57.

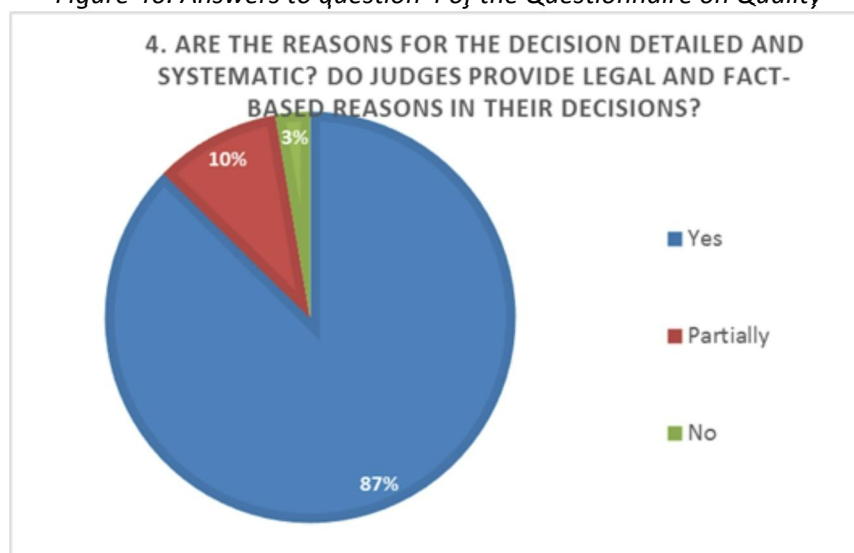
⁶³ *Ibidem*, § 53.

In many judicial systems, another informal practice is being more spread: the use of judges' mailing lists on specific areas of law (criminal law, labour law, commercial law etc.) where judges (and sometimes also other legal professionals) share legal articles, disseminate recent case-law and exchange their views in this regard. Certainly, many of the tools aimed at ensuring good access to and consistency of case-law, particularly informal tools, entail as a prerequisite a certain level of IT skills as well as access to IT tools (hardware and software). Hence, judges need to be provided with such tools and have access to specific trainings, as stated above.

➤ **Clarity of judicial decisions**

As concerns the clarity of judicial decisions, reference has to be made to the well-established practice of Slovak judges, confirmed by the Questionnaire on Quality (87 % of positive answers), to offer quite a detailed reasoning in fact and law to their decisions.

Figure 46: Answers to question 4 of the Questionnaire on Quality



However, a few critical points emerge from the comments to the Questionnaire on Quality. Some of the respondents indicated that too much space of the decision is occupied by the description of proceedings, quoting from the minutes of the hearings, without any synthesis of the factual elements which are truly relevant for the legal reasoning. Some other respondents casted doubts over the relevance of the legal arguments written in the rather extended text of judicial decisions, as sometimes they do not provide a clear explanation for the case under examination, but often veer off to various formal elements.

Furthermore, another judge provided some clarifications with regards to the possible sources at the origin of this insufficiency of legal reasoning. In his or her view, on the one hand, it can be determined by the decreasing level of legal education provided in law faculties, which further reflects in the selection process: to write a concise decision focusing on the key factual and legal points of the case is more demanding and complicated than transcribing entire passages from the court-file and/or from higher courts' case-law. On the other hand, it has been suggested that the cause of the problems in judgments' reasoning might be the fact that, on some occasions, decisions are written by the judicial assistants who might not be fully familiarised with the entire content of the file.

A formalistic approach to the duty of providing reasoned decisions is far from being advisable. To this effect, it can be recalled that, according to well-established case-law of the ECtHR, a reasoned decision shows to the parties that their case has truly been heard, also enabling them to make effective use of any existing right of appeal⁶⁴, thus contributing to the overall fairness of court proceedings⁶⁵. At the same time, the requirement for judges to provide public reasons to their judgments, if duly communicated to the media and correctly reported by the latter, enables all citizens to have the full picture regarding the manner in which justice is being delivered in the country. In other words, proper motivation of judgments is a tool to maintain a connection between the judicial power and the citizens in a democratic society.

It must be mentioned here that, despite the critical remarks emerging from the comments to the Questionnaire on Quality, it cannot be assumed that the general practice of Slovak judges to provide details in fact and law in the reasoning of their decisions reveals a formalistic approach towards this aspect of the quality of justice. Therefore, starting from the assumption that Slovak judges generally effectively provide an analytic motivation in fact and law, it can be observed that offering systematically a complex and detailed motivation, irrespectively of the complexity and difficulty of the case under examination, can affect the comprehensibility of court decisions, not to mention the negative effects such a practice can entail on the efficient use of “judicial resources”⁶⁶.

Furthermore, even in complex and difficult cases, the reasoning should focus on the key points of the case and be comprehensible to the parties assisted by lawyers. In this regard, and in accordance with the obligation contained in the Civil Litigious Code, judges of the District Court of Senica mentioned their practice to give the parties a short oral explanation when the decision is publicly announced, which seems to have the effect of deterring appeals up to a certain extent. Moreover, it emerges from the comments to the Questionnaire on Quality that judges sometimes find themselves in difficulty to deliver easily comprehensible decisions to the non-legal public and, at the same time, to build a solid reasoning that cannot be easily challenged in appeal.

A useful guideline to solve these apparently conflicting aspects can be found in the case-law of the ECtHR. Indeed, the extent to which this duty to give reasons applies may vary according to the nature of the decision and can only be determined in the light of the circumstances of the case⁶⁷. The courts are required to examine the litigants’ main arguments and provide legal reasons to the parties’ key pleas⁶⁸.

A suitable tool for striking a fair balance between the need for a good judicial reasoning and a comprehensible text is the use of standardised forms of decisions. Standardised templates can serve to

⁶⁴ ECtHR, *Hirvisaari v. Finland*, no. 49684/99, 27 September 2001, § 30 *in fine*.

⁶⁵ ECtHR, *H. v. Belgium*, no. 8950/80, 30 November 1987, § 53.

⁶⁶ See G. Oberto, *Report on the working session at the Regional court of Bratislava (Slovakia) in the framework of the court coaching programme – “Saturn” tools for judicial time management of the European Commission for the Efficiency of Justice (CEPEJ)*, Bratislava, 8 April 2013, section 6.7.

⁶⁷ ECtHR, *Ruiz Torija v. Spain*, no. 18390/91, 9 December 1994, § 29.

⁶⁸ ECtHR, *Donadzé v. Georgia*, no. 74644/01, 7 March 2006, § 35.

draft simplified decisions and to process repetitive applications⁶⁹. Moreover, the use of a clear and coherent structure, combined with a good system of quotation of the relevant case-law, can contribute to the clarity even of complex decisions. The process of standardisation goes naturally hand in hand with the use of ICT tools, both for case management and communication with court users.

At this stage of the analysis of the documents provided by the MoJ and of the replies to the Questionnaire on Quality, no particular issue emerged in regard to the overall fairness of proceedings before Slovak courts. Likewise, the different stakeholders interviewed by the experts (the Bar Association, NGOs) did not signal any specific issue concerning alleged unfairness of judicial proceedings. Lastly, if question no. 46 of the Questionnaire has the potential to reveal some useful information on the topic, it would be, nevertheless, highly desirable to address specific questions to court users (parties and legal professionals involved in court proceedings) in order to further elaborate on the issue of the fairness of proceedings.

Further analysis by national judicial authorities of the aspects related to fairness, legal certainty and clarity of judicial decisions is needed, based on a closer scrutiny of the internal practices within the Slovak courts and of the eventual results of a satisfaction survey addressed to court users. Such an analysis in selected pilot court may be part of the second phase of the Project.

b. Communication to court users. Publicity and transparency

The overarching objective of judicial communication is to create, preserve, and strengthen the public support for the court system by demonstrating the courts' commitment to their mission, vision and values. This support is achieved through meaningful communication between the courts and its audiences. Therefore, the judiciary and courts' administration have to educate, inform, and teach the public about courts. They have to organise and present the collected data in forms which are comprehensible for judges, court staff, but also for the partners of the judicial system and the public. Each of these target audiences require special attention. The goal of a communication plan is to make information accessible and understandable to everyone. The key to effective court communication is to identify and understand each target audience and surround them with effective messages.

The CEPEJ's Checklist for promoting the quality of justice and courts (CEPEJ(2008)2) focuses a few dozens of its questions on aspects related to communication and transparency of court systems. In a similar way the CCJE has issued recommendations on enhancing the public trust and respect for courts through increased transparency and communication, especially in its Opinion No. 7 (2005) "On justice and society". As an example of good practice to be possibly followed may serve the adoption by the Latvian Judicial Council of a Court Communication Strategy and Communication Guidelines⁷⁰ of the judicial system, aimed at mutual exchanges among the institutions belonging to the judicial system, and at the communication with the public.

⁶⁹ See CEPEJ (2016)13 *Guidelines on how to drive change towards Cyberjustice*, para. 47.

⁷⁰ The English translation of these documents can be found on the webpage of the Judicial Council of the Republic of Latvia: <http://at.gov.lv/en/the-board-of-justice/documents/>.

The means of communication must be adapted to the target audiences. Thus, the information that the leadership of a court wishes to transmit to judges and staff may be the subject of a presentation meeting or even sent by email. Justice partners, such as lawyers, local authorities and administrations, may receive information sent to them through a printed report or by mail. It is also possible to organize more solemn meetings at fixed intervals, for example once a year.

With respect to the public, the use of the courts' website seems the most appropriate. It is necessary to be extremely careful to ensure that information is provided in a form that is understandable for a person with no special skills in statistics.

The CEPEJ expert team was informed that the Regional Court in Banská Bystrica publishes, on the website of the MoJ, a yearly report about this regional court and the district courts within its jurisdiction. This good practice is implemented since 2010. The presentation provides basic information to the general public about the activities of the courts concerned. For example, the report contains data regarding the number of incoming cases, the number of cases per judge, the number of resolved and unresolved cases, and the number of judges and judicial assistants.

The practice of publishing annual reports on the activity of the court system and/or of individual courts, including statistical analysis and court performance indicators, comparative perspectives and chronological developments etc., does not seem to be well established and is pursued through individual initiatives.

The trust in the Slovak justice system has been a topic of discussion with many of the partners met by the CEPEJ team. MoJ should take initiatives to encourage more transparency (website in conformity with open Government standard) and adopt a proactive policy to educate the general public, the media, and the youth (through a variety of educational initiatives and materials). Following the example of the Danish Court Administration, recognised as a best practice by the CEPEJ, could help the MoJ to structure this entire area of competence, that also requires coordination with the Judicial Council.

What could be done in order to improve the public's opinion of the judiciary? Representatives of the civil society organisations (CSOs) expressed the opinion that more openness is necessary – judges should appear more often in public, to explain the adopted decisions. For this purpose, they should attend specific communication trainings. The evaluation of judges should be less formal, more on the substance of their performance.

In the view of another NGO representative, there is a high risk of corruption and nepotism amongst judges, therefore more transparency is required. Disciplinary measures are not efficient. Disciplinary proceedings should indeed be initiated against the judges not performing their tasks. In small towns the risk of corruption is higher, because judges are seen as VIPs and do not respect the ethical conduct. Another NGO representative expressed the opinion that there are too many presidents of courts in Slovakia, and that they lack management training.

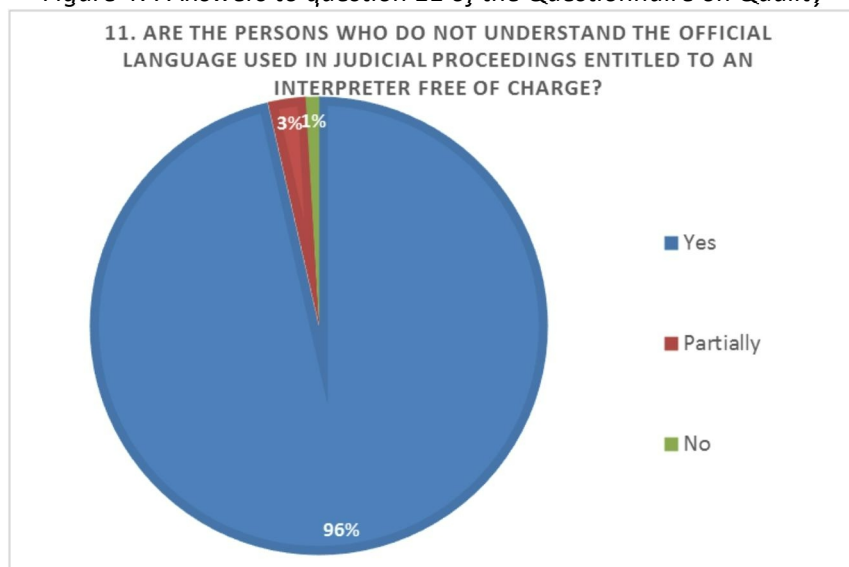
c. Access to courts

With regard to the different aspects of access to justice, the following remarks result from the answers and comments provided to the Questionnaire on Quality and from the information collected during the discussions with the national stakeholders.

➤ Access to justice and language interpretation

Generally, court users who do not understand the official language of court proceedings are entitled to free interpreting services (96% positive answers). This right applies to all kind of judicial proceedings (both civil and criminal). It is reported in the comments to the answers to the Questionnaire on Quality that, lately, the possibility of free translation has also been extended to written submissions. The cost of translators and interpreters is borne by the State. No particular issues have been raised by the representatives of other stakeholders (the Bar Association, NGOs) on this topic.

Figure 47: Answers to question 11 of the Questionnaire on Quality



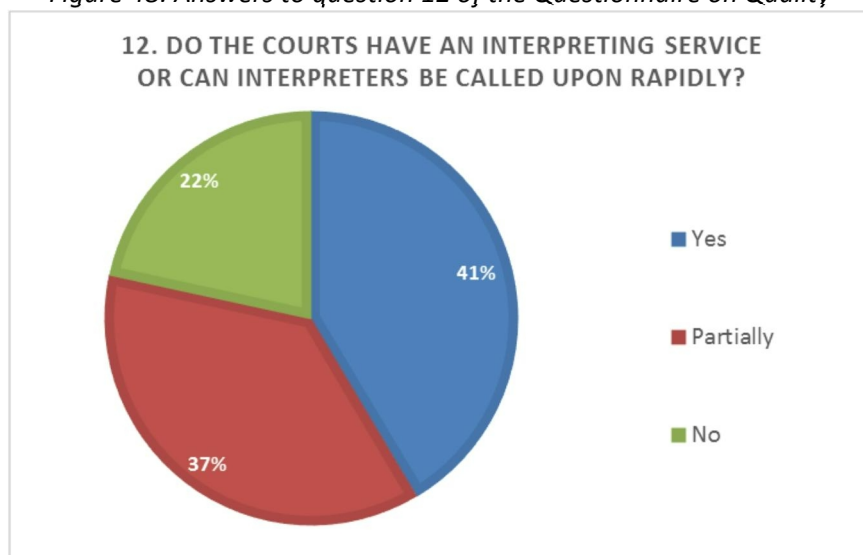
Thus, at this stage one can conclude that the very essence right for a free interpreter, guaranteed by the Slovak Constitution as well as by International instruments, is respected.

For the purpose of the interpretation service in judicial proceedings, the MoJ administers a list of registered court interpreters, which is available on Internet. This system, which entails a centralised supervision by the MoJ, aims at ensuring a sufficient level of quality. In addition to this, it reported in the comments to the Questionnaire on Quality that judges who make use of the interpretation service have the duty, to signal to the MoJ any shortcomings from the side of the interpreters, translators or experts that were employed in the proceedings before district and regional courts, especially the undue delays that were caused by those persons, in view of their removal from the list.

On the contrary, the current situation does not seem fully optimal as concerns the speedy availability of an interpreting service: only 41% answers to the question related to this issue are positive, 37% partially positive. Some difficulties are expressed with regard to the prompt availability of interpreters in some languages, namely when the need for the interpreting service in such languages arise in small courts. A

similar scenario has been reported by one of the respondents to the Questionnaire in case the interpreter has to come from Bratislava to the city of Prešov, despite the fact that in this city sit both a regional and a district court.

Figure 48: Answers to question 12 of the Questionnaire on Quality



Having in mind the previous remarks, it might be assumed that the issue of prompt availability of interpreters is mostly determined by the geography of the country as well as by the different paths of development and social tissue of each area. Therefore, the problem is naturally more persistent in small courts which generally sit in relatively remote small towns.

Recalling the analysis carried out above in the section related to the judicial map, a partial solution to this problem could come, on the one hand, by having recourse to interpreters who are not registered in the national list administered by MoJ. In other words, a list of people living in the concerned area and having a fair knowledge of foreign languages could be established in each court or police section to this end. However, some doubts could be cast on the impact that this solution might have on the quality of the interpretation service.

With regard to the same difficulty, it has been subsequently specified by a member of the working group of MoJ that an alternative is already offered in the provisions of Article 51 para.1 of the Decree of Ministry of Justice no. 543/2005. According to this provision, courts can employ, upon need, an interpreter. Furthermore, interpreting can be also provided by other figures such as assistants, the president of the senate or by other members of the senate.

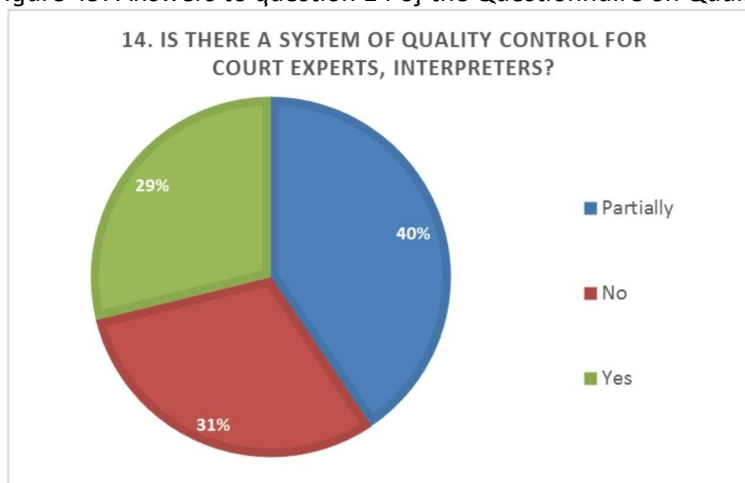
On the other hand, another solution which does not seem to raise additional doubts as regards its efficiency and level of quality, would be that of providing the interpretation service through live videoconferences conducted in the facilities of the court of police section, taking all necessary measures to secure the right to defence.

The issue of ensuring the quality of services provided by interpreters and experts deserves more attention also under the current regulations. Most respondents to the Questionnaire on Quality doubt either the existence of a quality control system or, at least, its effectiveness. More specifically, in the

process of developing this report it has been specified by one member of the working group of MoJ that there is, first and above all, a need to reinforce the activity of the dedicated service of the MoJ in this regard. Besides such a recommendation, the authorities might consider organising continuous training for the interpreters that are on the list managed by MoJ. As regards, further measures that would reinforce the control of quality of such services, litigants should be able to contest the quality of the translation before the judge and ask for the interpreter to be replaced.

➤ **Legal aid and legal assistance**

Figure 49: Answers to question 14 of the Questionnaire on Quality



The Slovak judicial system provides legal aid to persons who lack financial resources in all legal fields (civil, criminal and administrative), as it was confirmed by the replies to the Questionnaire on Quality (more than 95% positive answers). According to the information made available to the experts by the MoJ (consistent with the information available in the evaluation report “European Judicial Systems, 2014 Overview”, question 12), there are two “providers” of legal aid.

Firstly, the Legal Aid Centre grants legal aid to persons in material need in all types of legal disputes except for criminal cases. It has been reported by one of the respondents to the Questionnaire on Quality that, pursuant to Act n. 327/2005, the Legal Aid Centre provides legal aid in civil, commercial, labour, family and administrative matters; in cases dealing with asylum requests and administrative expulsion, it is also provided for the proceedings before the Constitutional Court. These categories of legal aid are financed from the budget of the Legal Aid Centre, which is a state budgetary organisation.

Further information regarding the functioning of the Legal Aid Centre has been provided by the Bar Association. The Legal Aid Centre has its own staff who is in charge with the assessment of the conditions required to be granted legal aid, and thus the case to be appointed to a lawyer. Since 2012 all members of the Bar Association are obliged to participate in the system. According to the interlocutors, the remuneration system of lawyers is based on a flat fee, which is not perceived as to represent a financial incentive. The participation of lawyers in the Legal Aid Centre is rather seen as an ethical commitment. The IT system of the Legal Aid Centre is on-going an update aimed at providing tools for monitoring the conduct of the lawyers providing legal aid and to follow-up on the money flow. The Centre also evaluates the probability of success of cases, situation which often leads to conflicts between clients and their designated lawyers.

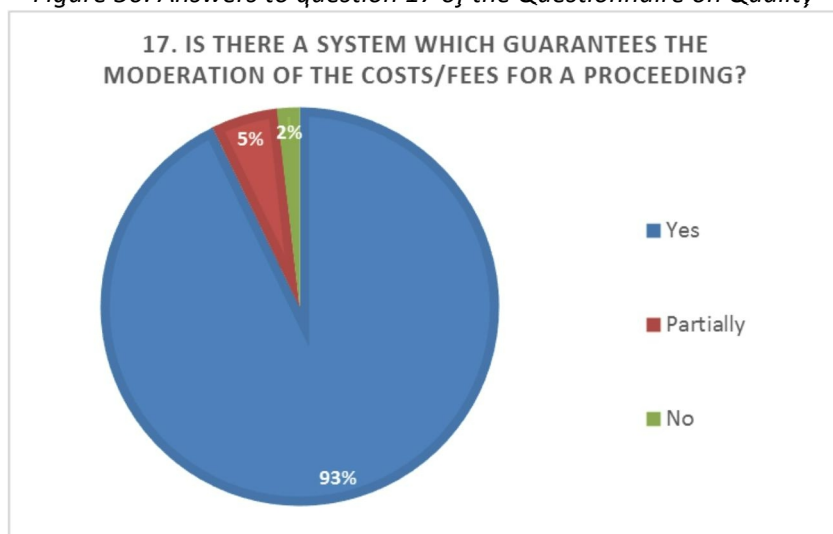
Secondly, in criminal cases where defence is compulsory, legal aid is granted by *ex officio* lawyers. The legal aid expenses in the criminal procedure are included in the budget allocated to the courts. Before 2014, the judge was entitled to appoint lawyers free of charge also in civil proceedings.

At this stage of the analysis it emerges that the overall legal aid system of the Slovak judiciary is efficient and fully complies with (or even goes beyond) the standards set by the ECHR⁷¹.

➤ Court fees

Another aspect which received a significant number of positive replies (93%) is the possibility to moderate court fees and costs of proceedings. First of all, it results from the comments to the Questionnaire on Quality that the judge can decide the total or partial exemption from payment of court fees, taking into account the applicant's situation. Although, in the view of another respondent to the Questionnaire on Quality, this system is being misused, the system must be seen as a democratic measure adopted by the state in order to ensure an effective access to court to all citizens, in line with the standards set in the case-law of the ECHR⁷².

Figure 50: Answers to question 17 of the Questionnaire on Quality



⁷¹ Article 6 § 1 does not imply that the State must provide free legal aid for every dispute relating to a “civil right” There is a clear distinction between Article 6 § 3 (c) – which guarantees the right to free legal aid in criminal proceedings subject to certain conditions – and Article 6 § 1, which makes no reference to legal aid. However, Article 6 § 1 may sometimes compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court (in these terms, see the landmark judgment ECtHR, *Airey v. Ireland*, no. 6289/73, 9 October 1979, § 26).

⁷² According to well-established case-law of the ECtHR, «[t]he amount of the fees assessed in the light of the particular circumstances of a given case, including the applicant’s ability to pay them, and the phase of the proceedings at which that restriction has been imposed are factors which are material in determining whether or not a person enjoyed his right of access and had “a ... hearing by [a] tribunal”» (ECtHR, *Kreuz v. Poland*, no. 28249/95, 19 June 2001, § 60 and the other references quote therein).

Secondly, a few comments to the Questionnaire on Quality would suggest that litigants who adopt a conduct which represents advantages for the global efficiency of the judicial system (use of means of electronic communication, recourse to mediation) are “rewarded” with a reduction or an exemption of court fees. Should this scenario be confirmed, it can be considered as more than reasonable in a comparative perspective⁷³.

Further analysis would be welcomed of the aspects related to access to court through a closer scrutiny of the pilot courts’ practices and of the eventual results of a questionnaire to be answered by court users.

d. Treatment of court users. Assessing user satisfaction.

It seems that the access to court facilities is a concern taken into consideration by the MoJ. A helpdesk and an electronic kiosk manage information and people at the entrance of each court building that the CEPEJ expert team has visited. The directions to move within the buildings are clearly indicated. However, it has not been tested whether access to the buildings (through public transportation or by one’s own means) is facilitated in the city, especially from public transportation platforms, and whether this access is explained in details in the convocation documents or on the court’s website.

Not in all courts’ buildings seems to be applied the principle of separating the circulation of the professionals and the public, to manage a more secure flow as recommended in the CEPEJ Guidelines on the organisation and accessibility of court premises (CEPEJ(2014)15).

The question of satisfaction surveys does not seem to be an area of interest for courts. It seems that judges and other representatives of courts perceive the issue more connected to the content of the decisions than to the services provided.⁷⁴ There is thus a need for disseminating the prerequisites, meaning, objectives and methods CEPEJ has developed in the field (esp. the CEPEJ Handbook for conducting satisfaction surveys aimed at court users in Council of Europe member States (CEPEJ(2016)15)).

The **Bar Association** representatives do not recall any survey on lawyers’ satisfaction. General opinion polls reveal the low trust of the public in the judiciary. People think that justice must be fast, efficient and fair; all over the country some 74% of citizens in 2015 and 60% in 2016 did not have trust in the justice. The cause may be related to a combination of several problems: deficit in professionalism, ethics, personal experience, and delays, as well as high-profile cases reported by the media.

⁷³ In the same terms, see CEPEJ (2016)14, *Structural measures adopted by some Council of Europe member States to improve the functioning of civil and administrative justice*, Good practice guide, 7 December 2016, Section 6.2, para. 173.

⁷⁴ As one of the judges commenting on a draft of the present report put it: “An opinion poll was conducted at District Court of Banská Bystrica (around the year 2000) was perceived negatively by judiciary. There is a predominant view that participants who lost the case will always be critical to the judiciary. Furthermore, politicians, including the MoJ, contribute to worsening the image of judiciary in the eyes of the public. Nevertheless, the most negative image of judiciary was created when judges were serving as ministers of justice.”

They also noted the uneven court practise. No predictions may be possible about the court's behaviour⁷⁵ in managing the cases or giving orders (e.g. regarding the bailiffs).

Furthermore, the quality of education of court employees is different and making it more complicated to cooperate efficiently.

Therefore, it is strongly recommended to:

- elaborate guidelines for applying the office or procedural law;
- focus court inspection on the proper implementation of rules;
- train the staff accordingly.

The interlocutors of the **Supreme Court** confirmed that the public has very little trust in the judiciary. In their view, most of the persons who are unsatisfied with justice did not have a direct experience, but are influenced by the media. The Supreme Court started publishing a magazine, "De Jure", aimed at providing to the public a complete picture of the judiciary.

Concluding remarks on the quality of courts

1. Consistency of case-law and uniformity of court practices contribute to legal certainty and to increasing the public's confidence in the judicial system. A prerequisite to this goal is the need to ensure efficient access to case-law databases, both for the judiciary and the public. For this purpose, appropriate ICT facilities and training should be available to the judiciary.
2. It is strongly advisable to unify different legal practices of court proceedings before all courts in the national territory. Asking for different documents or different formal requirements for the same kind of court proceedings can be considered rational only if duly justified by specific circumstances. Insofar as the lack of uniformity of practices derives from the lack of clarity of primary and secondary legislation as well as from the differences in instructions from court presidents, the relevant bodies (MoJ, Supreme Court etc.) should act consequently in order to remove the causes of this problem.
3. With regard to consistency of case-law, profound and long-standing differences shall be avoided. For this purpose, the crucial work of the Supreme Court in unifying the case-law has to be acknowledged and maintained, together with a proper dissemination of its judgments. At the same time, the need for uniformity should not totally discourage the contribution of each judge to case-law development, since the failure to maintain a dynamic and evolutive approach to adjudication would risk hindering any improvement.
4. Discussion among judges of the same court and of different courts (e.g. of the same region), which are regularly taking place in the Slovak judiciary, constitute another useful tool to ensure the consistency and the evolution of the case-law. Also in this context, a certain attention has to be given to the need for internal independence of judges within the judiciary: the aim of such exchanges should be to reach agreed solutions and not to hierarchically impose such solutions.

⁷⁵ Which leads to the strong suspicion of corruption, at the end, and a huge problem of lack of trust by the public, even if there is no objective ground for it.

5. In the same vein, training activities could equally constitute appropriate *fora* on the path towards the consistency of case-law without neglecting the values of internal independence of judges and their dynamic contribution to the case-law. Therefore, they should welcome not only information from the higher level of the judiciary but also a frank and open discussion among judges of the entire judiciary.
6. It cannot be excluded that the widespread practice of providing a detailed reasoning in fact and law in judicial decisions of Slovak courts reveals a rather formalistic approach. On the contrary, it has to be recalled that an effectively reasoned decision shows to the parties that their case has truly been heard and contribute to the trust of the public in the judiciary in a democratic society. A highly detailed and complex motivation risk to undermine the comprehensibility of the decision and to have a negative effect on the efficiency of justice. Therefore, the need for a detailed reasoning has to be adapted to the nature of the decision and to the circumstances of the case. Parties are generally entitled to a reasoned answer to their main legal arguments and pleas.
7. It is suggested to consider the use of standard forms and templates for court judgments as a tool not only for simple and repetitive applications but also in view of contributing to the clarity of complex judgments. Forms and templates in the case-processing and decision making are naturally combined with a good use of ICT tools.
8. The judiciary is invited to implement a communication strategy at all its levels (Judicial Council, Supreme Court and lower courts etc.). The overarching objective of judicial communication is to create, preserve, and strengthen the public support for the court system by demonstrating the courts' commitment to their mission, vision and values. This initiative should be supported by developing communication guidelines, appropriate training and allocation of resources, as may be necessary.
9. Satisfaction surveys are important tools in order to evaluate the quality of services and drive positive changes. The satisfaction surveys for different target groups should be properly adjusted to their objectives, but it is important to apply a consistent methodology and to regularly repeat them in order to evaluate the progress. The results of the surveys should be carefully analysed and the key findings shall be followed up by action to improve the quality of court services.
10. The interpretation service provided in the Slovak judicial proceedings generally looks satisfactory. While no issues have been signalled as concerns the costs and the quality of this service, some concerns have been raised as regards the prompt availability of interpreters, particularly in some languages and in some areas of the country. This issue should firstly be addressed in the wider context of reforming the judicial map. Secondly, a more specific solution to this problem could be either having recourse to interpreters who are not registered in the national list administered by MoJ, but in a locally administered list, or (preferably), providing the interpretation service through live videoconferences, taking all necessary measures to secure the right to defence.
11. Some doubts have been signalled as to ensuring the quality of interpretation services and to the effectiveness of the quality control system by the MoJ. In this regard, several measures could be adopted in the field of continuous training and the right of litigants to complaint of the quality of interpreting/translation services.
12. The overall legal aid system of the Slovak judiciary seems to be efficient and to comply with the European standards on the matter, although its detailed evaluation was not part of the objective of the CEPEJ team.

13. An equally positive conclusion can be drawn as regards the Slovak system allowing the mitigation of costs and fees.

EXECUTIVE SUMMARY

The CEPEJ Secretariat and the expert team involved in the evaluation would like to acknowledge the progress made by the Slovak Republic in view of reforming its judiciary and improving the access to justice for its citizens since independence, and in view of complying with the commitments of a member State of the Council of Europe (as of 1993) and of the European Union (as of 2004). The goal of this report was to provide a general evaluation of the efficiency and quality of justice and courts. To the extent to which a group of foreign experts can possibly get the understanding of the functioning of a judicial system on the basis of a brief presence in the country and a desk study of the information gathered by the CEPEJ in collaboration with the Slovak Ministry of Justice, the objective pursued by the experts was to highlight the most important challenges they think the Slovak judicial system is confronted with, and to suggest some solutions to be further explored and decided upon by the national decision makers. It is obvious that the present report, being drawn up in a complex and quickly evolving context, cannot cover exhaustively the entire array of issues and it focuses on aspects viewed by its authors as of priority.

Furthermore, the CEPEJ Secretariat and expert team would like to thank all the national partners who contributed to the development of this report, first and foremost the Ministry of Justice of the Slovak Republic, which initiated the cooperation Project with CEPEJ and identified the need for the evaluation contained in the report. The Supreme Court, the Analytic Center of the Ministry of Justice, the Bar Association, the Judges' Association, national courts of the Slovak Republic and their representatives involved in meetings with the experts, submission of information and the revision of a draft of the present report, are all praised for their contributions, openness and professionalism. The CEPEJ expert team acknowledges the high-level national expertise, based on the good understanding of European standards and best practices in administration of justice, and it is optimistic that the present report will be followed up by concrete measures to improve the efficiency and quality of the judiciary as a whole and of courts. A certain consequence of these improvements, much expected by the society, will be the increased court users' satisfaction and public trust.

One-size-fits-all policies or solutions do not exist in the sphere of justice. On the contrary, it is interesting and useful to address problems with different perspectives, which are necessarily connected to the country size, political framework, institutional governance, procedural laws, legal and cultural context within which every policy has to be designed and implemented. In addition, reform policies in the judicial field are path-dependent, and it is very rare that they can be just "cut and pasted" from one country to another without the necessary "customisation". In this respect Europe is an extraordinary laboratory of innovations and trends, which are useful to know in order to have examples and ideas that may fit, once adapted, to different national contexts, and help overcome challenges which are often common to different court systems.

Concluding remarks on court organisation

1. In general, it has to be underlined that judicial business has become more complex within the last years. Higher complexity of judicial disputes demands for narrower specialisation, to ensure the best level of quality for the citizen. In Europe, therefore, two main developments can be noted:

either to introduce specialised judges, per branches in general courts; or to introduce specialised courts in charge for a region or the entire country.

2. In regard to courts with a general jurisdiction and specialised branches (civil and commercial, criminal, administrative), a certain minimum number of judges is needed, calculated according to several factors, to guarantee qualitative and efficient decisions and a random assignment of cases within branches.
3. Access to justice is more and more – and definitely will be in the next decade – offered by electronic means – at least in the main categories with “bulk repetitive cases”. So, it is not a matter of geographical location of the courts anymore. This trend will increase, especially if talking about specialised courts for the whole country (example: for the European Payment Order you may have just one portal for the whole Europe, independently of which geographical judge/court is resolving it).
4. The Slovak Republic had a simple judicial system with almost all the courts, at all the levels, having a general jurisdiction. But, with the introduction of the so-called “causal jurisdiction”, the system has become much more complex. The main issue arising in this context is the access to justice. This shouldn’t be a problem with the causal jurisdiction in disputes regarding bills of exchange or checks disputes, in labour disputes, as well as in bankruptcy and restructuring proceedings, because for all of these cases one district court per each region has jurisdiction.
5. For other issues (e.g. jurisdiction in industrial property disputes, disputes of unfair competition proceedings, the copyright disputes, disputes of competition, proceedings for the return of a minor, etc.), as already stated above, it could be still considered whether, at least for some of these types of cases, it is more appropriate to assign the respective jurisdiction to one district court for each region or for the territory of neighbouring regions. From the experts’ point of view, such specialisation is opening advantages of flexibility on human resources within these courts, potentially offering a high level of quality, if access to justice is assisted by up-to-date electronic means. This development could be strengthened.
6. Probably because of the good results ensured in the recent years by the District Court of Banská Bystrica in regard to enforcement cases, and because dealing with this category of cases seem to be one of the biggest problems of the Slovak judiciary (the number of unresolved cases on the state level went up to 3,38 million(!) in 2016), as from 1 April 2017 the District Court Banská Bystrica has got a nation-wide jurisdiction for all the new enforcement cases.

It is yet to be seen how well it works and the Slovak authorities should carefully and regularly monitor the progress in this regard, both for all the other courts, which have lost jurisdiction in enforcement cases but should work hard on resolving all the pending cases, as well as for the District Court Banská Bystrica, which is becoming a “mega-court” for enforcement cases. Although the number of judges and staff has been increased and they got additional office space, managerial problems may occur, reflecting on the efficiency of the court. In an attempt to anticipate this challenge, the MoJ has added a new position of vice-president, to ensure a proper management of the department on enforcement cases.

7. In line with the findings on human resources in the context of the specialisation and of the judicial map, it may be recommended to:
 - Allocate human resources to courts according to objective and transparent criteria related to the caseflow/workload, specialisation etc.

- Introduce tools to act pro-actively on foreseeable events such as maternity leaves, retirements etc. The new selection proceedings for judges introduced by Ministry of Justice should, reportedly, help overcome this problem, but the CEPEJ expert team does not have detailed information on the scope of the reform.
 - Consider the possibility of shifting judges between specialised agendas/branches, with their consent, upon good notice and not all at the same time, to ensure the transfer of knowledge and know-how, a response to changing caseload etc. At the same time, the possibility of switching the specialisation between the major branches of law (civil and criminal) should remain exceptional.
 - The transfer of judges from one level of jurisdiction to a higher one (but also between the courts of the same jurisdiction) is inevitable as a path of career advancement and in view of replacing judges retiring from higher courts. This transfer is to be operated in a way that does not create disproportionate negative consequences for courts from which judges depart. For example, a judge may not be transferred until his or her replacement is appointed, or the judge to leave a court may be asked to clear first the bulk of his or her pending cases, within a certain period after the decision on the transfer is taken.
8. In parallel to enhancing the specialisation and reviewing the court map, it is wise to invest in modern ICT means (electronic, semi-automated support of procedure) to manage the increasing caseload, to facilitate the access to courts, to improve procedural transparency, to pursue timeliness of judicial proceedings, and to fight the need of employing more human resources, which will likely have to be reduced afterwards.
 9. In the framework of its current assignment, the ambition of the CEPEJ expert team has been to make recommendations to the national authorities on the methodology to be possibly applied, and to provide some comparative cases, and by no means to critically evaluate the judicial map or to design specific recommendations on reviewing it. It is first and foremost for an inter-institutional and interdisciplinary working group, composed mainly of Slovak national experts, including judges, to take the responsibility for designing and implementing a reform of the judicial map. The CEPEJ expert team is willing to provide further advice and support to such a working group.

Concluding remarks on budgetary issues

1. The budget process in the judiciary of the Slovak Republic is very similar to many other European countries. The drafting of the budget is based on historical data; apparently, other criteria are marginally taken into consideration. In the next phases of the project, it may be explored what kind of other criteria and techniques (e.g. performance-based budgeting) may be applied.
2. As the first analysis performed by the CEPEJ team shows significant differences across the courts in terms of allocation of resources, these differences, as well as their causes should be better investigated. In particular, the analysis could be deepened and detailed in the second phase of the Project, with more accurate data on such issues as:
 - Budget allocated for civil, criminal and administrative matters;
 - Human resources invested in enforcement and payment orders division that, as of today, is not clear in which “agenda” are included;

- Detailed costs for each of the 12 selected courts, similar to the ones already supplied for Bratislava Regional Court;
 - Distinction between the budget allocated to all the regional courts and the budget allocated to all the district courts etc.
3. It could be envisaged a substantial increase in the involvement of judges, in particular presidents of the courts, heads of administration, and members of the Judicial Council, in the budget preparation, to better plan the resources needed, and coordinate the needs with the resources available. A constant, inclusive dialogue between the Ministry of Justice and the judiciary, based on court performance analysis and involving the judicial self-governing, on availability and allocation of resources is usually helpful to the court functioning. For example, in Finland and in Estonia the allocation of the budget of each court is carried out through a negotiation process between the Ministry of Justice and the court president. The negotiation is based on previous performance data, resources available, and new targets that each court is supposed to achieve. In particular, in Estonia additional resources are allocated if an improvement in the performance is targeted. However, if data on court performance are not reliable, this exercise will be jeopardised.
 4. As the analysis carried out revealed differences in the budget allocation across courts, the allocation criteria are to be further developed. The allocation of funding should be based upon explicit and transparent criteria (correlated to the workload, complexity of the caseload, performance etc.), which should be clear to the entire judiciary and to other stakeholders. Discrepancies in funding not substantiated by objective factors should be eliminated.
 5. Based on the data available, the unbalanced allocation of the budget across courts is mainly due to lacking a streamlined allocation of court personnel. Courts are still labour intensive organisations and, generally speaking, 80-90% of the court budget goes to personnel costs. In Slovakia, data show a disproportion in number of judges and non-judge personnel per incoming cases in various courts. As a consequence, there is a disproportion in budget per incoming cases and significant differences in the cost-per-case in different courts.

Therefore, it is of paramount importance to explore which method can be used to analyse and then to plan the personnel needs for each court. Detailed information on the criteria used in Slovakia to allocate judicial personnel in the various courts are not available yet, but the criteria used, and maybe their revision, should be a point of attention for the next phases of the project. These criteria may be compared with the ones used in other European countries. For example, in Austria, Denmark, Germany, Norway, the Netherlands cases are “weighted” based on their complexity, which means that they are classified based on the amount of time needed to handle them.

In Germany the weighted caseload system is called “PEBBŞY”. Cases are classified according to different criteria and a study is carried out to “estimate” how much time is needed to dispose of them. Then, an estimation of the court personnel is based on the expected caseload.

In Norway a similar analysis is carried out for each case type. Time per case is calculated keeping into consideration the judges’ work and the administrative process. This analysis is used to foresee both the needs in judges and clerks.

6. It should be further explored and discussed with the Ministry of Justice the possibility to centralise at the Ministry’s level the management of some budget lines related to personnel costs, and to leave more discretionary powers on the budget for the court organisation to the presidents of courts, heads of administration and local councils of judges. The implementation of this step will necessitate changes in the internal organisation of both the Ministry of Justice and the courts.

7. The data analysis performed for the purpose of this report demonstrated that any further plans should be based on robust and reliable data. Therefore, a priority should be a major investment to improve the capacity of the Analytical Center, and analogous structures within the Ministry of Justice, to produce reliable data on the performance of the justice system, and to analyse it systemically, which is the foundation of any future reform initiative.

Concluding remarks on the human resources of courts

1. As the procedures for selection of judges, training of candidates and their appointment to judicial offices is in the process of a reform, it is advisable to draw some conclusions from the criticisms addressed to the previous system. Transparency of the selection and appointment systems, along with competitiveness, clear criteria of evaluation of candidates and streamlined procedures with a significant involvement of the judiciary, are the pillars of a selection system which will be accepted as fair by the society and, what is not less important in the context of the Slovak Republic, regarded as a proper safeguard of judicial independence.
2. The number of judges and court staff to be allocated to courts is to be connected to clear and objective criteria, based on an analysis of the caseload, administrative workload, and an estimation of the average time needed to perform different judicial and non-judicial functions in the courts. The courts shall be afforded the necessary resources, including human resources, policies should be in place to respond quickly to the changing needs.
3. The initial training of judges shall be mandatory and requires further development. The in-service training should be facilitated by an adapted, qualitative and sufficiently vast offer of the Judicial Academy, as judges and court personnel shall have access to the knowledge and skills they need in the performance of their tasks and professional advancement.
4. The authorities of judicial self-governance should take a more active stance in regard to matter related to ethics and discipline of judges. The local councils of judges should not hesitate to discuss the ethical values and how they are complied with and promoted by judges of the respective courts. It is recommended that the Judicial Council publishes regularly statistics on the number of disciplinary proceedings conducted in regard to judges and details on their outcomes.
5. It is proposed to judicial authorities to pay more attention to the situation of court staff, and to take action for improving its conditions. A first step may be a conducting court system-wide satisfaction survey for personnel, in order to identify the most urgent measures to stop the high turnover of employees and to ensure sufficiently qualified and committed personnel.

Concluding remarks on court management and efficiency

1. Precise information and well-defined indicators are needed to understand the internal functioning of Slovak courts, before making fact-based policy decisions. In general, it is hard, if possible at all, to define the standards for courts' efficiency, timeliness and quality from the "outside" and independently of the current situation in the courts. To set standards for courts' performance it is necessary first and foremost to have a good and reliable data collection system. Judges can have differences in performance, which should be mitigated at the court level. Comparisons should be

made taking into consideration the performance of courts of the same level of jurisdiction and specialisation. If a particular judicial organisation provides for many different profiles of courts of the same level of jurisdiction, the task is becoming more complex, but not impossible. In such case, the judicial business of courts may be divided between different areas, for example, the performance under each agenda will be evaluated and compared. It will be necessary to determine separately, in a unified and transparent way, the resources dedicated to each agenda and only after that to calculate the performance indicators.

Furthermore, analysing in detail the functioning of each individual court may be the task and the role of the respective courts' managers. If the system of measuring the court performance is well thought and is assisted by adapted ICT tools, its continuous application shall not require significant resources.

2. At a first glance, it looks like the internal governance of the courts is very complex. Specific and clear roles should be drawn between the presidents of the courts, vice-presidents, heads of divisions, courts' councils of judges, and heads of administration. In larger courts, for example, it should be clarified why there is a head of division who cannot be vice-president. It is also a general practice in several European judiciaries that management or appointed positions should have a term of service, which tend to be no more than 8-10 years.
3. The composition of the "judge's team" mainly depends on the size of the court, on the court's organisational setting (i.e. specialisations, multiple panels, sections, single-judge formations, etc.), on the procedural setup, and, above all, on the court's resources.

It is a common request of judges across Europe to have at least a judicial/legal assistant trained in law, to help them in legal research and drafting, plus a judicial secretary to manage the register, hearings and other day-to-day operations.

Generally speaking, there are not many European judiciaries that can afford a legal assistant for each judge. In some cases, legal assistants are interns (in French "stagiaire") from law schools who are employed for a limited period. Their added value is quite controversial, because in many cases their activity is more a training than a real assistance to judges' work, and usually they leave the position when they start being productive for the court. Yet, in other countries, such as the Netherlands, this position has been institutionalised with positive effects on judicial activity (support with legal research and drafting of decisions, much appreciated by judges).

In these recent years of economic crisis, the overall goal of the public sector is to do more with fewer resources. In the judiciary the general trend is to devolve some of the judges' functions to non-judge personnel with sufficient training. For example, some matters related to land/business registries, guardianship, family law, inheritance, etc. could be devolved to non-judge personnel to increase the courts' productivity. Judges should only focus on cases that really need the legal competence of a judge. The possibility to have a "judge's team", as desired in the Slovak judiciary, is highly affected by the current size of the courts and by the judicial map, as well as the fragmented judicial agenda. Using more analytical criteria for the allocation of resources, including human resources, may lead to a better distribution of tasks and to the establishment of balanced "judge's teams" in the larger courts and of aggregated teams for more judges in the other courts.

4. The issue of judges' specialisation is strongly connected to the specialisations of courts or court divisions. It is matter of fact that being specialised in few tasks is supposed to increase the individual productivity due to learning curves. In addition, also the quality of the decision making process is supposed to increase due to the increasing knowledge on a specific matter. Another issue worth

noticing is that judges who are specialised in specific matters are usually more capable to reach an early settlement of the case, due to their deep knowledge of the law and familiarity with that kind of cases. However, judges' specialisation can be carried out only in specialised courts, or in courts that are big enough to manage a fair caseload for all the judges. After an in-depth analysis of reliable data on the courts' caseload for case categories, the national decision makers may choose the way for further specialisation for judges.

Most probably, the specialisation of judges should entail not just one narrow category of cases (the prerequisite of such a situation may be created in the Slovak Republic by the proliferation of judicial agendas, although individual judges are currently being assigned 2-4 such agendas, which is also a source of dissatisfaction), but, for example, a branch of law, in order to avoid an excessive specialisation that could jeopardise judges' broader legal knowledge and the possibility to be eventually transferred between branches and courts. Therefore, the level of specialisation and different related matters should be discussed with the judges, based on reliable data about the caseload per case categories for each court.

5. Specialisation of non-judge personnel is not lesser of an objective than specialisation of judges. It seems that in Slovak courts this specialisation advanced even at a quicker pace in the last years. For this reason, in courts there seems to be judicial assistants narrowly specialised into one agenda and therefore supporting the work of several judges who deal with this agenda along several other agendas. In order to pursue "economies of scale" and to improve quality of services through staff specialisation, a different organisation of "support services" may be explored. As information collected indicate, the internal organisation design of the courts is now "divisional" (e.g. civil division, administrative division, etc.) and support services seem to duplicate in each division. From this structure, courts may move towards a "functional organisation", where "support services" are centralised (e.g. front office, copies' service, archive, summons' office etc.). Advantages expected are a more efficient allocation of staff, a better specialisation, which may lead to more productivity and quality of support services. A deeper analysis on internal court organisation is necessary to single out which functions should remain under the full responsibility of the judge's team, and which functions can be aggregated to a staff pool.
6. It is advisable to acknowledge the tasks of court management and the leadership of the presidents of courts, to strengthen their responsibilities. It is worth mentioning that nowadays witness an increasing professionalization of court management. Therefore, the role of the heads of court administration is to be clarified and streamlined throughout the entire court system.
7. The use of the CMS should be compulsory. Proper training of court staff has to be offered to follow a unique application of management standards and law. The practices of handling paper registries in parallel to the registers of the CMS, or of statistical reporting based on manual retrieval of data from paper registers or on physical counting of case files should be discontinued to ensure a streamlined use of the CMS and standardisation of data.
8. Annual reports on the activity of the court system and of individual courts, including statistical analysis and court performance indicators, comparative perspectives and chronological developments etc., shall be drawn up and published through a general, well-established practice of court management.
9. The overall amount, as well as the specific data and indicators of statistical reporting in the Slovak judiciary should be reconsidered. A lot of current reports are being produced as the result of a long-term routine and likely do not provide any useful information, or could serve the purpose through

less efforts (e.g. use directly the data of the CMS, reduce the frequency of their production etc.). The CEPEJ's Guidelines on Judicial Statistics should be applied.

Caseload structure and CEPEJ indicators:

10. From 2013 to 2016, the total of incoming cases in all the country and in each of the selected 12 courts, presented a downward trend. This decrease could have been caused by the fact that non-bank companies abstained from submission of mass-actions. Significantly higher number of incoming cases in the year 2012 as compared to the year 2011, at district and regional courts, was caused by approximately 43.000 claims submitted by one non-bank financial institution. These cases were gradually decided and disposed of in the years 2014 and 2015.
11. In the selected regional courts, the decrease in incoming cases led to a parallel decrease in pending cases, while in the selected district courts it did not. Despite the lower number of incoming cases, the number of pending cases in the district courts has grown over the years.
12. The analysis on the structure of the pending cases shows that their rise in district courts is mainly due to enforcement cases. Enforcement pending cases are 6 to 9 times the number of enforcement incoming cases. Even though the number of enforcement incoming cases decreased from 2014 to 2016, and the Clearance Rate was positive in the last years, this was not enough to improve the disposition time which is still outstanding (between 6 and 9 years).
13. Cases per judge and cases per staff indicators show the need to have a more in-depth analysis of the criteria used to allocate personnel and, most probably, to revise them based on the caseload analysis carried out.
14. The remarkable differences in judges' "productivity" across courts should be better investigated and addressed. It is a matter of both institutional efficiency and fairness.
15. Data collection and analysis for more specific case categories should be implemented, as a basis for the development of a weighted caseload system. The CEPEJ is willing to assist the national authorities with this task in the following stages of the project.

Time management:

16. Reduction of the backlog and of unreasonable delays shall be one of the courts' and judges' priorities. For this purpose it is necessary to analyse the structure of the caseload and establish which are the main sources of the backlog. The backlog is the number or percentage of pending cases not resolved within an established timeframe.
17. The CMS should be updated, to ensure easily available and reliable data for analysis by the courts and the Analytical Centre. This is a *conditio sine qua non* to design, plan and implement any policy on time management.
18. As the initial analysis of the data supplied by the Ministry of Justice shows, a major problem for the Slovak courts is the huge number of pending enforcement cases. The outcomes of the reform that came into effect in April 2017, to file all the new enforcement cases to just one court, should be carefully assessed. However, there is still a huge number of enforcement pending cases which are to be decided in the courts all over the country and which do not meet any reasonable timeframes. Generally speaking, when the problem is of such a magnitude, an "emergency law", that would speed up the proceedings and clean up the registers, is needed. Based on the data available, there is no way that, with the actual resources, the huge amount of enforcement proceedings still pending

could be disposed of in reasonable time. Therefore, there are strong indications on the need of an urgent political intervention to simplify and speed up the procedures. An overhauling of the enforcement system (excluding the “blockage” of enforcement cases on the registers of courts which have no responsibility and means for steering the enforcement act) and of the profession of bailiffs may be considered.

19. The analysis show that some of the selected courts are suffering, more than others, of an excessive length of judicial proceedings. In these courts, in particular, some more analysis is needed and *ad hoc* policies may be applied to tackle the situation.
20. European countries that try to address the excessive length of judicial proceedings may adopt several policies that often come from the CEPEJ analysis and recommendations, based on practices tested in CoE member States. These actions have to take into consideration the specific context in which courts operate. The inventory below is a good starting point to explore which measures can better suit the judiciary of Slovakia:
 - Setting timeframes;
 - Strong commitment and judges’ leadership to enforce the timeframes;
 - Pro-active case management by the judges;
 - Constant monitoring of case processing and quick responses to increased caseload and anticipated delays;
 - Clear scheduling of court events;
 - Strict policy to minimise adjournments and avoid postponements;
 - Specific policy to manage court-appointed experts to avoid delays;
 - Policy to increase early settlements, pre-trial settlements, mediation and conciliation;
 - Some flexibility of the case assignment system;
 - Setting a task force to manage unpredictable caseloads;
 - Delegation of authority to clerks and other court staff to increase the court productivity;
 - Post-filing filtering of cases to address them through different paths (i.e. specialisation and, if possible, increasing the ratios of summary procedures);
 - Templates for procedural acts and legal arguments;
 - Active involvement of parties and lawyers in scheduling procedural steps, to avoid unnecessary delays;
 - Accountability policies for judges, court personnel, and lawyers, to enforce timeframes and avoid opportunistic behaviours and delay tactics.

These and other possible actions should be further discussed in the following stages of the Project, to see which one, how, and when can realistically be implemented in the Slovak judiciary.

21. The setting of timeframes is one initial step towards a tenacious positive tension to decrease the length of judicial proceedings without any prejudice to the quality of decisions. There is no possibility to improve the length of judicial proceedings without a strong commitment by the president and judges of the court, as well as the whole court personnel towards the accomplishment of the timeframes.
22. Judges are supposed to have a more pro-active role in the management of their caseload. For example, judges should be able to set a realistic calendar of events for the case, in consultation with the parties and other participants, whenever possible, and taking into consideration the complexity of the case (e.g. number of witnesses, evidence to be collected, need for expert witnesses, complexity of the legal matter, level of conflict between the parties, timeframes etc.). The trials

should be as concentrated as possible. The Council of Europe Recommendation Rec. 84 (5) advises the establishment of a typical procedure based on “not more than two hearings, the first of which might be a preliminary hearing of a preparatory nature and the second for taking evidence, hearing arguments and, if possible, giving judgment.” A case management meeting to set a calendar of events can help settlements, avoid unnecessary adjournments, concentrate hearings, and hold the timeframes. The decisions taken during such meetings should be strictly enforced by the judges.

23. A clear and strict policy against continuances or postponements should be implemented by all judges in line with the procedural law. The granting of postponements to lawyers should be limited as much as possible, in order to avoid delaying tactics and keep the scheduled pace of litigation. Courts should promote common practices with regard to lawyers, to avoid postponements, which should be only granted if really needed and for a limited period of time. The most common reasons for postponements should be tracked and discussed by court presidents and judges.
24. Generally speaking, European judiciaries have not established *ad hoc* courts to deal with the excessive caseload, but they have increased the number of “temporary judges” working in particular courts or particular jurisdictions. In some countries, these judges moved from one court to another, or they have been recruited to be specifically a “flying squad” or “taskforce” to be deployed when a court is under pressure. Some countries have also used retired and experienced judges to be part of these taskforces. If the excessive caseload and, as a consequence, the outstanding length of the proceedings, involve a particular jurisdiction, members of the taskforce may be people coming from the legal profession, who serve as judges usually for less complex cases, or under the supervision of a professional judge.

However, as far as it is known, systematic assessments of these “flying squads” are not available. It should also be mentioned that most of the time only the number of judges is increased thanks to these “flying squads”, but the “delivery of justice” is a complex function, which entails judging but also several administrative tasks, therefore the number of non-judge personnel may be also part of such squads.

It is also worth mentioning that justice systems that suffer from a chronic excessive length of judicial proceedings may not benefit from these flying squads due to their limited term of service. In addition, apart from retired judges, other legal professionals called upon to be part of the flying squad need some training before being really beneficial to courts’ productivity.

25. Judges should share templates for giving legal arguments in standard cases to save, their time and work. In addition, some common rules for the practice to give legal reasons in writing should be developed and shared among judges, also to avoid excessive and useless length in legal reasoning.
26. Data on the age of pending cases should be collected and analysed, taking into consideration the set timeframes. Ideally, data should be collected as often as possible (ex. every 3-4-6 months) to monitor the courts’ functioning over the year and not just at the end of the year.
27. Judges and court personnel should be able to monitor constantly their caseload (incoming, disposed of, pending, age of pending case etc.), in order to undertake the necessary actions if the targeted timeframes are not met.
28. The data monitored should be the basis for regular (at least once a year) reports to be used for discussions among all judges and court personnel, to improve the pace of litigation and, more generally, the quality of court’s work. Meetings among court staff should take place regularly, possibly every time a report is released. Data on the length of judicial proceedings should also be public and easily accessible.

Concluding remarks on the quality of courts

1. Consistency of case-law and uniformity of court practices contribute to legal certainty and to increasing the public's confidence in the judicial system. A prerequisite to this goal is the need to ensure efficient access to case-law databases, both for the judiciary and the public. For this purpose, appropriate ICT facilities and training should be available to the judiciary.
2. It is strongly advisable to unify different legal practices of court proceedings before all courts in the national territory. Asking for different documents or different formal requirements for the same kind of court proceedings can be considered rational only if duly justified by specific circumstances. Insofar as the lack of uniformity of practices derives from the lack of clarity of primary and secondary legislation as well as from the differences in instructions from court presidents, the relevant bodies (MoJ, Supreme Court etc.) should act consequently in order to remove the causes of this problem.
3. With regard to consistency of case-law, profound and long-standing differences shall be avoided. For this purpose, the crucial work of the Supreme Court in unifying the case-law has to be acknowledged and maintained, together with a proper dissemination of its judgments. At the same time, the need for uniformity should not totally discourage the contribution of each judge to case-law development, since the failure to maintain a dynamic and evolutive approach to adjudication would risk hindering any improvement.
4. Discussion among judges of the same court and of different courts (e.g. of the same region), which are regularly taking place in the Slovak judiciary, constitute another useful tool to ensure the consistency and the evolution of the case-law. Also in this context, a certain attention has to be given to the need for internal independence of judges within the judiciary: the aim of such exchanges should be to reach agreed solutions and not to hierarchically impose such solutions.
5. In the same vein, training activities could equally constitute appropriate *fora* on the path towards the consistency of case-law without neglecting the values of internal independence of judges and their dynamic contribution to the case-law. Therefore, they should welcome not only information from the higher level of the judiciary but also a frank and open discussion among judges of the entire judiciary.
6. It cannot be excluded that the widespread practice of providing a detailed reasoning in fact and law in judicial decisions of Slovak courts reveals a rather formalistic approach. On the contrary, it has to be recalled that an effectively reasoned decision shows to the parties that their case has truly been heard and contribute to the trust of the public in the judiciary in a democratic society. A highly detailed and complex motivation risk to undermine the comprehensibility of the decision and to have a negative effect on the efficiency of justice. Therefore, the need for a detailed reasoning has to be adapted to the nature of the decision and to the circumstances of the case. Parties are generally entitled to a reasoned answer to their main legal arguments and pleas.
7. It is suggested to consider the use of standard forms and templates for court judgments as a tool not only for simple and repetitive applications but also in view of contributing to the clarity of complex judgments. Forms and templates in the case-processing and decision making are naturally combined with a good use of ICT tools.
8. The judiciary is invited to implement a communication strategy at all its levels (Judicial Council, Supreme Court and lower courts etc.). The overarching objective of judicial communication is to

create, preserve, and strengthen the public support for the court system by demonstrating the courts' commitment to their mission, vision and values. This initiative should be supported by developing communication guidelines, appropriate training and allocation of resources, as may be necessary.

9. Satisfaction surveys are important tools in order to evaluate the quality of services and drive positive changes. The satisfaction surveys for different target groups should be properly adjusted to their objectives, but it is important to apply a consistent methodology and to regularly repeat them in order to evaluate the progress. The results of the surveys should be carefully analysed and the key findings shall be followed up by action to improve the quality of court services.
10. The interpretation service provided in the Slovak judicial proceedings generally looks satisfactory. While no issues have been signalled as concerns the costs and the quality of this service, some concerns have been raised as regards the prompt availability of interpreters, particularly in some languages and in some areas of the country. This issue should firstly be addressed in the wider context of reforming the judicial map. Secondly, a more specific solution to this problem could be either having recourse to interpreters who are not registered in the national list administered by MoJ, but in a locally administered list, or (preferably), providing the interpretation service through live videoconferences, taking all necessary measures to secure the right to defence.
11. Some doubts have been signalled as to ensuring the quality of interpretation services and to the effectiveness of the quality control system by the MoJ. In this regard, several measures could be adopted in the field of continuous training and the right of litigants to complaint of the quality of interpreting/translation services.
12. The overall legal aid system of the Slovak judiciary seems to be efficient and to comply with the European standards on the matter, although its detailed evaluation was not part of the objective of the CEPEJ team.
13. An equally positive conclusion can be drawn as regards the Slovak system allowing the mitigation of costs and fees.

Appendices:

Appendix I: Results of implementing the CEPEJ questionnaire "Assessment of Time Management Tools in Court Proceedings at the Courts of the Slovak Republic"

Appendix II: Results of implementing the CEPEJ questionnaire "Ensuring the Quality of Justice in the Courts of the Slovak Republic".