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Specific Study of the CEPEJ on the Legal Professions: Enforcement Agents

Contribution from the International Union of Judicial Officers (UIHJ)

Note: This document is a contribution written by the International Union of Judicial Officers¹ (UIHJ)² mainly on the basis of 2020 data collected by the European Commission for the Efficiency of Justice (CEPEJ). The analyses presented in this study are those of the authors and do not necessarily reflect the official position of the European Commission for the Efficiency of Justice. The CEPEJ does not guarantee the accuracy of the data, analyses, opinions and/or conclusions of this study. The CEPEJ - or any person acting on its behalf - cannot be held responsible for any use that may be made of the information contained therein.

These data were collected not only in the Council of Europe member States, but also in Israel (ISR), Kazakhstan (KAZ) and Morocco (MAR). Unless otherwise specified, the analyses in this study therefore include replies from all of these countries or entities. It is worth mentioning that the three observer States have not been taken into consideration for the establishment of the European medians and averages. The latter are based solely on data provided by the Council of Europe member States/entities.

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Effective enforcement of judicial decisions is an integral part of the requirements of the right to a fair trial enshrined in Article 6 of the European Convention on Human Rights, as interpreted by the European Court of Human Rights since the important judgment of 19 March 1997 *Hornsby v Greece*³. Similarly, in its judgment of 22 June 2004 *Pini and Bertani and Others v. Romania*, the Court stated that enforcement agents "*work to ensure the proper administration of justice and thus represent a vital component of the rule of law*"⁴.

Given the volume of cases brought to the Court and the instruments adopted by the Council of Europe in the field of enforcement, the European Commission for the Efficiency of Justice (CEPEJ) decided to pay particular attention to this issue.

In non-criminal matters, the Committee of Ministers of the Council of Europe adopted, in September 2003, two relevant Recommendations in the field of enforcement: Recommendation Rec(2003)16 and Recommendation Rec(2003)17. While the former focuses on the enforcement of judgments in administrative matters, the latter mainly concerns civil and commercial matters. In the latter, "*enforcement*" is defined as "*the putting into effect of judicial decisions, and also other judicial or non-judicial enforceable titles in compliance with the law which compels the defendant to do, to refrain from doing or to pay what has been adjudged*". Similarly, the concept of "*enforcement agent*" corresponds to "*any person authorised by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not*". This definition - which is retained in the context of the present study - is based on the principle that the enforcement agent may have a public status (for example, a judge or a court official acting on his/her delegation) or a private status (for example, a bailiff or commissioner) and that both statuses may coexist in the same state (mixed regime).

Following Recommendation Rec(2003)17⁵, the CEPEJ adopted, in December 2009, its Guidelines for a better implementation of the existing Council of Europe recommendation on enforcement (CEPEJ(2009)11REV2)⁶. The same year, a specific study - drafted under the aegis of the CEPEJ - was also devoted to this subject⁷.

In December 2015, the CEPEJ took a further step in addressing the issue of enforcement, by elaborating a Good practice guide on enforcement of judicial decisions (CEPEJ(2015)10)⁸. With this Guide, the CEPEJ focuses its attention on the reception, in national law, of the principles enshrined in Recommendation Rec(2003)17 and developed in the 2009 Guidelines. These various documents describe the tasks and duties of enforcement agents as well as the rules relating to the enforcement procedure⁹, as well as the rights and obligations of the claimant¹⁰ and the defendant¹¹.

The present CEPEJ specific study on the legal professions, devoted to enforcement agents, is part of this general dynamic.

It is difficult to assess the proper enforcement of judgments in civil and commercial matters on the basis of relevant statistics, as the implementation of enforcement proceedings is not automatic. It is up to the successful party to decide whether or not to request enforcement of the court decision. This study - the drafting of which was entrusted to the International Union of Judicial Officers (UIHJ) - is therefore not so much interested in the rate of enforcement of court decisions, as in the organisation of the enforcement process and the role of enforcement agents. The CEPEJ, through its questionnaire for the evaluation of

³ Application n°18357/91, § 40.

⁴ Application n° 78028/01 and 78030/01, § 183. See also: European Court of Human Rights, 10 February 2011, *3A.CZ.S.R.O. v. Czech Republic*, n°. 21835/06, § 62.

⁵ See also Consultative Council of European Judges, Opinion N°13 (2010) on the role of judges in the enforcement of judgments (CCJE(2010)2 final, 19 November 2010) and, to a lesser extent, Consultative Council of European Prosecutors, Opinion N° 3 (2008) on the role of public prosecutors outside the criminal justice system (CCPE(2008) 3, 21 October 2008).

⁶ Hereinafter: the "Enforcement Guidelines".

⁷ J. LHUILLIER, D. SOLENIK, G. NUCERA, J. PASSALACQUA, *Enforcement of court decisions in Europe*, CEPEJ Studies N° 8, 2009.

⁸ Hereinafter : "the Good practice guide on enforcement".

⁹ The "Enforcement procedure" is understood here as "all the formalities and acts legally required to implement a precautionary measure and/or an enforcement measure in a given case" (definition used in the Good practice guide on enforcement of judicial decisions, op. cit.).

¹⁰ The "claimant" or "creditor" is the "party seeking enforcement" (ibid.).

¹¹ The "defendant" or "debtor" is the "party bound by an obligation to pay, to do or to refrain from doing, against whom enforcement is sought" (ibid.).

judicial systems, has nevertheless tried to measure the average length of the enforcement proceedings, which is one of the components of the reasonable time taken into consideration within the case law of the European Court of Human Rights in the context of the right to a fair trial.

In order to carry out the current edition of the specific study on enforcement agents, the CEPEJ has enriched its evaluation of judicial systems with new questions. For example, some of them concern the deployment of new communication technologies and their impact on the continuous training of enforcement agents or on the conduct of civil enforcement proceedings. Others relate to the important issue of finding information about the debtor and his/her assets, or determining who should bear the cost of enforcement. Still others relate to the civil enforcement procedures that can be implemented by enforcement agents (the new data include preventive seizure of movable or immovable property, seizure of boats and ships, seizure of aircrafts, seizure of electronic assets and sales of shares/securities). Conversely, as the questions relating to the organisational structure of enforcement agents and those concerning the existence of quality standards were removed from the questionnaire submitted to the states or entities, the related data and analyses no longer appear in this edition of the specific study.

Before presenting the trends and the main conclusions drawn from the analysis of the data collected from the states or entities participating in the last Evaluation Report, we will examine in turn the enforcement of judgments in civil, commercial and administrative matters on the one hand, and the enforcement of judgments in criminal matters, on the other hand. In criminal matters, the enforcement of sentences is of a different nature. It concerns the public power, often under the supervision of the courts, and depends on criminal policy choices. Its specific features justify a separate examination.

I. Enforcement of justice decisions in civil, commercial and administrative matters

This study looks at both - civil enforcement procedures and the professionals responsible for implementing them. In this context, the organisation of the profession of enforcement agents, the performance of enforcement procedures and the monitoring of enforcement activities will be examined successively.

1. Organisation of the profession of enforcement agents

The professional organisation of enforcement agents may be assessed with regard to the qualifications required to exercise this profession, the status of these professionals, the rules governing their competences and their repartition.

1.1 Qualifications to become an enforcement agent

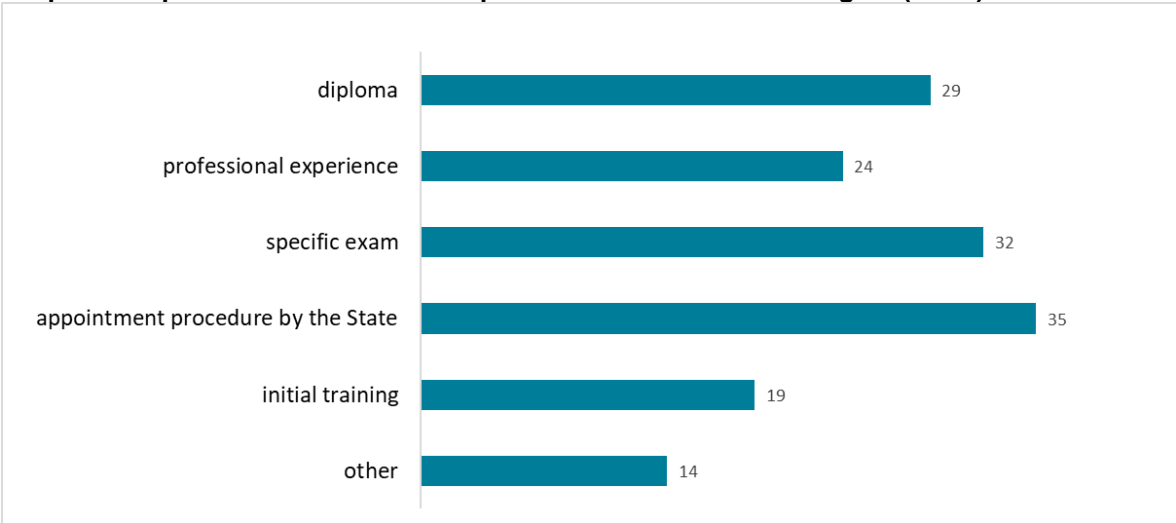
The qualifications required to work as an enforcement agent can be assessed not only when entering the profession, but also - to a certain extent - throughout one's career, with the requirement for continuous training.

1.1.1 Prerequisites

In Europe, it is very often required of candidates for the position of enforcement agent to have completed a practical training period and/or to hold a legal diploma. The skills required to perform the profession place therefore enforcement agents on the same level of expectations and training as judges, notaries and lawyers.

Of the 46 states or entities that replied to the questionnaire, 30 (29 member States/entities and **Kazakhstan**) mention the requirement of a diploma and 33 (32 member States/entities and **Kazakhstan**) report the obligation to undergo a specific exam to become an enforcement agent. Although it is less clear than in previous exercises, there seems to be a certain correlation between the status (public or private) of enforcement agents and the existence of initial training or a final selection procedure. States or entities in which there is no specific initial training or exam, often entrust the enforcement of court decisions to civil servants in the administration of justice under the authority of a competent judge or to court employees (**Denmark, Finland, Iceland, Malta, Norway, UK-Northern Ireland**). Conversely, there is an initial training or final selection procedure in almost all states where enforcement agents have exclusively private status (**Andorra** being the exception).

Graph 1: Requirements to access the profession of enforcement agent (Q170)

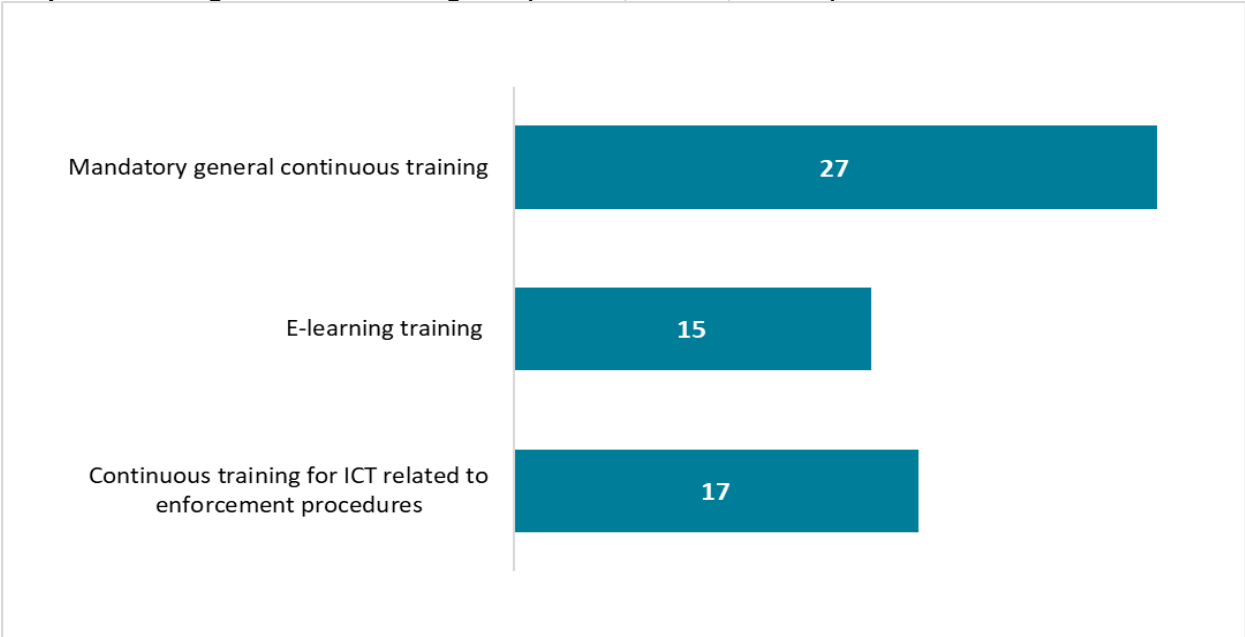


A very large majority of states or entities (35 member states/entities, **Israel** and **Kazakhstan**) have an appointment procedure. It should be pointed out that in almost all of them, the term of appointment is for an undetermined period. This clarification should be distinguished from that relating to the existence of a retirement age. In 30 countries or entities, this age is 65 or over. While **Armenia** and **Azerbaijan** state an age of 55 and 60 respectively, in other countries this age is not defined by law (e.g., **Georgia**, **Portugal**). This age may also vary depending on the location (e.g., **Germany**, according to the Länder), on the gender (e.g., **Romania**, **Slovak Republic**) or on the status (e.g., **Spain**) of the enforcement agent.

1.1.2. Continuous training

If the initial professional training of enforcement agents is fundamental to the proper administration of the enforcement procedure, the same applies to continuous training, which is just as important for instilling the responsibilities of the enforcement agent and ensuring uniformity of skills in the profession.

Graph 2: Training of enforcement agents (Q172-1, Q172-2, Q172-3)



According to point 26 of the Guidelines on enforcement, adopted by the CEPEJ in December 2009, enforcement agents should be subject to a system of compulsory continuous professional training¹². By definition, this training is provided in respect of agents who are already in post and is distinct from the specific initial training from which candidates applying to carry out these duties may benefit.

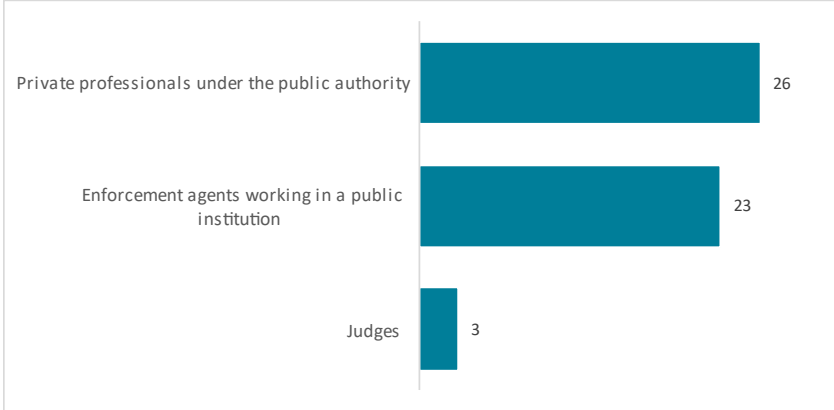
In 2020, such a system is foreseen in more than half of the states or entities that responded (29 out of 47 (27 member States/entities, **Israel** and **Kazakhstan**), or 61.7%). By way of comparison, in 2018, this solution was applied in around 57% of states (27 out of 47) and in 2014, in 46% of them (21 out of 46). There is thus a clear trend towards more widespread compulsory continuous training for enforcement agents.

For the current edition of the CEPEJ's specific study on enforcement agents, the questionnaire addressed to the states was enriched with new questions relating to the impact of new communication technologies on continuous training. It emerges that in more than a third of the states or entities, an online training system (e-Learning) has been set up for these professionals (i.e., 16 out of 47 (15 member States/entities and **Israel**)). Similarly, 17 member States or entities and **Israel** state that new communication technologies are included in the continuous training system concerning enforcement procedures.

1.2 Status of enforcement agents

All the States or entities that replied to this part of the CEPEJ questionnaire have defined a status for enforcement agents.

Graph 3: Enforcement agents by type (Q169)



Generally speaking, the status of enforcement agents may be public, private or a combination of the two. Of the 45 responses received to the questionnaire for 2020, these professionals have only private status in 21 states or entities (compared with 18 in the previous exercise); in 17 states or entities, they have only public status, and there is a combination of statuses in 7 states or entities.

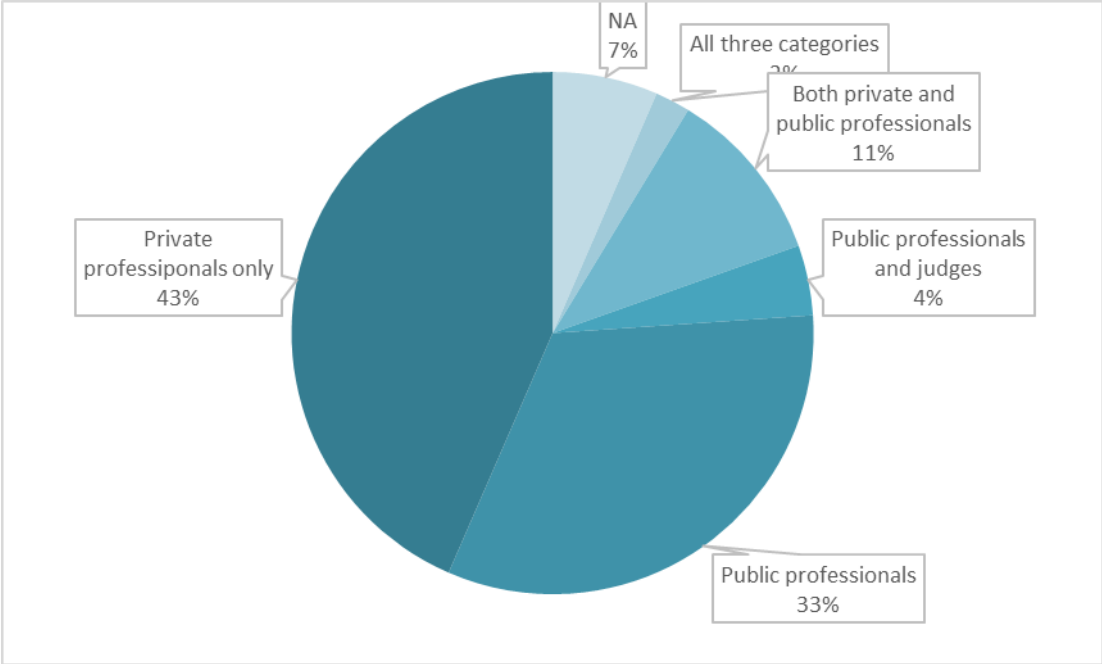
Similarly, in 28 states or entities (26 member States/entities, **Israel** and **Kazakhstan**), some or all of the enforcement agents carry out their activities as private professionals, under the supervision of a public authority. They may be ministerial officers, such as bailiffs (or commissaires de justice) who practise in **Belgium, France, Luxembourg** or the **Netherlands**.

By way of comparison, in 24 states or entities (23 member States/entities and **Kazakhstan**), these professionals are attached to a public institution, while in three states/entities they have the status of judge. In several states, enforcement agents are clerks and assistant judges (**Denmark**) or legal secretaries (**Spain**). In **Switzerland**, several systems exist and vary from canton to canton.

¹² *Adde*, CEPEJ, Good practice guide on enforcement of judicial decisions, aforementioned, point 19.

Although there are variations in the data collected by the CEPEJ over the course of successive evaluations of judicial systems, the preponderance of private status over public status cannot be denied.

Graph 4: Status of enforcement agents (Q169)



1.3 Competences of enforcement agents

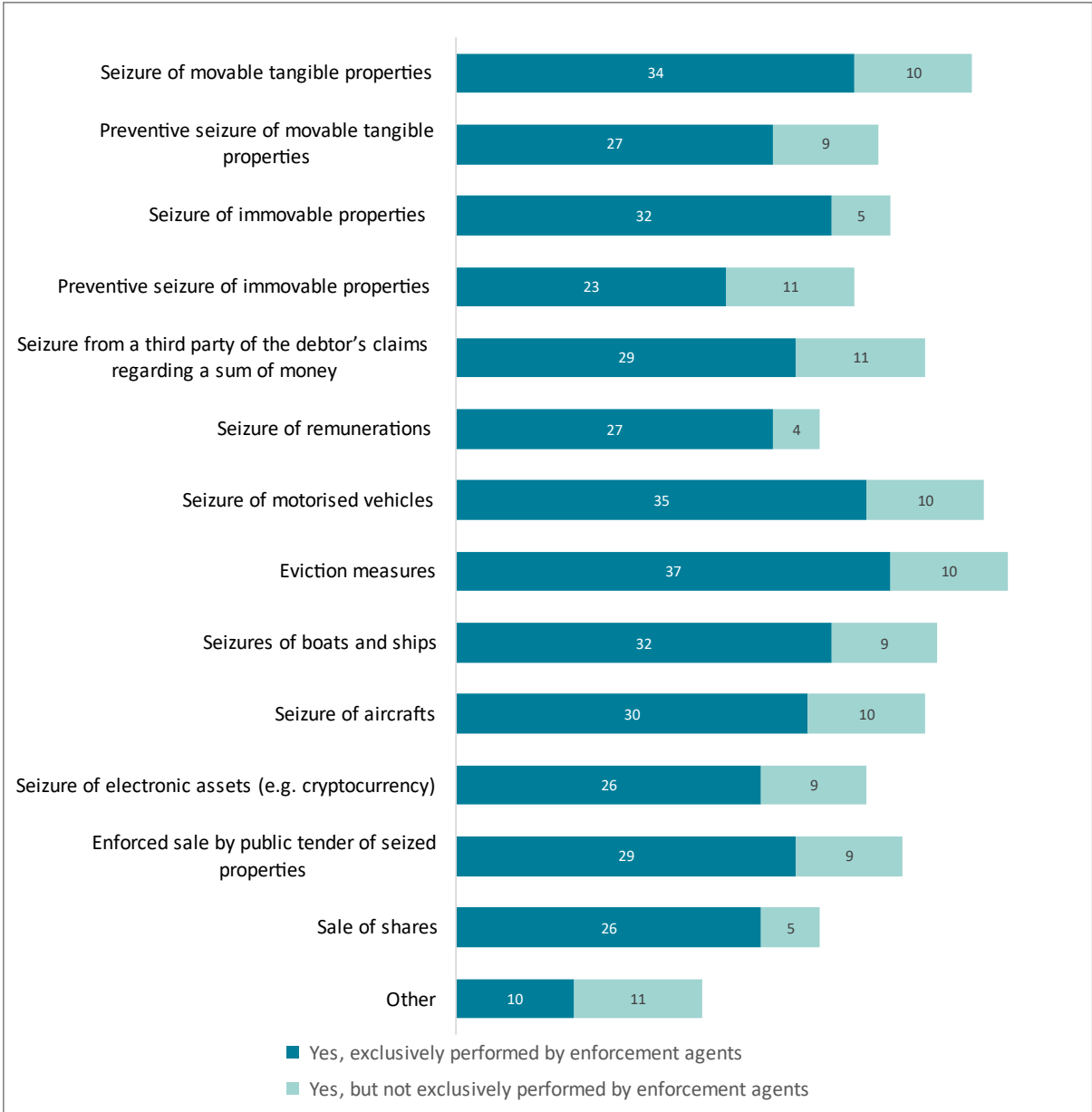
1.3.1. Activities of enforcement of court decisions

The activities carried out by enforcement agents include, first and foremost, the implementation - most often on an exclusive basis - of civil enforcement procedures provided for by the law of the state in which they operate.

According to point 33 of the Enforcement Guidelines, "enforcement agents, as defined by a country's law, should be responsible for the conduct of enforcement within their competences as defined by national law". The Guidelines further specify that "Member states should consider giving enforcement agents sole competence for: enforcement of judicial decisions and other enforceable titles or documents, and implementation of all the enforcement procedures provided for by the law of the state in which they operate". In the wake of these provisions, we can read, in point 36 of the Good practice guide on enforcement of judicial decisions, adopted in 2015 by the CEPEJ, that States "could be equipped with a legislative arsenal comprising enforcement procedures geared to (...) the varied composition of people's assets (moveable or immovable assets, tangible or intangible assets, registered or non-registered assets)".

In order to measure compliance with these recommendations in positive law, the questionnaire submitted to the states covers the implementation by enforcement agents of the main civil enforcement procedures. In 2020, the list of procedures concerned was extended to include preventive seizure of movables or immovables, seizures of boats and ships, seizure of aircrafts, seizures of electronic assets and sales of shares.

Graph 5: Civil enforcement proceedings within the competence of enforcement agents (Q171-2)



More specifically, for the 46 states or entities that replied to the questionnaire, the situation is as follows: seizure of movable tangible properties (46 states/entities, among which 34 exclusively), seizure of motorised vehicles (46 states/entities, among which 35 exclusively), eviction measures (49 states/entities, among which 37 exclusively), seizure of boats and ships (42 states/entities, among which 32 exclusively), seizure of aircrafts (42 states/entities, among which 30 exclusively), seizure from a third party of the debtor claims regarding a sum of money (e.g. a bank) (41 states/entities, of which 29 exclusively), the sale of seized goods by public auction (40 states/entities, of which 29 exclusively), seizure of immovable property (38 states/entities, of which 32 exclusively), preventive seizure of movable tangible property (37 states/entities, of which 27 exclusively), seizure of electronic assets (37 states/entities, of which 26 exclusively), preventive seizure of immovable property (36 states/entities, of which 23 exclusively), sale of shares (33 states/entities, of which 26 exclusively), seizure of remunerations (31 states/entities, of which 27 exclusively) and "other" (23 states/entities, of which 11 exclusively).

In 2020, in 13 states or entities (**Albania, Estonia, Finland, Germany, Hungary, Italy, the Netherlands, Norway, Poland, Romania, Spain, Switzerland and Türkiye**), enforcement agents may

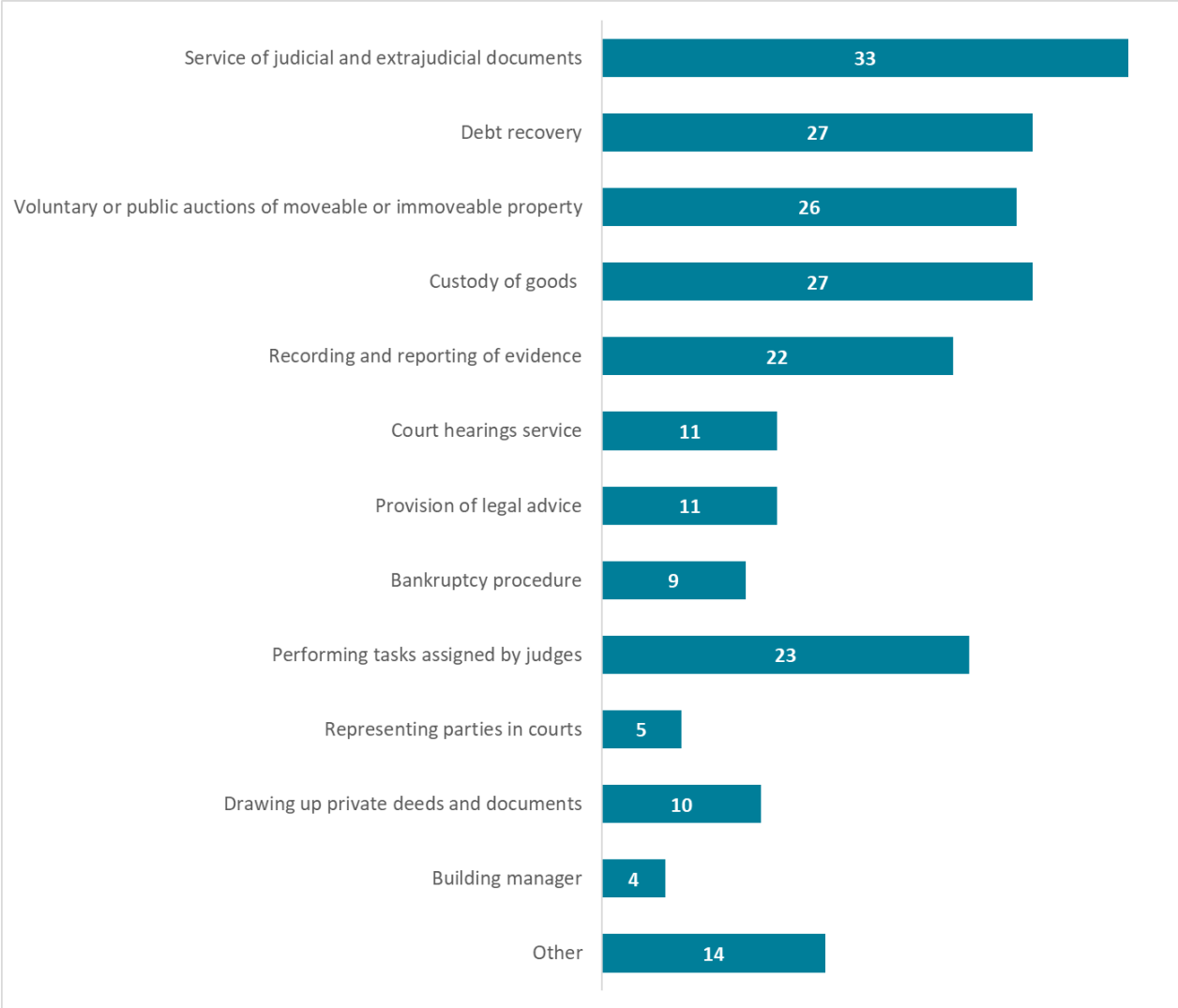
exercise all the procedures listed, including the option "other" for **Finland, Germany, Hungary, Italy, Norway, Romania** and **Türkiye**.

The diversity of the procedures concerned makes it possible to adapt enforcement to the composition of the debtor's assets. This contributes to increase the effectiveness of enforcement and serves the interests of the creditor, while allowing greater consideration to be given to the legitimate interests of the debtor.

1.3.2. Other activities of enforcement agents

Alongside the function of enforcing court decisions, many states or entities entrust enforcement agents with the task of serving judicial or extrajudicial documents (33 member States/entities, **Israel** and **Kazakhstan**), as well as a whole series of so-called "ancillary" activities compatible with their main functions.

Graph 6: Other activities that can be carried out by enforcement agents (Q171-3)



The following may be carried out: custody of goods (27 member States/entities, **Israel** and **Kazakhstan**), debt recovery (27 member States/entities, **Israel** and **Kazakhstan**), voluntary or public auctions of moveable or immoveable property (26 member States and **Kazakhstan**), performing tasks assigned by judges (23 member States/entities, **Israel** and **Kazakhstan**), recording and reporting of evidence (22 member States and **Kazakhstan**), provision of legal advice (11 member States and **Kazakhstan**), court hearings service (11 member States/entities), drawing up private deeds and documents (10 member States and **Kazakhstan**), bankruptcy proceedings (9 member States),

representing parties in courts (5 member States), building manager (4 member States) and "other" functions (14 member States and **Israel**). These "other" activities include, for example, the possibility of acting as debt mediator (e.g., in **Belgium**).

Compared with 2018 data, we can see that the classification of ancillary activities, in terms of the number of states granting them to enforcement agents, has changed only very slightly. By extension, there has been considerable stability on this point since 2014.

To varying degrees depending on the member State, we can therefore observe a certain multidisciplinary among the enforcement agents in Europe, in line with the provisions of point 34 of the 2009 Enforcement Guidelines¹³.

1.4. Repartition of enforcement agents

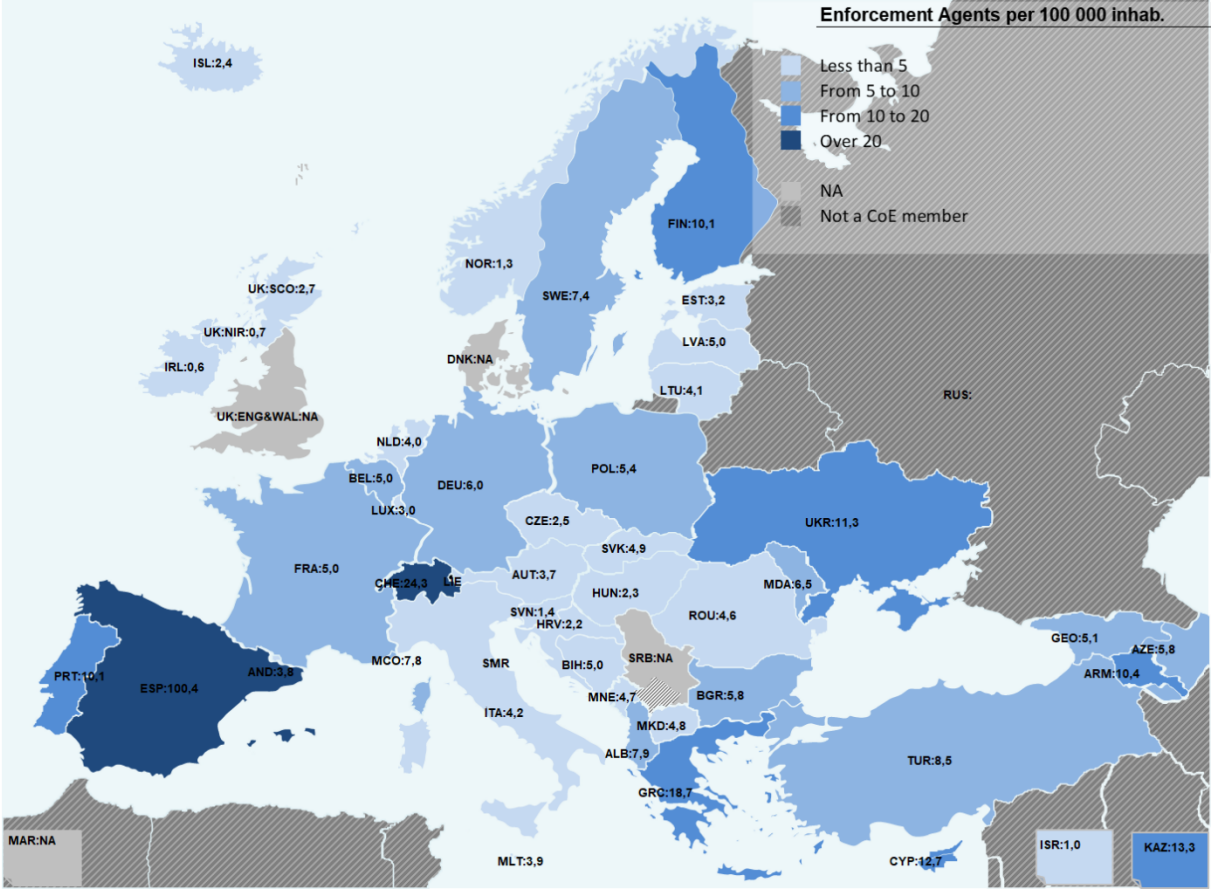
The repartition of enforcement agents can be assessed in relation to the population of the member States, in terms of their number per 100 000 inhabitants or the proportion of women.

1.4.1. Number of enforcement agents

Unsurprisingly, in absolute terms, the number of enforcement agents varies greatly from one country to another. While there are fewer than 20 professionals in six states or entities (**Andorra, Iceland, Luxembourg, Malta, Monaco, UK-Northern Ireland**), there are more than three thousand in five states (**France, Germany, Spain, Türkiye, Ukraine**). While **Spain** reports 47528 professionals, the average in the 45 states or entities that responded is 1975.

While the differences are spectacular, they cannot be analysed without taking into consideration the size or population of the countries concerned.

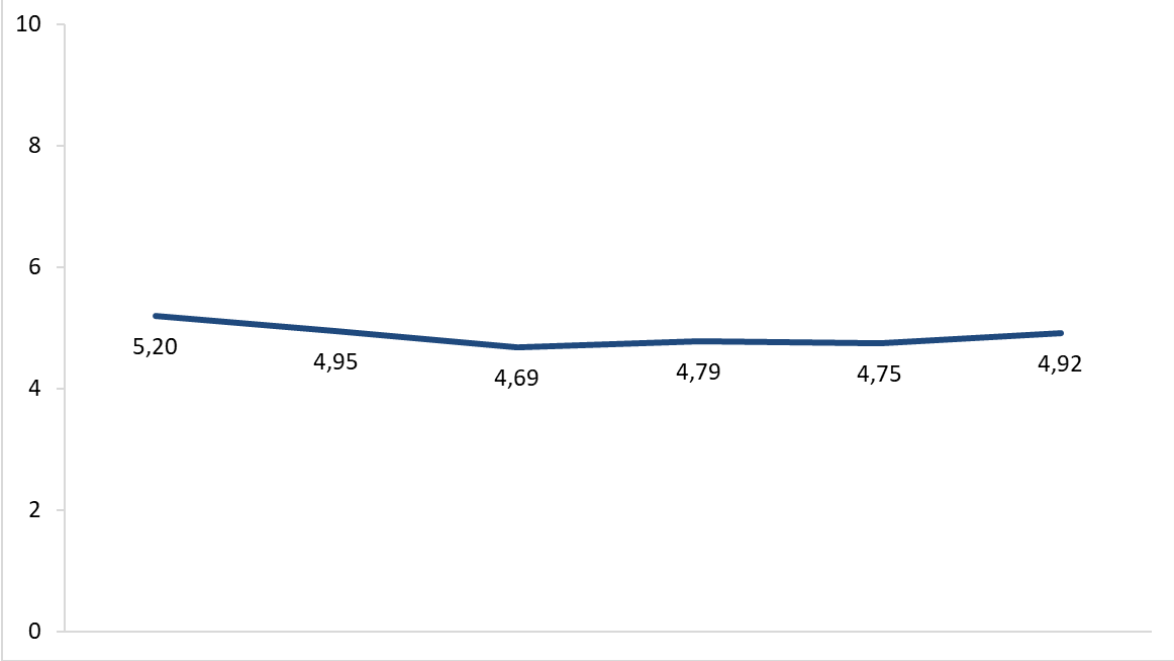
Graph 7: Enforcement agents per 100 000 inhabitants (Q169)



¹³ Adde, CEPEJ, Good practice guide on enforcement, aforementioned, point 13.

Looking at the data presented, it can be seen that, over the period 2010-2020, the median number of enforcement agents per 100 000 inhabitants fell slightly. It fell from 5.2 to 4.92, with the lowest median recorded in 2014, at 4.69.

Graph 8: Evolution of the median number of enforcement agents per 100 000 inhabitants between 2010 and 2020 (Q169)

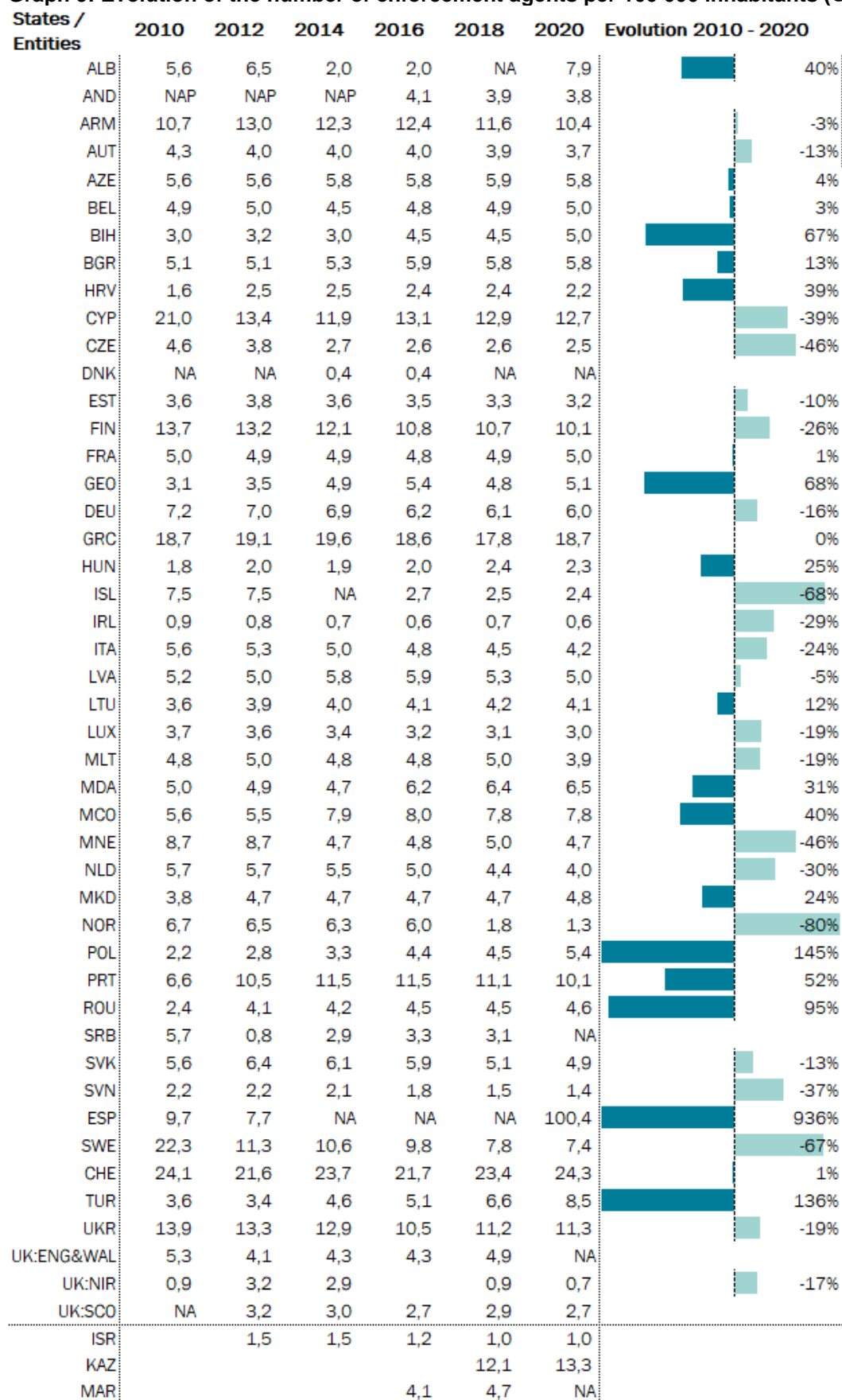


In 2020, of the 45 states or entities that provided information in response to this question, 22 were at or below the European median. That same year, only 9 countries (**Armenia, Cyprus, Finland, Greece, Portugal, Spain, Switzerland, Ukraine** and **Kazakhstan**) had more than 10 agents per 100 000 inhabitants.

If we relate the number of enforcement agents per 100 000 inhabitants to the status of these professionals, it appears that when they work solely as private professionals, this number is most often lower than the median number of 4.92. However, there are some counter-examples, such as **Greece** (18.7 professionals per 100 000 inhabitants) and **Portugal** (10.1 professionals per 100 000 inhabitants). The opposite is true when these professionals are exclusively attached to a public institution (see in particular **Spain**: 100.4 enforcement agents per 100 000 inhabitants).

Over the period 2010-2020, the evolution of the number of enforcement agents per 100 000 inhabitants is sometimes spectacular.

Graph 9: Evolution of the number of enforcement agents per 100 000 inhabitants (Q169)



► Examples of increases

In **Poland**, the increase is of 144%. According to UIHJ sources, the struggle to reduce the length of proceedings by the Polish Ministry of Justice has led to an increase in the number of bailiffs. The rate of increase is high, due to the initial low number of bailiffs. There are 2072 in 2020, compared with 590 in 2004.

In **Romania**, the increase is of 95%. The information available to the UIHJ explains this strong increase in the number of enforcement agents mainly by the merger with bank enforcement agents and the inclusion of the latter within the profession in 2010. There are 880 enforcement agents in 2020.

In **Türkyie**, the increase is of 136.1%. According to UIHJ sources, the number of enforcement agents has been increased in order to meet the needs that have arisen due to the existing workload (around 13 million cases), the insufficient number of staff and the new enforcement offices established. The figures presented reflect the rate of increase (34.89% in 2010). The situation stabilised in 2010-2012 (with around 2600 agents) and has risen sharply in recent years (3540 agents in 2014; 5395 in 2018 and 7089 in 2020). As for the 27% increase observed between 2018 and 2020, the comment accompanying the CEPEJ data refers both to the desire to strengthen human resources and offer citizens more efficient, faster and better-quality services, and to the project conducted with the EU entitled "Improved Capacity of Civil Enforcement Offices".

In **Spain**, there has been a 936% increase between 2012 and 2020, reaching 47528 professionals by 2020.

► Examples of decreases

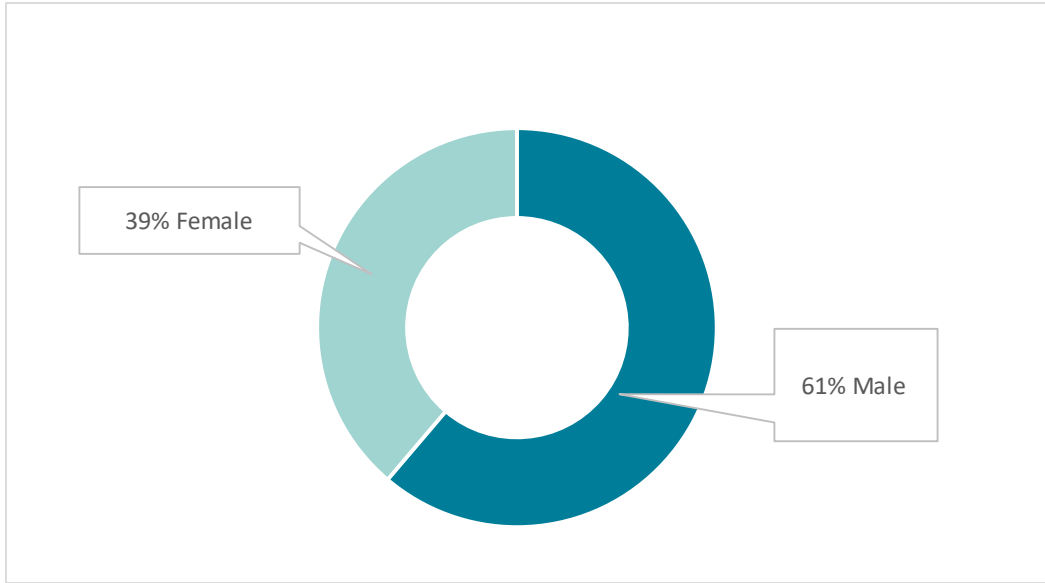
Conversely, in other countries, the trend is downwards over the period 2010-2020. This is the case, for example, in **Cyprus** (down 39.4%), the **Czech Republic** (down 45.8%), **Iceland** (down 67.6%), **Montenegro** (down 46.3%), **Norway** (down 80.1%) and **Sweden** (down 66.8%). There are various explanations for these decreases. For example, according to UIHJ sources, in **Montenegro**, the decrease in the number of enforcement agents is related to the introduction - by the Law on Enforcement and Debt Collection and the Law on Public Enforcement Officers - of a new enforcement system that replaced the one based on judicial enforcement. The Enforcement and Debt Collection Act came into force in September 2011 and defined the public enforcement officer system for the first time. The Public Enforcement Officers Act came into force in December 2012. Initially scheduled for the first quarter of 2013, the first enforcement agents were appointed in 2014.

Furthermore, these decreases in enforcement agents' numbers need to be assessed in the light of the number of professionals concerned. For example, in 2020, 72 agents are working in **Norway**, 29 in **Montenegro** and 9 in **Iceland**.

1.4.2. Feminisation rate of the profession

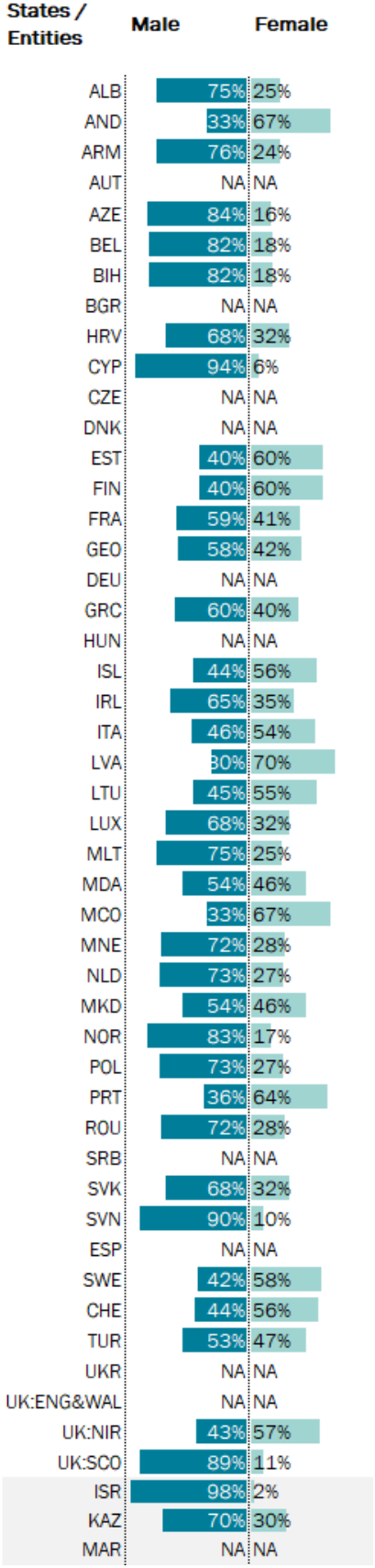
In 2020, the data collected by the CEPEJ show that, in the 36 member States or entities which replied to this part of the questionnaire, the majority of persons carrying out the activities of enforcement agents are men (61%, i.e., approximately two-thirds). This percentage has decreased slightly since the previous reference year (64%, in 2018) which might suggest a trend towards feminisation of the profession. On the other hand, the two observer States that provided data deviate from the European trend, with a very high percentage of male enforcement agents: 98% in **Israel** and 70% in **Kazakhstan**.

Graph 10: Average gender ratio for enforcement agents (Q169)



In six member States (compared to five in the previous evaluation cycle), the percentage of women equals or exceeds 60% (**Andorra, Estonia, Finland, Latvia, Monaco, Portugal**).

Graph 11: Number of enforcement agents by gender (Q169)



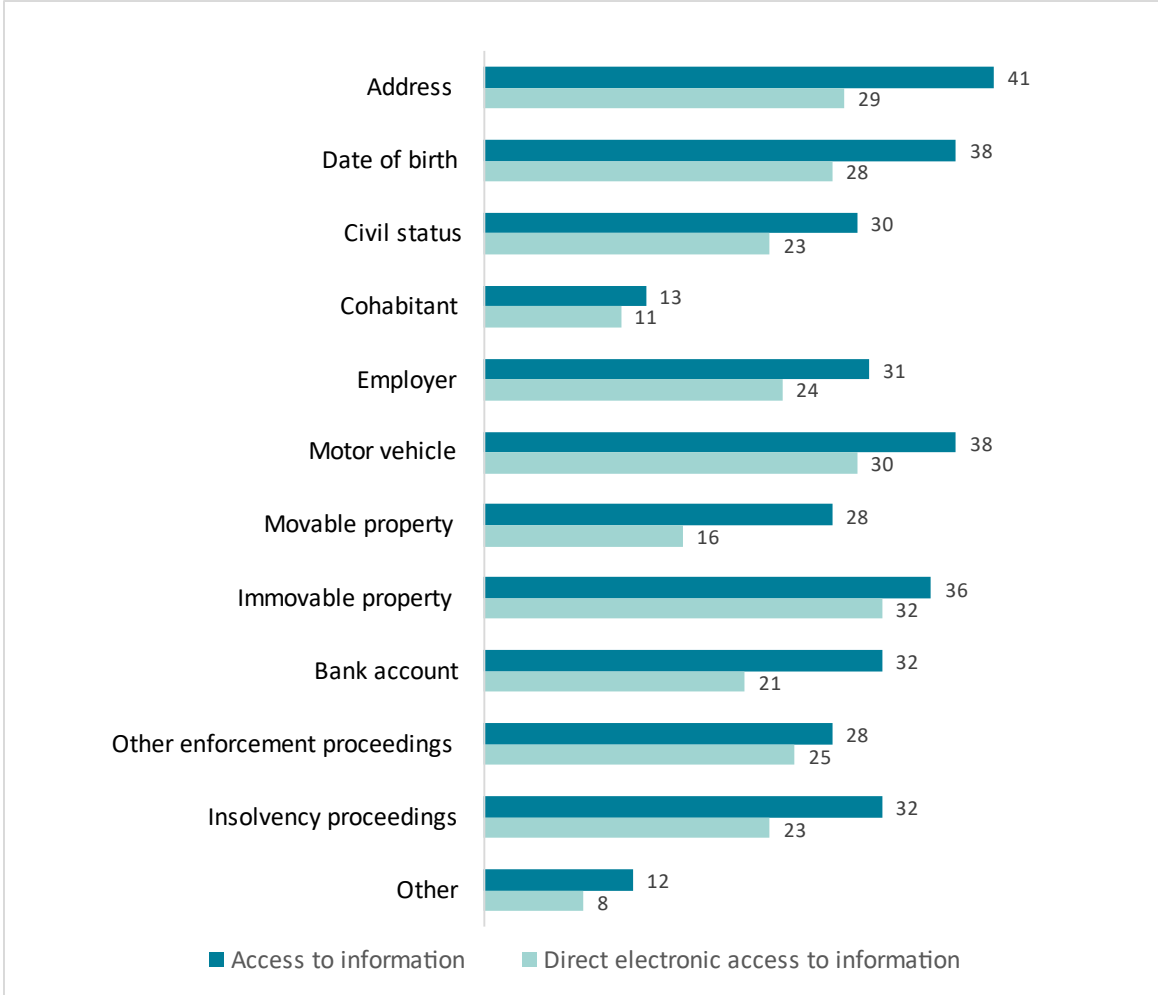
2. Implementation of enforcement procedures

As in previous editions, this specific CEPEJ study on enforcement agents analyses data relating to the timeframes and cost of enforcement. These are relevant criteria for assessing the efficiency of enforcement procedures.

Alongside these data, the CEPEJ wished to complete its examination of national laws by including two new questions: one concerns the information available to the enforcement agent on the debtor and his/her assets, and the other relates to the place of new technologies in the field of enforcement. These two factors undeniably influence the efficiency of enforcement. On the one hand, there is no point in benefiting from an efficient enforcement procedure without knowing where the assets on which it is based are located. On the other hand, the use of new technologies in the field of enforcement may make it possible to speed up certain procedures, to adapt enforcement measures to the diversity of debtor's assets or to facilitate the advertising of auctions - or enable electronic auctions to be held - and, in so doing, to multiply the number of potential buyers of seized assets that are put up for sale.

2.1 Accessible patrimonial information

Graph 12: Access to information by enforcement agents (Q171-1)



In accordance with Recommendation Rec(2003)17 of the Committee of Ministers to member States on enforcement, the "search and seizure of defendants' assets should be made as effective as possible taking into account relevant human rights and data protection provisions. There should be fast and efficient collection of necessary information on defendants' assets through access to relevant information contained in registers and other sources, as well as the option for defendants to make a

declaration of their assets"¹⁴. The importance of allowing the enforcement agent "rapid and direct access to the property information" of the defendant/debtor was also highlighted in the CEPEJ Guidelines of 2009, where it is stated that states "are encouraged to consider making such information available to the enforcement agent by Internet through a secured access, if possible"¹⁵.

In the light of the data collected by the CEPEJ, it appears first of all that, in 2020, national laws allow enforcement agents to access information likely to enable them to carry out the main civil enforcement procedures provided for by law.

Among the 46 states and entities that replied to this question, in descending order, information is available concerning : the debtor's address (41 member States/entities, **Israel** and **Kazakhstan**), motor vehicles (38 member States/entities, **Israel** and **Kazakhstan**), the debtor's date of birth (38 member States/entities and **Kazakhstan**), the debtor's immovable property (36 member States/entities and **Kazakhstan**), the debtor's bank account (32 member States/entities and **Kazakhstan**), insolvency proceedings (32 member States/entities and **Kazakhstan**), the debtor's civil status (30 member States/entities, **Israel** and **Kazakhstan**), the identity of the debtor's employer (31 member States/entities and **Kazakhstan**), the debtor's movable property (28 member States/entities and **Kazakhstan**), the existence of other enforcement proceedings (28 member States/entities and **Kazakhstan**) and persons cohabiting with the debtor (13 member States/entities and **Kazakhstan**).

As can be seen, the information available may directly concern the debtor and those around him/her. Similarly, it relates not only to the debtor's assets, but also to his/her liabilities. In this respect, before initiating civil enforcement proceedings against property belonging to the debtor, it is particularly useful for the enforcement agent to know whether other enforcement proceedings are underway against the debtor or whether the debtor is the subject of insolvency proceedings. If so, depending on the situation, a new civil enforcement procedure would be unlikely to be effective or would not be possible.

Secondly, as with the implementation of civil enforcement procedures, new technologies are having an increasing impact on the search for property information. As recommended by the Committee of Ministers in the 2003 Recommendation or by the CEPEJ in the 2009 Guidelines and in the 2015 Good practice guide, many national laws make it possible to mobilise the resources of new technologies to facilitate the search for information on the debtor and his/her assets. Here again, in descending order, information on the following is directly accessible in electronic form : ownership of immovable property (32 member States/entities and **Kazakhstan**), motor vehicles (30 member States/entities, **Israel** and **Kazakhstan**), the debtor's address (29 member States/entities, **Israel** and **Kazakhstan**), the debtor's date of birth (29 states or entities), the existence of other enforcement procedures (25 member States/entities and **Kazakhstan**), the debtor's civil status (23 member States/entities, **Israel** and **Kazakhstan**), the identity of the debtor's employer (24 member States/entities and **Kazakhstan**), the existence of insolvency proceedings (23 member States/entities and **Kazakhstan**), the debtor's bank accounts (21 member States/entities and **Kazakhstan**), movable property (16 member States/entities and **Kazakhstan**) or persons cohabiting with the debtor (11 member States/entities and **Kazakhstan**). In view of the dematerialisation of the banking sector, it is surprising that only less than half of the states or entities that replied to the questionnaire state that they allow direct electronic access to information on bank accounts.

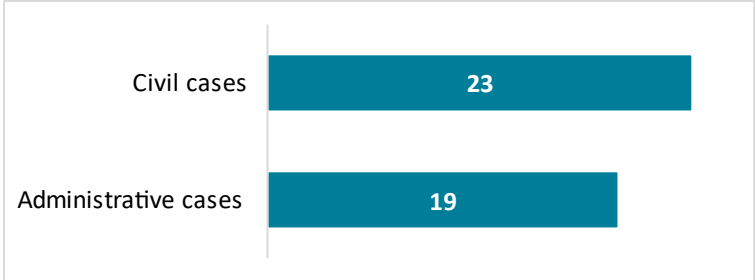
2.2. Timeframes of enforcement procedures

It is difficult to predict how long it will take to enforce a court decision in civil and commercial matters, as the effectiveness of enforcement depends not only on the diligence of the creditor, but also on the solvency of the debtor. However, the notification period, which also depends on its procedural form, can be reduced in a concrete manner either by the action of an enforcement agent or by the simplified form of a letter with acknowledgement of receipt. Thus, the time limit depends either on the diligence of the enforcement agent or on the functioning of the postal services. In such situations, each country evaluates the average time taken as an indicator of efficiency. The trust in the justice system presupposes that a litigant who has obtained a court decision can have it notified and enforced as quickly as possible.

¹⁴ Recommendation, III, point 6.

¹⁵ Guidelines, *op. cit.*, point 40. See also, Good practice guide on enforcement, *op. cit.* points 41 and ff.

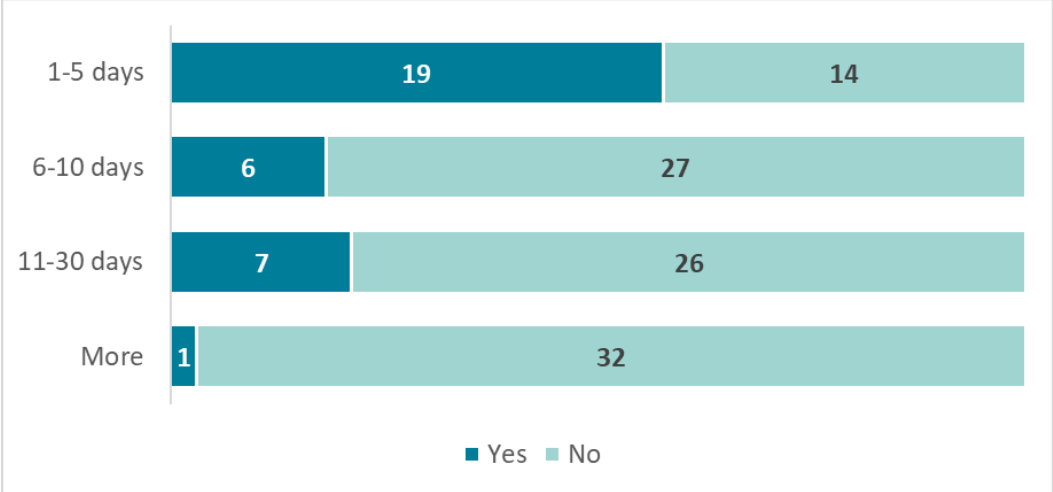
Graph 13: Existence of a system for measuring the length of enforcement procedures (Q185)



In civil and commercial matters, systems for measuring the length of enforcement procedures exist in the majority of the 46 states or entities that replied to the questionnaire (25 states (23 member States/entities, **Israel** and **Kazakhstan**), compared with 21 where such systems are lacking). The proportions are reversed as regards the existence of such systems in administrative matters (21 states (19 member States/entities, **Israel** and **Kazakhstan**), compared with 25 where they are not provided for). While in 21 states (compared with 18 in 2014) the length of enforcement procedures can be measured in both areas, in 20 states no system has been set up.

With regard to the time limit for notifying a court decision, concerning the recovery of a claim, to a person domiciled in the city where the court is located, of the 27 states or entities that provided information, 26 stated that it is possible to complete notification to the person concerned within a period of between 1 and 10 days. Only one state (**Finland**) indicated that it took more than 30 days to notify the person concerned of the decision (compared with 2 states in 2014 and 1 state in 2018). Compared to 2018, these time limits have been reduced in **Croatia**, while **Lithuania** reports that they have increased. It should be noted that 6 states (**Bosnia-Herzegovina, Greece, Latvia, Lithuania, Republic of Moldova, Portugal**) refer to timeframes of "6 to 10 days", while 8 others (**Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Iceland, Israel**) indicate "11 to 30 days".

Graph 14: Estimated average timeframe to notify the parties (Q186)



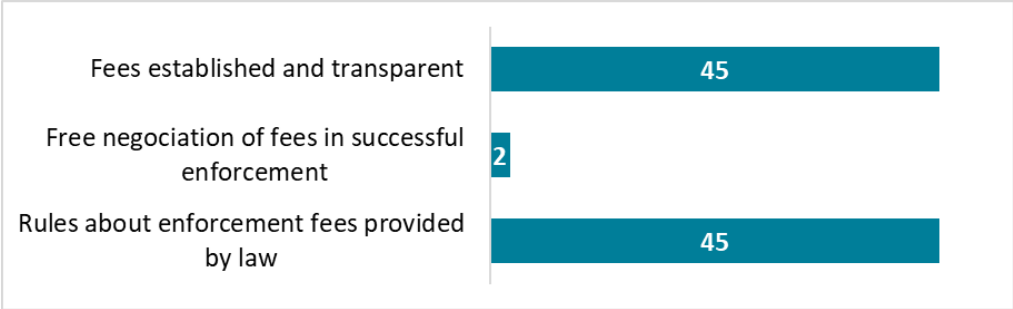
2.3 Cost of enforcement procedures

In civil and commercial matters, it is generally up to the creditor to assess whether it is appropriate to enforce the court decision, particularly with regard to the foreseeable cost of enforcement. However, in full compliance with points 47 and the following of the CEPEJ Guidelines of 2009, all the states or entities

replied that the applicable fees are clearly established and transparent. This situation was already observed in 2018¹⁶.

The cost of enforcement encompasses the enforcement costs *stricto sensu* (costs relating to the procedural act) and the enforcement agent's fees, which may be linked to the result obtained. States were asked in questions 174, 175 and 176 to indicate whether the fees are regulated by law or freely negotiated between the enforcement agent and the creditor. In all the states or entities that replied to the questionnaire, the cost of the procedure is strictly regulated by the state. Only **Estonia**, the **Netherlands** and **Kazakhstan** indicated that fees are freely negotiated in the event of successful enforcement proceedings. In these states, even in these circumstances, it is actually an intermediate situation: enforcement fees are mainly regulated by law, although they can also be negotiated. This is an important issue because, whether in private or mixed systems, enforcement agents are paid in part or in full by enforcement fees or by bonuses resulting from them. It should also be emphasised that fees should only be freely negotiated for the creditor. The debtor's costs should be determined by law.

Graph 15: Enforcement fees (Q174, Q175-1, Q176)



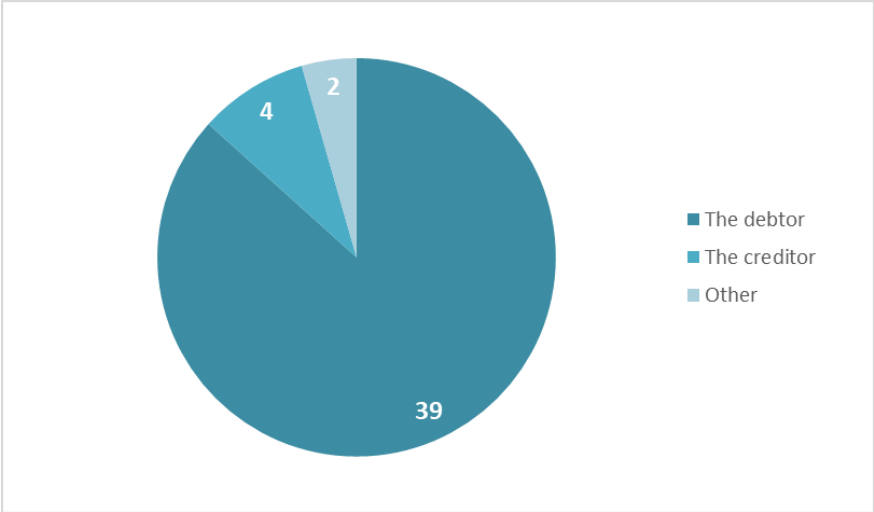
Regulation of the cost of the procedure by the state makes it possible to control the cost of the act, but not to verify its appropriateness. Consequently, it often provides for the possibility of the litigant lodging a complaint against the enforcement agent and/or the possibility for the judge to decide on the payment, by the enforcement agent, of unjustified costs.

In addition, Recommendation Rec(2003)17¹⁷ provides for that "*the necessary costs of enforcement should be generally borne by the defendant, notwithstanding the possibility that costs may be borne by other parties if they abuse the process*". This recommendation is respected in 41 states or entities (39 member States/entities, **Israel** and **Kazakhstan**). On the other hand, four states indicate that the creditor is responsible for payment (**Andorra, Italy, Norway, UK-Northern Ireland**) and two (**Luxembourg, UK-Scotland**) specify that another solution is preferred (e.g., advance payment by the creditor).

¹⁶ By way of comparison, in 2012, three states stated that it was not easy to predict the fees of enforcement agents (**Andorra, Bosnia-Herzegovina** and **Montenegro**). **Andorra** repeated this statement in 2014.

¹⁷ Recommendation, point III, 5.

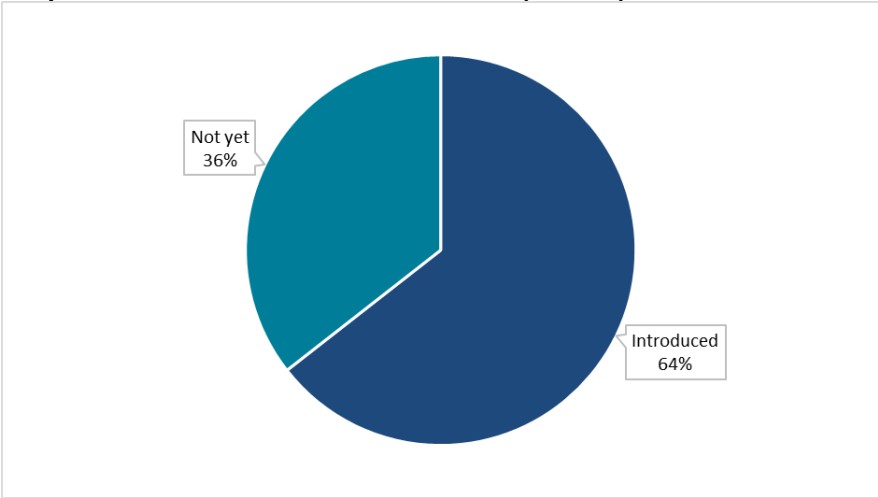
Graph 16: Payment of fees claimed in the event of successful enforcement proceedings (Q175-2)



2.4. Place of new information and communication technologies

The deployment of new technologies in the field of civil justice is a reality in many states. In order to measure the extent of this phenomenon in the specific context of the enforcement of court decisions, the CEPEJ enriched its questionnaire in 2020.

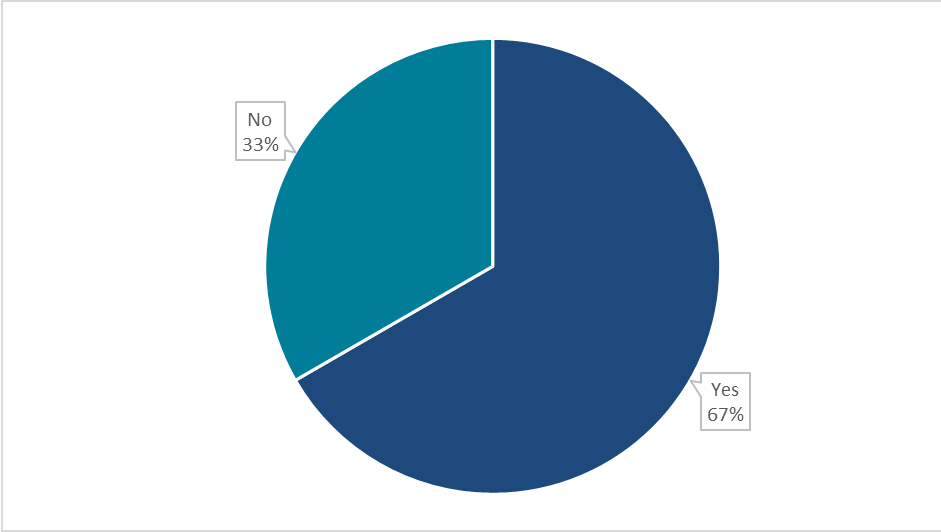
Graph 17: Electronic service/notification (Q172-4)



Firstly, 31 states or entities (out of 47 that replied) answered in the affirmative to the question of whether they had introduced a system of electronic notification of documents into their legislation. This statistic covers situations in which notification/communication by electronic means is compulsory and those in which the applicant is free to choose the paper support; these two types of situations may coexist in the legal system of the same state, depending on the type of document to be notified.

Secondly, the same number of states or entities mention that the development of new technologies has had an effect on the various stages of the enforcement procedure.

Graph 18: Developments in new technologies have had an effect on the various stages of the enforcement procedure (Q172-5)



Unsurprisingly, in the majority of cases, the states or entities responded in the same way to both questions (25 out of 47). It should be noted that 11 states or entities replied in the negative to both questions (**Albania, Andorra, Bosnia and Herzegovina, Bulgaria, Denmark, Hungary, Iceland, Ireland, Monaco, Montenegro, UK-Northern Ireland**).

3. Supervision of enforcement activities

Supervision activities, rules on professional discipline and statistics relating to complaints against enforcement agents are all relevant to the generic issue of monitoring enforcement operations.

3.1 Supervision of the enforcement agents' activity

Supervision/monitoring of activities is the process by which an authority makes observations, for the benefit of the enforcement agent, about its working methods (scheduling problems, lack of courtesy, etc.). It is a kind of simplified control that does not involve the actual examination of a complaint, but which aims to ensure the proper administration of justice. The term "control" is used here to mean the review of the legality or illegality of the enforcement agent's actions.

According to point 78 of the Guidelines on enforcement, "*the authorities responsible for supervision and/or control of enforcement agents have an important role in also guaranteeing the quality of enforcement services. The member states should ensure that their enforcement activities are assessed on an ongoing basis. This assessment should be performed by a body external to the enforcement authorities (for example, by a professional body). The member states' authorities should clearly determine the control procedures to be performed during inspections*".

It is therefore necessary to distinguish between the author and the object of the control.

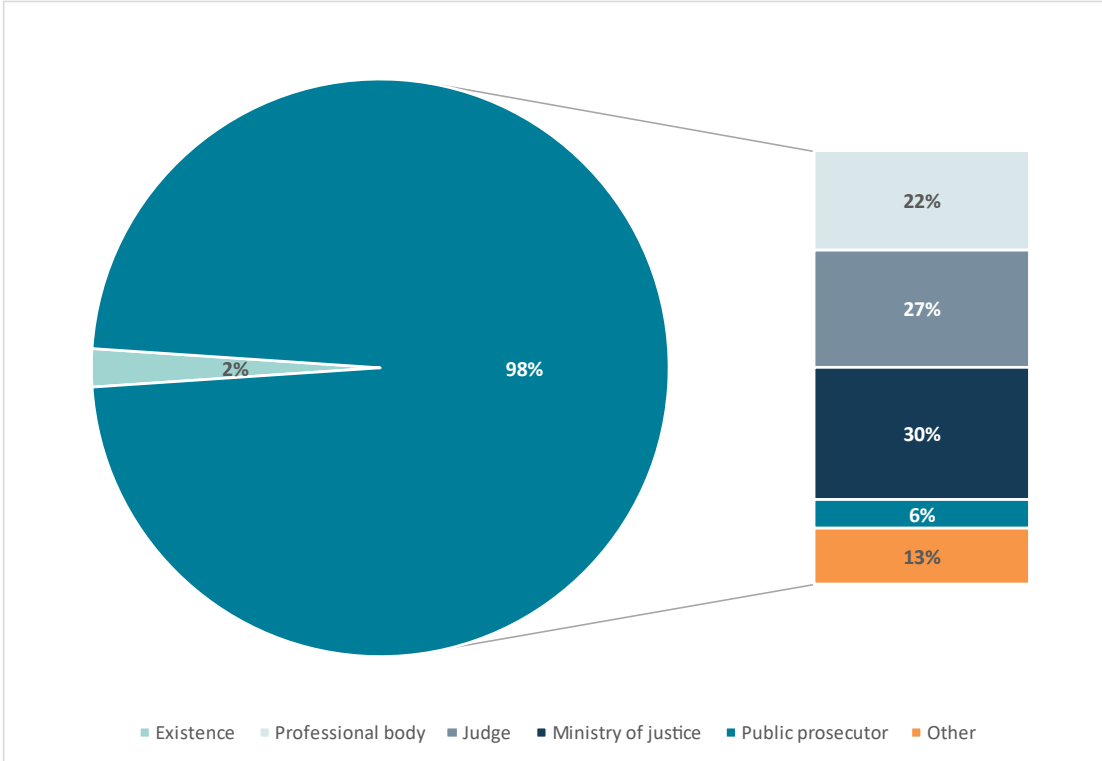
3.1.1. Supervision bodies

In 2020, of the 46 states or entities that replied to the questionnaire, 44 (compared with 36 in 2018 and 32 in 2014) had a body responsible for supervising and monitoring the activities of enforcement agents. As can be seen, supervision and control of the activities of enforcement agents are almost systematic. Only two countries report that there are no competent authorities in this area (**Malta and Sweden**), but the situation varies.

Indeed, in **Malta**, the control and supervision of enforcement agents fall within the competence of the respective entities employing them, namely the Court Services Agency and the Asset Recovery Bureau. Thus, the Court Administration employs the enforcement agents and can therefore take disciplinary actions against them as employees, but cannot control the legality of their actions.

In **Sweden**, the Parliamentary Ombudsmen review the implementation of laws and other regulations in the public sector on behalf of the Swedish parliament and independent of the executive power. This review includes courts of law and other public authorities as well as their employees, e.g., the Swedish Enforcement Authority and its enforcement agents. A person who has a complaint concerning the conduct of an enforcement agent or relating to how laws and regulations are applied can address the Ombudsmen. As the Swedish Enforcement Authority constitutes an independent State body, operative supervision and monitoring take place within its Headquarters. This body is acting under the authority of the Ministry of Finance, but the latter is not allowed to intervene into the supervision and monitoring of the operative activities of enforcement agents. The Ministry annually evaluates the activities in terms of budget allocations. The judge does not have any supervising or monitoring function and acts only in case of an appeal against a decision of the Enforcement Authority. Complaints may also be filed to the Ombudsman of Justice in a specific matter and this may result in criticism against the Enforcement Authority.

Graph 19: Existence of a system for supervising and controlling the activities of enforcement agents and authority competent to exercise supervision and control (Q177 and Q178)



In civil and commercial matters, the public prosecutor is responsible for supervising and monitoring enforcement agents in 6 states or entities (as in 2018), but is never the only body responsible. In some cases, s/he shares this function with a judge (**Belgium, Luxembourg, Monaco, Türkiye**), and/or a professional body (**Belgium, France, Greece, Luxembourg**), and/or with the Ministry of Justice (**France, Greece, Türkiye**).

The very existence of a professional body suggests that states use it to monitor and control enforcement agents. In fact, in 2020, 22 states or entities chose the "professional body" option as their competent authority. Given the large number of states with a professional body (40 states or entities), the corresponding percentage may seem low on balance. The percentage of professional bodies with competences to supervise and control enforcement agents seems likely to be correlated with the status of enforcement agents: the likelihood of the professional body being the competent authority is higher in cases where enforcement agents have private status (see, however, **Austria**, which opted for this solution even though enforcement agents have public status).

In 2020, 25 states or entities chose to entrust judges with responsibility for supervising and monitoring the activities of enforcement agents. There has been a marked increase in this area over the last ten years. By way of comparison, only 14 states had opted for this solution in 2010. This trend may reflect a certain "culture of the judge" in the context of enforcement, particularly in the countries of Central and Eastern Europe.

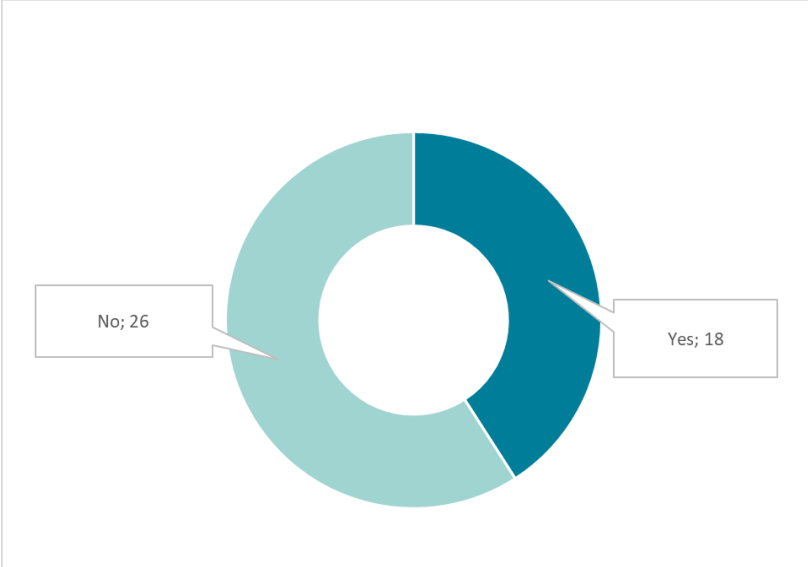
In 30 states or entities, the Ministry of Justice is responsible for supervising the activities of enforcement agents. Where the Ministry of Justice is the responsible authority, a joint ("judge-ministry") system of control and supervision is not uncommon (17 out of 30 states).

In a large majority of states or entities, the authorities responsible for supervising and monitoring the activities of enforcement agents are multiple (32 states or entities). In this respect, 11 states or entities (**Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania, Northern Macedonia, Montenegro, Poland, Romania, Slovak Republic, UK-Scotland**) state that this function is performed jointly by the professional body, the judges and the Ministry of Justice. Conversely, in 16 states or entities, only one supervisory and control authority is competent. This may be the professional body (**Austria, the Netherlands**), or the judges (**Bosnia and Herzegovina, Croatia, Denmark, Ireland**), or the Ministry of Justice (**Iceland, Italy, Ukraine, Kazakhstan**) or other (**Cyprus, Malta, Sweden, UK-Northern Ireland**).

In practice, the supervision system is often supported by the analysis of statistics or by inspections. According to UIHJ sources, a specific commission was established in 2009 in **Portugal**: the Commission for the Efficiency of Enforcement Procedures (following a reform in 2014, it became the Commission for the Monitoring of Judicial Officers). The aim is to set up a system for monitoring enforcement and collecting data that can be used to make recommendations on the efficiency of the system and the training of enforcement agents.

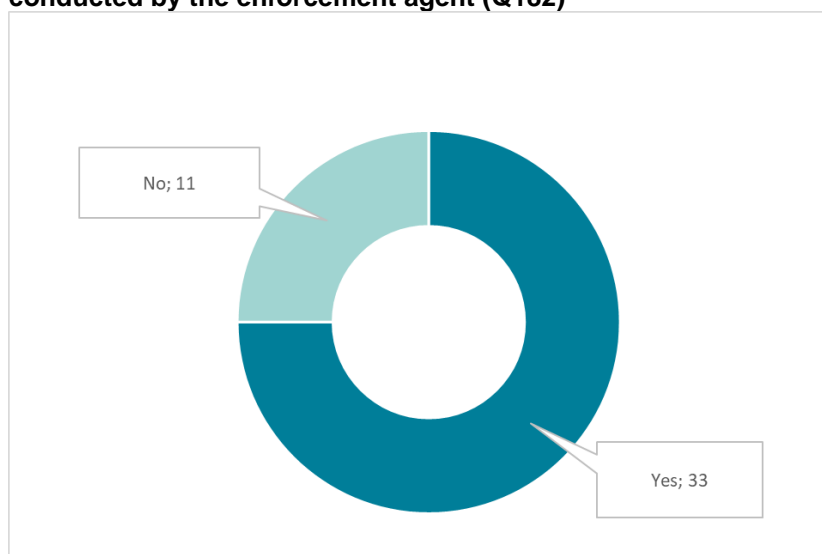
3.1.2. Purpose of the supervision process

Graph 20: Existence of a specific mechanism for enforcing court decisions against public authorities (Q181)



While less than half of the states or entities that replied to the questionnaire have a specific system for monitoring and controlling decisions against public authorities (18 states or entities in 2020, compared with 19 in 2018 and 17 in 2014), most of them have a system for controlling the way in which the enforcement procedure is conducted by the enforcement agent.

Graph 21: Existence of a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (Q182)



In 2020, 11 member States/entities (compared with 9 in 2018, 13 in 2012 and 10 in 2014) had neither a specific mechanism for enforcing and reviewing court decisions against public authorities nor a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (**Denmark, Estonia, Greece, Ireland, Italy, Lithuania, Malta, the Netherlands, UK-Scotland, Israel, Kazakhstan**). If we look only at the Council of Europe member States, this figure is constantly decreasing.

Conversely, 16 countries have both types of system in their legal arsenal (**Armenia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, France, Georgia, Germany, Republic of Moldova, Poland, Portugal, Slovak Republic, Spain, Ukraine, UK-Northern Ireland**). Over the period 2012-2020, there has been a general increase in the number of states concerned, compared with previous years (17 states or entities in 2018; 13 in 2012 and 2014).

Furthermore, 17 states or entities (compared with 18 in 2018, 20 in 2012 and 19 in 2014) only have a system for monitoring the way in which the enforcement procedure is conducted by the enforcement agent (**Albania, Azerbaijan, Cyprus, the Czech Republic, Finland, Hungary, Iceland, Latvia, Luxembourg, Monaco, Northern Macedonia, Montenegro, Norway, Slovenia, Sweden, Switzerland and Türkiye**). The reverse is true in only two countries (**Andorra and Romania**).

3.2. Discipline

According to the Enforcement Guidelines, "*breaches of laws, regulations or rules of ethics committed by enforcement agents, even outside the scope of their professional activities, should expose them to disciplinary sanctions, without prejudice to eventual civil and criminal sanctions*"¹⁸. It is added that "*an explicit list of sanctions should be drawn up, setting out a scale of disciplinary measures according to the seriousness of the offence. Disbarment or "striking off" should concern only the most serious offences (the principle of proportionality between the breach and the sanction should be observed).*"¹⁹

These provisions require us to consider the nature of the sanctions imposed on enforcement agents, and not just the disciplinary procedure.

¹⁸ Guidelines, point 80.

¹⁹ Guidelines, point 82.

Graph 22: Disciplinary proceedings initiated against enforcement agents and sanctions imposed (Q187, Q188)

Countries /entities	Total number of initiated disciplinary proceedings per 100 enforcement agent	Total number of disciplinary sanctions pronounced per 100 enforcement agent
ALB	1,34	0,00
AND	0,00	0,00
ARM	7,12	8,74
AUT	2,10	0,30
AZE	3,95	3,95
BEL	8,30	NA
BIH	2,87	2,30
BGR	NA	6,98
HRV	NA	NA
CYP	NA	NA
CZE	1,12	0,37
DNK	NA	NA
EST	2,33	2,33
FIN	NA	NA
FRA	0,38	0,21
GEO	1,04	1,04
DEU	NA	NA
GRC	NA	NA
HUN	3,96	1,32
ISL	NA	NA
IRL	NA	NA
ITA	0,52	0,32
LVA	7,45	7,45
LTU	2,63	2,63
LUX	0,00	0,00
MLT	NA	NA
MDA	12,28	7,60
MCO	0,00	0,00
MNE	6,90	0,00
NLD	NA	NA
MKD	3,03	2,02
NOR	NA	NA
POL	5,89	2,70
PRT	2,50	2,88
ROU	4,89	4,43
SRB	NA	NA
SVK	9,02	2,63
SVN	13,33	6,67
ESP	0,01	0,01
SWE	0,13	0,13
CHE	0,14	0,05
TUR	12,87	0,25
UKR	NA	7,00
UK:ENG&WAL	NA	NA
UK:NIR	0,00	0,00
UK:SCO	0,00	NA
ISR	27,17	21,74
KAZ	119,11	119,11
MAR	NA	NA

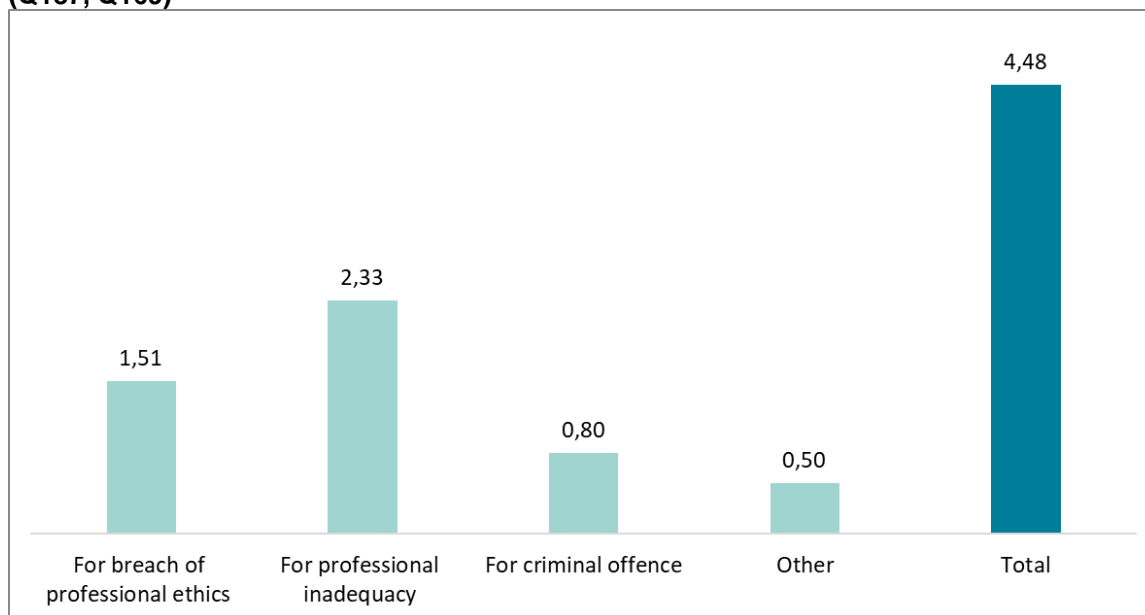
3.2.1. Number of disciplinary proceedings initiated

The number of disciplinary proceedings initiated and, *a fortiori*, the number of disciplinary sanctions pronounced²⁰ against enforcement agents may appear to be a useful and enlightening indicator, particularly when these data are correlated with the number of professionals in service. However, it should be treated with caution. Firstly, the number of proceedings may indicate that a given society is more inclined to take legal action or that disciplinary bodies are more distrustful. Secondly, the number of proceedings may be linked to the existence of quality standards in the state or entity in question. In this sense, quality standards can help litigants to define concepts (professional ethics and professional inadequacy) and can be used to justify proceedings in the event of a breach.

At most, there have been notable fluctuations compared with previous years in some countries, either upwards (e.g., in **Kazakhstan**, 2985 proceedings initiated in 2020, compared with 1316 in 2018; in **Poland**, 122 proceedings initiated in 2020, compared with 89 in 2018), or downwards (e.g., in **Georgia**, 2 proceedings initiated in 2020, compared with 3 in 2018 and 99 in 2014; in **Portugal**: 26 proceedings initiated in 2020, compared with 120 in 2018 and 320 in 2014; in **Türkyie**: 912 proceedings initiated in 2020, compared with 1922 in 2018 and 2656 in 2014). This type of comparison - between successive reference years - of the number of proceedings initiated in a given state is interesting in that it allows us to observe, for example, changes in professional practices or the impact of legislative reform. However, it is severely limited by the fact that not all member States systematically communicate the relevant data for each reference year.

Based on the average number of disciplinary proceedings initiated in 2020 per 100 enforcement agents in the 33 states or entities that were able to provide statistics, the main grievance relates to professional inadequacy, followed by breach of professional ethics and the possible existence of a criminal offence.

Graph 23: Average number of disciplinary proceedings initiated per 100 enforcement agents (Q187, Q169)

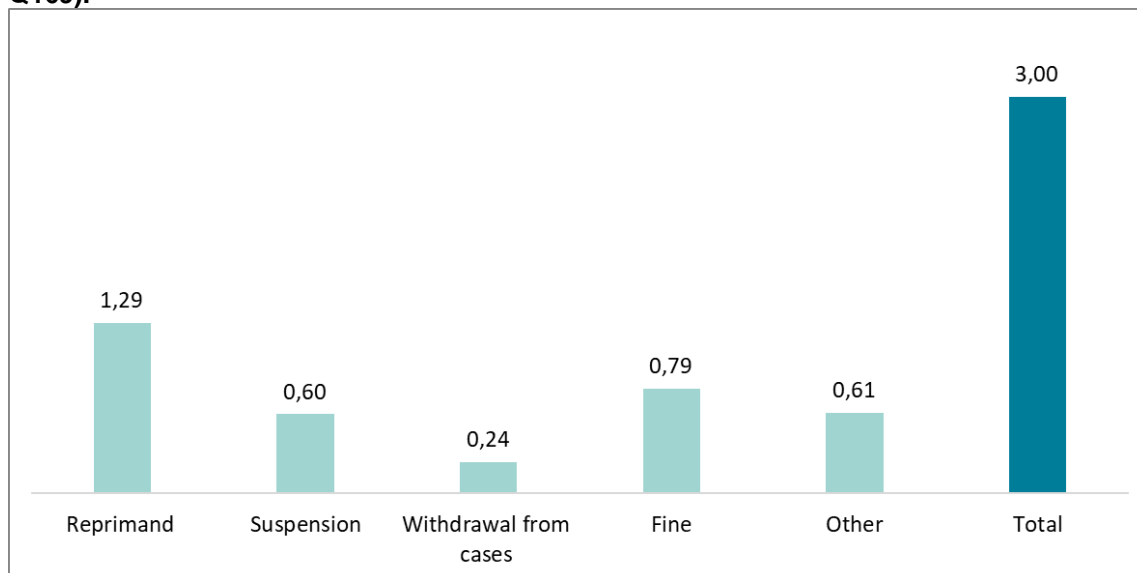


²⁰ The discrepancy between the number of disciplinary proceedings initiated and the number of disciplinary sanctions imposed is a key factor. Many proceedings are unfounded or based on facts unrelated to any disciplinary fault (e.g., proceedings relating to the principle of enforcement itself or the principle of the court decision and proceedings requesting deferment of enforcement and payment).

3.2.2. Number of disciplinary sanctions imposed

When we consider the average number of disciplinary sanctions handed down in 2020, we find, in descending order: reprimand, fine, suspension and withdrawal from a case.

Graph 24: Average number of disciplinary sanctions imposed per 100 enforcement agents (Q188, Q169).

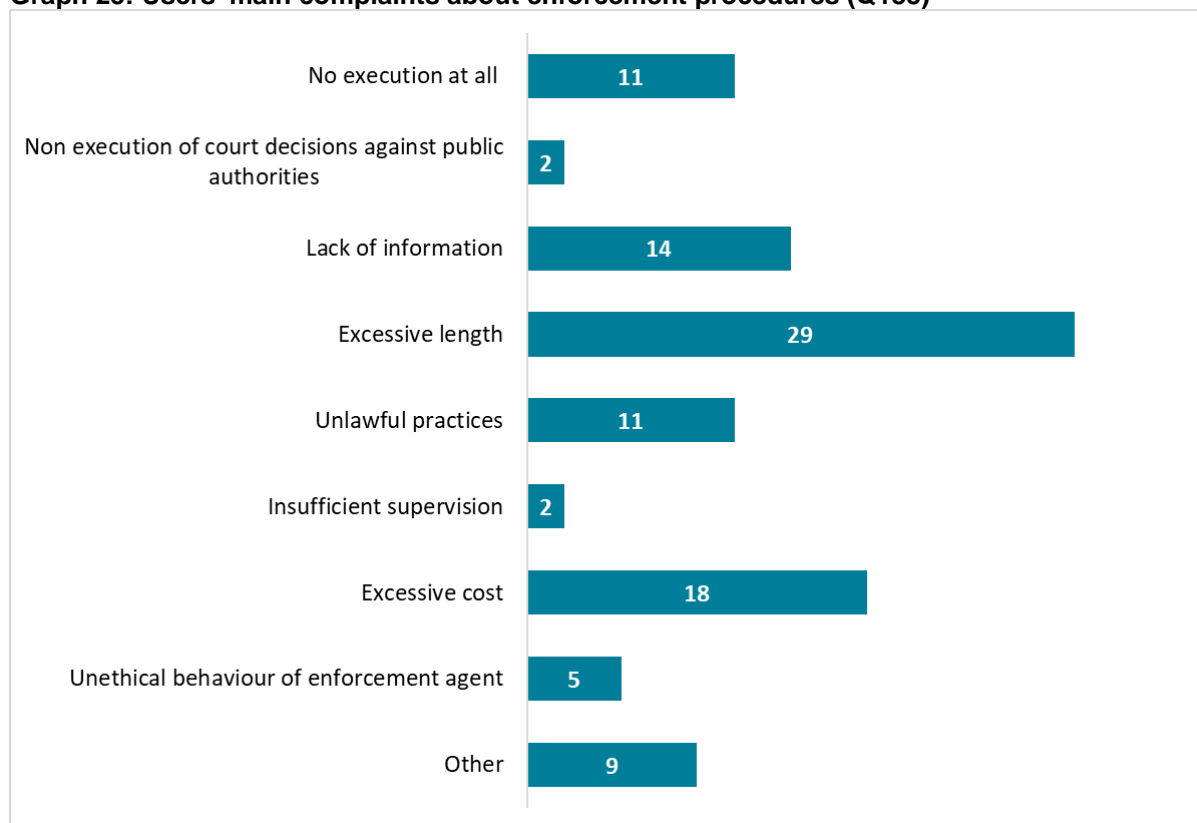


In 2020, the number of disciplinary sanctions imposed ranged from zero (**Andorra, Luxembourg, Monaco, Montenegro, UK-Northern Ireland**) to 2985 (**Kazakhstan**). However, it is possible to refine the analysis by taking into account the number of enforcement agents in the 33 states or entities concerned. In this case, for every 100 active enforcement agents, there are : less than one disciplinary sanction in 13 states or entities (**Andorra, Austria, the Czech Republic, France, Italy, Luxembourg, Monaco, Montenegro, Spain, Sweden, Switzerland, Türkiye, UK-Northern Ireland**) ; between 2 and 5 disciplinary sanctions in 9 states or entities (**Azerbaijan, Bosnia and Herzegovina, Estonia, Lithuania, Northern Macedonia, Poland, Portugal, Romania, Slovak Republic**); between 6 and 10 in 6 states or entities (**Armenia, Bulgaria, Latvia, Republic of Moldova, Slovenia, Ukraine**); followed by **Israel** (around 21 sanctions) and **Kazakhstan** (around 119 sanctions).

3.3. Complaints

Like the number of disciplinary proceedings initiated against an enforcement agent, the number of complaints is an interesting statistic, but it is not sufficient in itself to assess the effectiveness of the enforcement service. This information must be put into context. As indicated in relation to disciplinary proceedings, the number of complaints should not be interpreted uncritically as a sign of a lack of competence or integrity on the part of enforcement agents, since it may be linked to the existence of quality standards or reflect an increased propensity to take legal action in certain states.

Graph 25: Users' main complaints about enforcement procedures (Q183)



As in 2018, "excessive length of the enforcement procedure" was the main ground for complaint in 2020 (29 member States/entities and one observer country out of 46 responding). This high figure - which can be linked to the abundant case law of the European Court of Human Rights in this area - is broadly stable compared with previous years (34 states or entities in 2012 and 2010; 32 in 2014; 33 in 2018). The second most frequent ground for complaint - "excessive cost of the enforcement procedure" - varies slightly: 18 states or entities report facing this problem in 2020, compared with 19 in 2018, 22 in 2014 and 17 in 2012.

Furthermore, over the period 2010-2020, there has been an increase in complaints relating to "lack of information" (14 member States/entities and one observer country in 2020, compared with 10 in 2010). One explanation for this is undoubtedly greater awareness of this issue among litigants. However, while this increase was gradual until 2018 (12 states in 2012, 14 in 2014, 17 in 2018), there has been a slight decrease in the last reference year. In the same vein, all the other reasons are down or broadly stable compared with previous years: "No execution at all" (12 states (11 member States/entities and one observer country) in 2020, 2018 and 2014; 13 in 2012); "unlawful practices" (12 states (11 member States/entities and one observer country) in 2020, 14 in 2018; 12 in 2014; 14 in 2012); "insufficient supervision" (3 states (2 member States and one observer country) in 2020, 2 in 2018, 1 in 2014 and 5 in 2012); "non-execution of court decisions against public authorities": 2 member States in 2020, compared with 2 in 2018 or 6 in 2014 and 2012; "other" (5 member States in 2020, 9 in 2018, 8 in 2014 and 10 in 2012).

II. Enforcement in criminal matters

The CEPEJ deliberately omitted to include the penitentiary system in its evaluation of the judicial system, this being the responsibility of other Council of Europe bodies (*adde*, the SPACE projects - Annual Penal

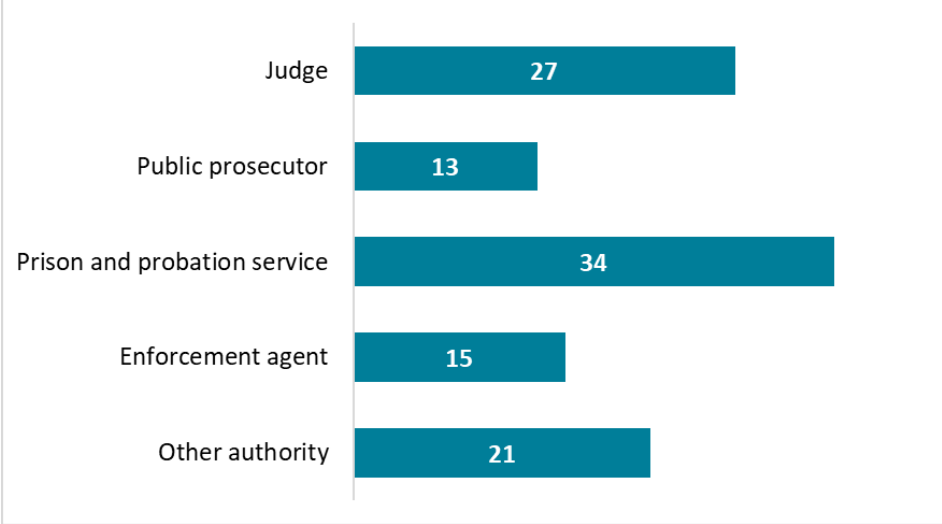
Statistics of the Council of Europe²¹). For this reason, this chapter is limited to some data directly related to the operation of the courts.

In almost all countries, the enforcement of criminal judgments is the responsibility of a public body. However, there is great disparity not only between the competent bodies, but also in the rate at which fines are recovered.

1. Authorities in charge of the enforcement of judgments in criminal matters

In 36 states or entities (34 member States/entities, **Israel** and **Kazakhstan**) out of the 49 that replied, enforcement is entrusted to the prison administration. Other authorities may be involved, such as a judge entrusted with a special competence for enforcing criminal judgments (27 member States/entities), an enforcement agent (15 member States/entities and **Kazakhstan**), a public prosecutor (13 member States/entities and **Morocco**) or other authorities such as the police, a specialised unit of the Ministry of Justice or, exceptionally, a bailiff (**Albania, Armenia, Belgium, Bulgaria, Estonia, Finland, Ireland, Latvia, Lithuania, Republic of Moldova, Poland, Serbia, Slovak Republic, Spain, Sweden, Kazakhstan**). Although these figures have changed slightly since the previous reference year, the ranking of responsible authorities in terms of the number of states or entities concerned remains unchanged.

Graph 26: Authority in charge of the enforcement of criminal decisions (Q189)



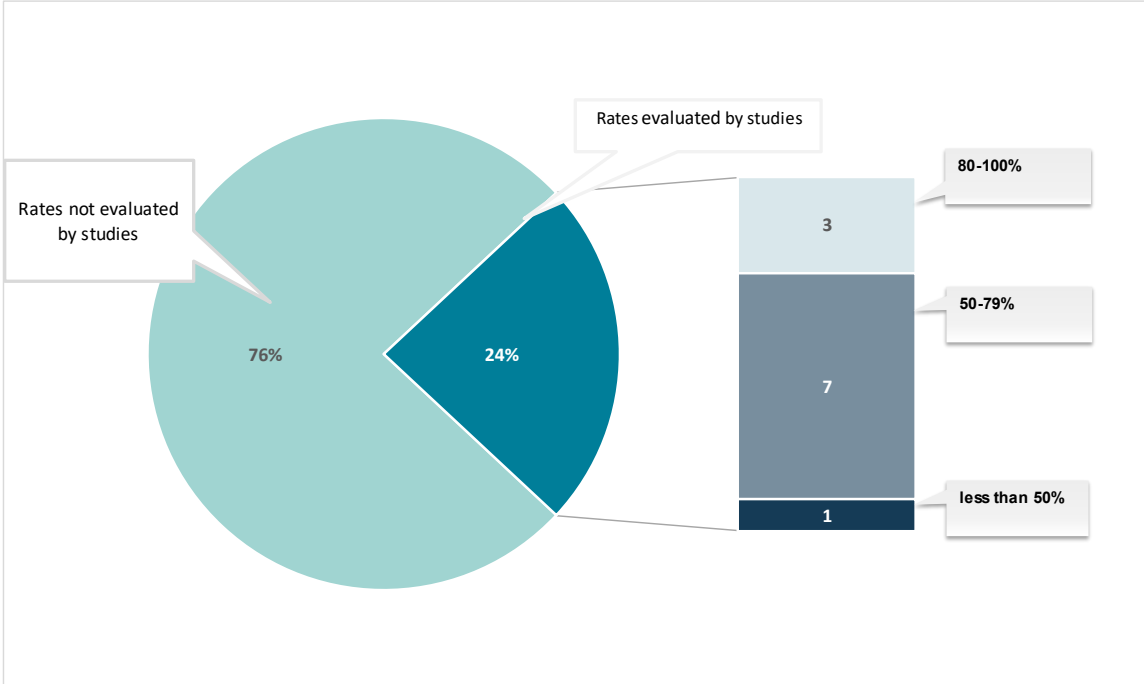
2. Recovery rate of fines decided by criminal courts

It should be noted that, during the last reference year, only 11 member States/entities and two observer countries reported having carried out studies on the effective rate of recovery of fines decided by a criminal court: **Estonia, Finland, France, Ireland, Iceland, Latvia, Poland, Sweden, UK-England and Wales, UK-Northern Ireland, UK-Scotland, Kazakhstan and Morocco**. In most cases, these studies are carried out annually. **Finland, UK-England and Wales** and **UK-Scotland** reported a recovery rate of 80% to 100% (very high) for fines decided by the criminal courts (by way of comparison, in the previous exercise, only **UK-Scotland** had made such a declaration). In **Estonia, France, Ireland, Latvia, Poland, Sweden, UK-Northern Ireland** and **Kazakhstan**, the recovery rate in 2020 was between 50% and 79% (moderate). In addition, two States (**Iceland** and **Morocco**) report a rate below 50%²², whereas in 2014 there were 4 in this situation (**Albania, Latvia, Poland, Russian Federation**) and in 2012 no State reported such a rate.

²¹ M. F. AEBI, E. COCCO, L. MOLNAR and M. M. TIAGO, *SPACE I -2021 Prison Populations*, PC-CP(2021)11, 2022; M. F. AEBI and Y. Z. HASHIMOTO, *SPACE-II Persons under the supervision of probation agencies*, PC-CP (2021)12, 2022.

²² The same was true in the previous financial year, when **Belgium** and **Iceland** were involved.

Graph 27: Effective rate of recovery of fines decided by a criminal court (Q190, Q191)



III. Trends and conclusions

It is difficult to draw general trends from the data collected by the CEPEJ over the last ten years, as not all states or entities participating in the evaluation cycles answer all the questions for each exercise and because the questions have also been adapted over the evaluation cycles. Nevertheless, some main lessons can be drawn.

The organisation of the profession of enforcement agent, the legislation governing the performance of enforcement procedures and the modalities of supervision of enforcement activities all contribute - to varying degrees - to the effective enforcement of court decisions, which, in the light of Article 6 of the European Convention on Human Rights, may constitute a relevant indicator of the proper administration of justice.

Over the period 2010-2020, the overall trend in the number of enforcement agents is downwards, to an average of 4.92 agents per 100 000 inhabitants.

In addition, the status of enforcement agents varies widely between Council of Europe member States and observer countries. In some cases, judges are involved in the enforcement procedure, but more often their role is limited to overseeing the procedure. There is, however, a clear trend noticeable since 2006: the proportion of states resorting to public agents is decreasing, while the proportion of states establishing only private agents or at least providing for a mix of statuses is increasing.

In addition, it is essential that enforcement agents receive appropriate and rigorous training. In this respect, it is noteworthy that the proportion of countries where specific initial training exists is constantly increasing.

Entry exam and initial training are becoming European standards in the field of enforcement. Without reaching the same proportions, the provision of compulsory continuous training is also progressing steadily and now concerns more than 61% of states.

It should be emphasised that it is necessary to provide enforcement agents with adequate qualifications to enable them to carry out the enforcement procedure in an efficient and reasoned manner, while respecting fundamental rights and individual freedoms. This initial and continuous training is all the more necessary given that, in very many states or entities, enforcement agents carry out a number of "ancillary" activities alongside their two main activities, which are the enforcement of court decisions and the service of judicial or extrajudicial documents. The multidisciplinary nature of these professionals is therefore becoming a European standard. Similarly, there has been a clear trend towards centralising the function of enforcing court decisions²³.

Moreover, it is consistent that the control of such activities should not only concern compliance with procedures with regard to the law, but also the appropriateness of acts taken by enforcement agents. To this end, the Guidelines on Enforcement adopted by the CEPEJ are unanimously recognised as a reference among European practitioners²⁴.

Similarly, in Europe, the variation between 2010 and 2020 clearly shows that the trend is towards conceiving a system for supervising and controlling the activities of these professionals, as well as developing a system for monitoring performance.

All in all, the data collected for the last reference year and compared with those recorded during previous evaluation cycles show that the national laws of the Council of Europe member States comply more closely with the principles enshrined in Recommendation Rec(2003)17 of the Committee of Ministers in 2003 and detailed in the Guidelines on enforcement adopted by the CEPEJ in 2009.

In this context, new communication technologies open up countless prospects. The data collected - for the first time - for 2020 show that the use of these technologies is already well established in the states or entities contacted, and this with regard to the various aspects of national enforcement law. While there are dangers (such as dehumanisation), the deployment of these technologies - whether in terms of training enforcement agents, searching for information on assets or the actual conduct of civil enforcement proceedings - can undoubtedly help to make enforcement more effective.

²³ *Adde*, CEPEJ, Good practice guide on enforcement of judicial decisions, aforementioned, point 12.

²⁴ CEPEJ, Guidelines on enforcement, *supra*; CEPEJ, Good practice guide on enforcement of judicial decisions, *supra*.