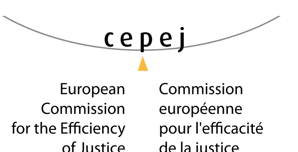
European judicial systems
CEPEJ Evaluation Report

Part 1
General analyses

2024 Evaluation cycle
(2022 data)



European judicial systems CEPEJ Evaluation Report

2024 Evaluation cycle (2022 data)

Part 1
General analyses

Council of Europe

French edition:

Systèmes judiciaires européens
Rapport d'évaluation de la CEPEJ
Cycle d'évaluation 2024
Analyses générales (Partie 1)

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

- General analyses (Part 1)
- Country Profiles (Part 2)
- The CEPEJ-STAT dynamic database (https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems)

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Evaluation process of CEPEJ

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

- promoting the effective implementation of existing Council of Europe instruments used for the organisation of justice;
- ensuring that public policies concerning courts take into account the justice system users;
- contributing to the prevention of violations of Article 6 of the European Convention on Human Rights and thereby, contributing to reducing congestion in the European Court of Human Rights.

The CEPEJ is today a unique body, made up of qualified experts from the 46 Council of Europe member States. It proposes practical measures and tools to improve the efficiency and quality of the public service of justice for the benefit of its users.

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

The following constitutes the 2024 CEPEJ Evaluation Report on the European judicial systems based on 2022 data. With this tenth biennial evaluation cycle, the CEPEJ aims to provide policy makers and justice professionals a practical and detailed tool for a better understanding of the functioning of justice in Europe and beyond, in order to improve its efficiency and its quality in the interest of close to 700 million Europeans.

RESPONDING STATES IN 2024 EVALUATION CYCLE

For this cycle, 44 member States[1] participated in the entire process[2] : **Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus**[3], the **Czech Republic, Denmark, Estonia, Finland, France, Georgia**[4], **Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova**[5], **Monaco, Montenegro, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine**[6] **and United Kingdom**[7] (entities of **England and Wales**, **Northern Ireland** and **Scotland**).

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

Israel and **Morocco,** observer States, have also participated in this evaluation cycle, whereas Kazakhstan which took part in the two previous cycles did not provide data for 2022. It should be noted that the statistics presented in the summary graphs and indicated at the end of the tables (averages, medians, etc.) are always calculated only for the Council of Europe member States in order to provide a picture of the European situation of judicial systems.

Codes In order to improve visualisation of results, for example in the maps and graphs, codes which represent the names of the states and entities are used. These codes correspond to the official classification (ISO 3166-1 alpha-3 codes with three letters) published by the International Organisation of Normalisation. In absence of ISO codes for the entities of the **United Kingdom**, the codes ENG&WAL, NIR and SCO are used for **England and Wales**, **Northern Ireland** and **Scotland**, respectively.

STATES/ENTITIES

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

1. Following the decision of the Committee of Ministers of 16 March 2022, the Russian Federation ceased to be a member State of the Council of Europe. Consequently, the 2022 and 2020 data do not include data from the Russian Federation, and median and average values are calculated for the 44 member States participating in the present evaluation cycle, excluding the Russian Federation. On the other hand, data from previous cycles (2012-2018) include data from the Russian Federation, and the median and average values are calculated for the 45 member States concerned, including the Russian Federation.
2. I.e., completed data collection and quality control procedure.
3. The data provided by Cyprus do not include data of the territory which is not under the effective control of the Government of Cyprus.
4. The data provided by Georgia do not include data of the territory which is not under the effective control of the Government of Georgia.
5. The data provided by the Republic of Moldova do not include data of the territory which is not under the effective control of the Government of the Republic of Moldova.
6. The data presented for Ukraine exclude several territories, which have been under unlawful temporary occupation of the Russian Federation: the Autonomous Republic of Crimea and the city of Sevastopol (since February 20, 2014), certain areas within Donetsk and Luhansk regions (since April 7, 2014) and territories occupied by the Russian Federation since February 24, 2022. Data for 2022 require particular context due to significant infrastructure damages, especially to courthouses. This has limited the ability to collect and analyze data comprehensively. Staffing shortages have hindered data collection efforts that adhere to the CEPEJ methodology.
7. The results for the United Kingdom are presented separately for England and Wales, Northern Ireland and Scotland. The three judicial systems are organised on a different basis and operate independently from each other.

GENERAL REMARKS

Comparing data and concepts

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

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

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

PRESENTING THE DATA

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

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

METHODOLOGY

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

KEY DOCUMENTS

The CEPEJ Scheme for Evaluating Judicial Systems (the Evaluation Scheme) was revised in 2022 by the CEPEJ Working Group on the Evaluation of judicial systems (CEPEJ-GT-EVAL) and adopted by the CEPEJ at its 39th plenary meeting on 6 and 7 December 2022 (Document CEPEJ(2022)9rev1). This Scheme has been designed and used by the CEPEJ on the basis of the principles identified in Resolution Res(2002)12 of the Committee of Ministers setting up the CEPEJ, and relevant Resolutions and Recommendations of the Council of Europe in the field of efficiency and fairness of justice. It has a form of a questionnaire offering a unique approach aimed at covering all the relevant aspects of judicial systems.

The Explanatory Note accompanies the Evaluation Scheme and provides detailed definitions and additional explanations of the questions and notions used in the Scheme (Document CEPEJ(2023)2). Its main purpose is to facilitate the tasks of the national correspondents (see below), with a view of ensuring the uniformity and comparability of the data collected. In order to accurately understand the Report, it is essential to read it in the light of this Explanatory Note.

KEY ACTORS

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

The CEPEJ Working Group CEPEJ-GT-EVAL[8], under the chairmanship of Mr Jaša Vrabec (**Slovenia**), in close cooperation with the CEPEJ Secretariat was entrusted with the preparation of the Report.

KEY STAGES

Data collection - The national correspondents reply to the questions in the Evaluation Scheme on behalf of the member States, entities and observer States through the online tool "CEPEJ COLLECT". For this evaluation cycle, the reference year is 2022. The data collection period officially lasts from 31 March to 1 October 2023. National data are completed by descriptions of the judicial systems and comments, both of which contribute greatly to understanding of the data and constitute an essential complement. They are available in the frame of the "CEPEJ-STAT", the dynamic database of the judicial systems of the Council of Europe member States and participating observers. Readers should bear in mind the necessity of interpreting the statistics in the light of the comments and explanations provided by the states and entities.

Quality check is the process of ensuring the coherence and reliability of the data submitted. The CEPEJ Secretariat verifies the accuracy and consistency of all data submitted via CEPEJ-COLLECT by the national correspondents, through dialogue with them concerning replies which require additional clarifications. The quality check period officially lasts from 1 October 2023 to 29 February 2024. At the end of the process, the Secretariat validates the data. According to its methodology, no data are modified by the CEPEJ without the authorisation of the national correspondents. Only verified and validated data have been published in the Report.

SCOPE OF THE REPORT AND CEPEJ-STAT

The Report (1st and 2nd parts) does not exploit exhaustively all the information provided by the states and entities but rather adopts an analytical approach, identifying main trends and issues common to the member States.

For a more detailed analysis, the CEPEJ has made available its dynamic internet database of statistics "CEPEJ-STAT" which contains all the data collected by the CEPEJ since 2010. It also contains dashboards that give a comprehensive and synthetic overview based on a number of relevant indicators. CEPEJ-STAT is freely accessible to everyone, policy makers, legal practitioners, academics and researchers.

This Report is based on 2022 data. Since then, several states have implemented fundamental institutional and legislative reforms of their legal systems, as indicated in the answers to the last question of the Evaluation Scheme (Q208). For these states, the situation described in this Report might differ from the current situation.

It should be recalled that due to the global COVID-19 pandemic all judicial systems in Europe have faced many challenges during 2020 (e.g., lockdowns, limitations of parties' attendance, postponement of hearings, remote work in judicial bodies, videoconferences etc.) that affected their functioning, which had an impact on large number of data presented in this Report. Consequently, large discrepancies might be identified when comparing data from years 2022 and 2020, as well as between 2020 and previous years. In order to interpret the data correctly, readers should always observe the very specific situation caused by the pandemic.

8. The Working Group of the CEPEJ on the Evaluation of judicial systems (CEPEJ-GT-EVAL) is composed of:
Ms Joanne Battistino, Senior Manager, Ministry of Justice and Home Affairs, The Law Courts, Malta;
Mr Seçkin Koçer, Judge, Head of Department at the General Directorate for Strategy Development, Ministry of Justice, Türkiye;
Ms Simone Kress, Judge, Vice-President of the Regional Court of Cologne, Germany;
Ms Victoria Mertikopoulou, Partner, Kyriakides Georgopoulos Law Firm, Greece;
Mr Jaša Vrabec, Head of the Office for Public Relations, Supreme Court, Slovenia;
Ms Martina Vrdoljak, Advisor to the Minister, Ministry of Justice and Public Administration, Croatia;
The CEPEJ-GT-EVAL has benefited from the active support of scientific experts:
Mr Christophe Koller, Project manager, Center for counselling and comparative analysis « Economie, Société, Etat, Histoire, Administration » (ESEHA), Switzerland;
Ms Claire Strugala, Judge, Project manager to the Head of Expertise and Modernisation Department, Ministry of Justice, France;
Ms Helen Burrows, Justice Reform Strategist, England and Wales;
Mr Nicolas Garcette, Project manager, General Inspectorate of Justice, Ministry of Justice, France;
Ms Ana Krnić Kulušić, Justice Reform Expert, Croatia;
Mr Vladimir Pavlovic, Director, "WM Equity Partners", Serbia;
Mr Marco Velicogna, Researcher at the Institute of Legal Informatics and Judicial Systems (IGSG-CNR), Italy;

GENERAL DATA

The population, GDP (gross domestic product) per capita and average salary provide information about the general context in which this study was conducted. In particular, these data make it possible to standardise other figures facilitating the comparative approach between the different States/entities.

DEMOGRAPHIC DATA

The population (Q1) shows the number of inhabitants in the reference year[9]. These figures enable readers to get an idea about diversities in the population and size of the countries involved: **Monaco** has 39 050 inhabitants, while **Türkiye** has more than 85 million inhabitants.

Moreover, the population may vary in time in some of the member States and entities.

These demographic diversity and variations must always be kept in mind, considering that population data will be used for most of the standardizations of the data presented in this Report.

Figure 1.1 **General data, 2022**

States / Entities	Population	GDP per capita	Average salary
ALB	2 793 592	5 489 €	6 888 €
AND	82 041	39 068 €	27 416 €
ARM	2 977 130	6 210 €	6 732 €
AUT	9 104 772	49 400 €	37 725 €
AZE	10 063 300	7 338 €	5 500 €
BEL	11 697 557	46 972 €	47 319 €
BIH	3 453 000	6 781 €	10 571 €
BGR	6 447 710	13 271 €	10 861 €
HRV	3 850 894	17 130 €	16 564 €
CYP	920 701	27 777 €	26 424 €
CZE	10 850 620	26 334 €	20 084 €
DNK	5 928 364	64 260 €	43 335 €
EST	1 328 439	27 035 €	20 220 €
FIN	5 563 970	43 049 €	47 696 €
FRA	68 043 000	38 547 €	41 876 €
GEO	3 736 400	6 335 €	6 622 €
DEU	84 358 845	46 020 €	56 334 €
GRC	10 678 632	19 548 €	NA
HUN	9 599 744	17 015 €	16 097 €
ISL	387 758	69 828 €	68 763 €
IRL	5 149 139	99 267 €	45 859 €
ITA	58 850 717	32 391 €	33 213 €
LVA	1 883 008	20 709 €	16 476 €
LTU	2 857 279	23 576 €	21 468 €
LUX	660 809	119 200 €	70 583 €
MLT	520 174	31 888 €	20 961 €
MDA	2 512 758	5 433 €	6 349 €
MCO	39 050	91 353 €	46 601 €
MNE	620 029	8 002 €	10 596 €
NLD	17 811 291	53 817 €	66 900 €
MKD	1 837 114	6 365 €	9 297 €
NOR	5 504 329	95 376 €	59 318 €
POL	37 766 000	13 588 €	16 238 €
PRT	10 467 366	23 287 €	18 729 €
ROU	19 051 562	15 010 €	14 906 €
SRB	6 797 105	8 876 €	10 504 €
SVK	5 428 792	16 300 €	15 540 €
SVN	2 116 972	27 975 €	24 287 €
ESP	48 059 777	28 280 €	25 381 €
SWE	10 521 556	51 520 €	41 782 €
CHE	8 815 385	87 378 €	81 410 €
TUR	85 279 553	10 130 €	NA
UKR	40 997 698	3 234 €	4 572 €
UK:ENG&WAL	59 642 000	37 525 €	38 447 €
UK:NIR	1 910 500	30 620 €	33 830 €
UK:SCO	5 479 900	38 597 €	37 689 €
ISR	9 662 000	44 671 €	40 474 €
MAR	37 022 385	3 249 €	NA

9. Regarding data on the population of Ukraine, it should be noted that it was not possible to provide nor estimate the data for 2022 given the situation in connection with the aggression of the Russian Federation against Ukraine. For enabling the use of the other data provided to CEPEJ, the population data of 2021 is used for the current cycle.

Figure 1.2 **Variation in population, 2012 - 2022 and 2020 – 2022**

ECONOMIC DATA (GDP PER CAPITA AND AVERAGE GROSS SALARY)

These economic data also demonstrate a great diversity of income represented by GDP per capita. The average annual gross salary gives an interesting view of the purchase power of the population in the countries. Though this indicator is not perfect, it nevertheless highlights, again, substantial disparities between the populations of different countries/entities.

GDP per capita (Q3) – This indicator shows large disparities which must be kept in mind when analysing financial data of different judicial systems. For instance, there are some countries with a GDP per capita at less than 6 000 € (**Albania**, **Republic of Moldova** and **Ukraine**) and some countries with GDP per capita at over 95 000 €, a value more than 15 times higher (for example **Ireland**, **Luxembourg** or **Norway**).

National annual average gross salary (Q4) – This indicator is sometimes used as a standardisation variable, comparing it with the salaries of judges and prosecutors (Figure 1.1).

EXCHANGE RATE(Q5) AND INFLATION RATE

Figure 1.3 **Exchange rate 1 January 2023**

States / entities	Currency	Apreciation / depreciation
ALB	ALL (Lek)	-2,22%
ARM	AMD (Dram)	-34,48%
AZE	AZN (Manat)	-13,31%
BIH	BAM (Mark)	0,00%
BGR	BGN (Lev)	0,00%
CZE	CZK (Koruna)	-8,15%
DNK	DKK (Krone)	-0,01%
GEO	GEL (Lari)	-28,31%
HUN	HUF (Forint)	11,11%
ISL	ISK (Krona)	-2,56%
MDA	MDL (Leu)	0,78%
MKD	MKD (Denar)	-0,32%
NOR	NOK (Krone)	-0,24%
POL	PLN (Zloty)	1,60%
ROU	RON (Leu)	1,60%
SRB	RSD (Dinar)	0,36%
SWE	SEK (Krona)	9,42%
CHE	CHF (Franc suisse)	-7,48%
TUR	TRY (Lira)	121,10%
UKR	UAH (Hryvnia)	26,66%
UK:ENG&WAL	GBP (Pound sterling)	-1,33%
UK:NIR	GBP (Pound sterling)	-1,33%
UK:SCO	GBP (Pound sterling)	-1,33%
ISR	ILS (Shekel)	-5,66%
MAR	MAD (Dirham)	2,62%

In order to improve comparisons, monetary values are reported in euros. For that reason, using exchange rates for States outside the euro zone causes some difficulties. Exchange rates vary from year to year, so the exchange rates of 1 January 2023 have been used in this Report. In case of high inflation rate and/or large variations in the exchange rate, the budget data must be analysed taking this information into account, since the variations in the budget in euros will not fully reflect reality.

Currency depreciation is a decrease in the value of a currency relative to Euro within two periods (ex. Turkish lira has depreciated by 121% against euro).

Currency appreciation is an increase in the value of a currency relative to Euro within two periods (ex. Armenian Dram has appreciated by 34% against euro).

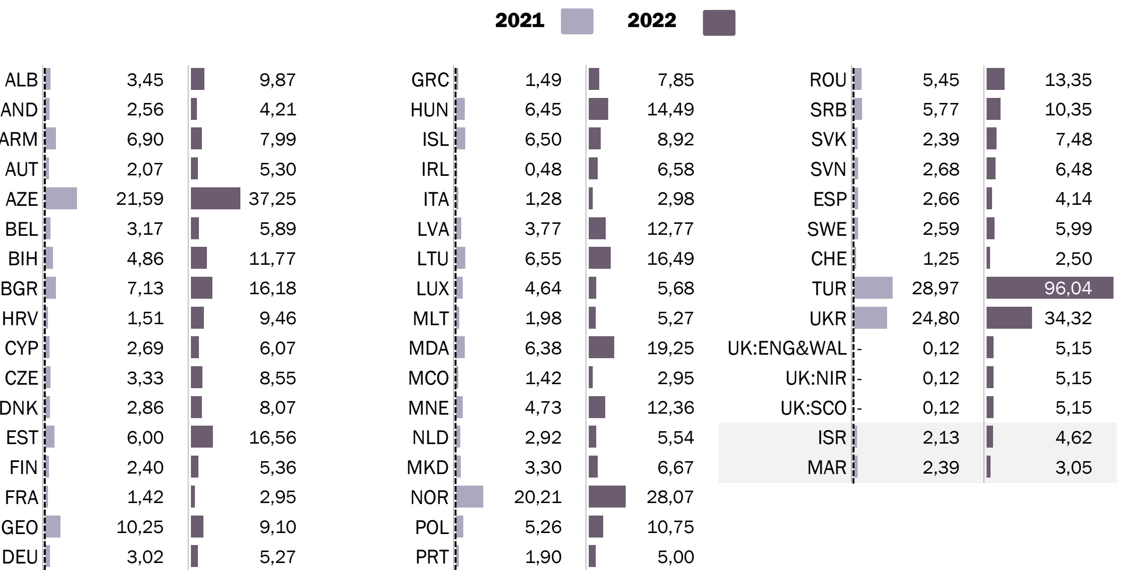
The variation in the exchange rate has a significant effect on monetary data of countries outside the euro zone. For some of them, the exchange rate against the euro could be more or less favourable in this cycle than in previous ones. It is therefore necessary to pay attention to this issue while comparing monetary figures of the 2022 and 2024 editions. Figure 1.3 shows the variation in the exchange rate for the countries outside the euro zone.

Between the 2022 and 2024 evaluation cycles, significant depreciations over 9% were recorded for **Hungary**, **Sweden**, **Türkiye** and **Ukraine**, whereas **Republic of Moldova**, **Poland**, **Romania**, **Serbia** and **Morocco** recorded some depreciation of currency but to a smaller extent (under 3%). Large appreciations of the local currency were observed in **Armenia**, **Azerbaijan** and **Georgia** (more than 10%). While currencies in **Bosnia and Herzegovina**, **Bulgaria** and **Denmark** remained rather stable, all other member States and entities (outside the euro zone) experienced appreciation. It is interesting to note that majority of States and entities (16) experienced depreciation in 2020, while in 2022 the trend is opposite since most of the states and entities (12) experienced appreciation of their respective currencies compared to euro.

The analysis of budget variations is carried out parallelly in euro and in local currencies (for non-euro area countries) because significant variations in the budget expressed in euros do not always give the complete view of the real situation. For example, a reduction of the value in euros does not necessarily reveal the reality experienced in the countries, as the budget in local currency might remain stable or can even increase.

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

Figure 1.4 **Inflation rate 2021 and 2022 (GDP deflator) (Source: World Bank[10])**



Inflation measures the increase in prices over time. It is a valuable indicator which has to be taken into account when analysing monetary data, namely budgets and salaries. Figure 1.4 shows inflation in 2021 and 2022, between CEPEJ cycles.

In 2022, the highest inflation was measured in **Azerbaijan** (37,25%), **Norway** (28,07%) **Türkiye** (96,04%) and **Ukraine** (34,32%). All other states and entities had an inflation rate lower than 20%, but interestingly none of them recorded values below 2,5% (which was the case for 30 states and entities in 2020). Generally, the inflation rates are much higher compared to 2020. As a comparison, the number of states and entities with inflation rate over 5% was seven in 2020 and 38 in 2022.

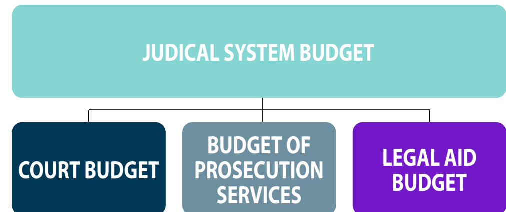
10. https://databank.worldbank.org/reports.aspx?source=2&series=NY.GDP.DEFL.KD.ZG

Budgets

What is the judicial system budget?

The judicial system budget, as defined by the CEPEJ, includes budgets allocated to courts, public prosecution services and legal aid. These three components were identified by the CEPEJ as common in all member States and entities and provide a basis to ensure comparability of the data presented. The CEPEJ's evaluation reports provide detailed analyses of these budgets considering the close connexion between member States' and entities' budgetary efforts regarding justice on the one hand, and the efficiency and quality of justice on the other hand.

There is also the "budget allocated to the whole justice system", which is a broader category (potentially including, for example, the prison system, enforcement services, state advocacy etc.). However, to date, the components of this budget vary from one state or entity to another, and this chapter will focus only on the "judicial system budget".



Why is judicial system budget important?

A well-structured and adequately funded judicial system budget is essential for a reliable and efficient justice. Financial stability and sustainability ensure judicial independence, allowing judges to make decisions without influence. Adequate funding also contributes to efficient court operations, timely case processing, and strengthening access to justice. It also supports legal aid services and promotes better access to justice.

Proper funding enhances judicial quality, including ongoing training of justice professionals and modernisation. A transparent and well-managed budget fosters public trust, meeting citizens' expectations for an effective judicial system. A well-resourced judiciary is therefore fundamental for the safeguard of democracy and the protection of the rule of law, ensuring that justice is accessible, independent and efficient.

According to the Venice Commission's Report on the Independence of the Judicial System[1], the state has a critical obligation to ensure the judicial system is provided with sufficient financial resources. This obligation remains valid even in times of crisis, as the proper functioning of the judiciary and the independence of judges must not be jeopardised. Sufficient funding is essential to ensure that courts and judges can meet the rigorous requirements set by Article 6 of the European Convention on Human Rights and those in national constitutions, enabling them to fulfil their roles with the integrity and efficiency needed for the public to have confidence in justice and the rule of law.

How is the judicial system budget analysed?

For the purpose of the analysis, member States and entities are categorised into four groups according to the Gross Domestic Product (GDP) per capita, with an additional fifth group (Group E) consisting of observer countries:

- Group A: <10 000 €
- Group B: 10 000 € – 20 000 €
- Group C: 20 000 € – 40 000 €
- Group D: >40 000 €
- Group E: Observer States

The analysis considers the comparison among these groups A, B, C and D, named as such throughout this chapter. Through this grouping method, it is easier to understand how wealth is used to invest in justice in each state.

As with comparisons to previous years, the interpretation of trends between 2020 and 2022 must take inflation into account. For example, Figure 1.4 in chapter 1 of this Report shows that **Türkiye** and **Ukraine** experienced the highest inflation in this period.

The CEPEJ collects data on both approved and implemented budgets. The **approved budget** represents the projected expenditure approved by the Parliament for the reference year, while the **implemented budget** reflects actual expenditures during the reference year. In this report, the 2022 implemented budget of the judicial system is presented predominately.

1. Part 1: Independence of Judges (2010, CDL-AD (2010)004-e)

JUDICIAL SYSTEM BUDGET

Which countries invest the most in their judicial system?

Figure 2.1 **Implemented judicial system budget per inhabitant (€) and as % of GDP (Q1, Q3, Q6, Q12-1, Q13)**

Group	States / entities	Per inhabitant (€)	As % of GDP
A: < 10.000 €	ALB	15,8 €	0,29%
	ARM	17,0 €	0,27%
	AZE	17,7 €	0,24%
	BIH	43,6 €	0,64%
	GEO	14,5 €	0,23%
	MDA	18,9 €	0,35%
	MKD	24,6 €	0,39%
	MNE	60,5 €	0,76%
	SRB	48,1 €	0,54%
	UKR	22,0 €	0,68%
B: 10.000 € - 20.000 €	BGR	73,0 €	0,55%
	GRC	50,5 €	0,26%
	HRV	65,0 €	0,38%
	HUN	NA	NA
	POL	NA	NA
	ROU	61,0 €	0,41%
	SVK	72,6 €	0,45%
	TUR	15,6 €	0,15%
C: 20.000 € - 40.000 €	AND	146,2 €	0,37%
	CYP	104,3 €	0,38%
	CZE	74,7 €	0,28%
	ESP	96,8 €	0,34%
	EST	57,9 €	0,21%
	FRA	77,2 €	0,20%
	ITA	100,6 €	0,31%
	LTU	48,3 €	0,20%
	LVA	63,4 €	0,31%
	MLT	74,9 €	0,24%
	PRT	NA	NA
	SVN	107,1 €	0,38%
	UK:ENG&WAL	NA	NA
	UK:NIR	141,2 €	0,46%
	UK:SCO	104,9 €	0,27%
D: > 40.000 €	AUT	141,0 €	0,29%
	BEL	102,5 €	0,22%
	CHE	245,6 €	0,28%
	DEU	136,1 €	0,30%
	DNK	96,7 €	0,15%
	FIN	85,1 €	0,20%
	IRL	65,1 €	0,07%
	ISL	141,1 €	0,20%
	LUX	193,0 €	0,16%
	MCO	217,4 €	0,24%
	NLD	138,8 €	0,26%
	NOR	83,8 €	0,09%
	SWE	121,3 €	0,24%
E:	ISR	84,5 €	0,19%
	MAR	15,0 €	0,46%
	Average	85,4 €	0,31%
	Median	74,8 €	0,28%

The allocation of the judicial system budget depends on the resources of the countries. To ensure better comparability of data, the analyses of the judicial system budget are declined into two axes – the budget standardised regarding the population (measured in euros per inhabitant) and the budget considered as a percentage of the GDP per capita. Although the budget per inhabitant is generally higher in wealthier states and entities, when this same budget is considered as a percentage of GDP, it represents a smaller portion of their total wealth compared to less wealthy countries. The portion of this budget seems to be higher in the less affluent countries.

In comparison to funding for other services, the proportion of GDP dedicated to the judicial system is notably low. This is true even if some efforts were made in previous years, and no decrease has been observed. The average implemented budget as a percentage of GDP is 0,31% while the median is 0,28%.

Figure 2.2 **Average of implemented judicial system budget by different groups of GDP per capita (Q1, Q3, Q6, Q12-1, Q13)**

Group	Per inhabitant	As % of GDP
A: < 10 000 €	28,3 €	0,44%
B: 10 000 € - 20 000 €	56,3 €	0,37%
C: 20 000 € - 40 000 €	92,1 €	0,30%
D: > 40 000 €	136,0 €	0,21%
Average	**85,4 €**	**0,31%**
E: (Observer states)	49,7 €	0,33%

The part of expenses dedicated to the judicial system in relation to GDP is higher in countries belonging to groups A and B (with an average allocation of 0,41% of GDP), than in groups C and D (with an average allocation of 0,26% of GDP).

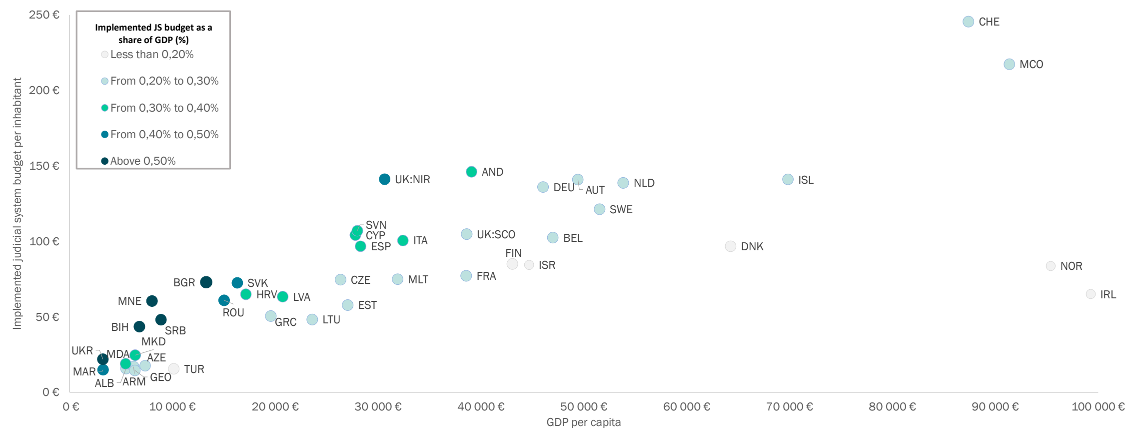
This reflects the commitment of less wealthy countries to uphold the judicial system as a fundamental pillar of the rule of law. In each group differences can also be observed. For example, **Bosnia and Herzegovina** (0,64%), **Montenegro** (0,76%) and **Ukraine** (0,68%) in group A and **Bulgaria** (0,55%) in group B show a significantly higher investment in relation to GDP than other countries in the same groups (**Azerbaijan** (0,24%) and **Georgia** (0,23%)). In group D, **Denmark** (0,15%), **Finland** (0,20%), **Ireland** (0,07%), **Luxembourg** (0,16%) and **Norway** (0,09%) have considerably lower investments in their respective judicial systems than **Austria**, **Germany**, the **Netherlands**, **Sweden** and **Switzerland** (> 0,24%) (cf. Fig. 2.3).

Figure 2.3 correlates the implemented judicial system budget per inhabitant (Y-axis) with the GDP per capita (X-axis) and the judicial system budget as % of GDP represented by the colour of the dots, as indicated in the legend. This comprehensive approach offers an insight into the actual budgetary commitment of each state and entity towards the judicial system.

This Figure shows a linear relationship between GDP per capita and the judicial system budget per inhabitant, meaning that more wealthy states and entities allocate a higher budget for the judicial system per capita. At the same time, the darker dots situated in the left part of the chart (lower GDP per capita), show that less wealthy countries invest more in their judicial system as a percentage of GDP.

The chart is useful for comparing countries with a similar GDP per capita and see which ones invest more or less in their judicial system. This comparison helps to highlight the differences in budgetary commitment to the judicial system among countries with similar economic wealth. For example, **Andorra**, **France**, and the **UK-Scotland** have close GDP per capita. However, **Andorra** allocates a higher budget per capita to its judicial system compared to **France** and the **UK-Scotland**. In Group D, out of the wealthiest countries, **Ireland** and **Norway** stand out as exceptions, allocating a lower budget to their judicial systems compared to other countries within the same group.

Figure 2.3 **Implemented judicial system budget per inhabitant compared with GDP per capita in 2022 (Q1, Q3, Q6, Q12-1 and Q13)**

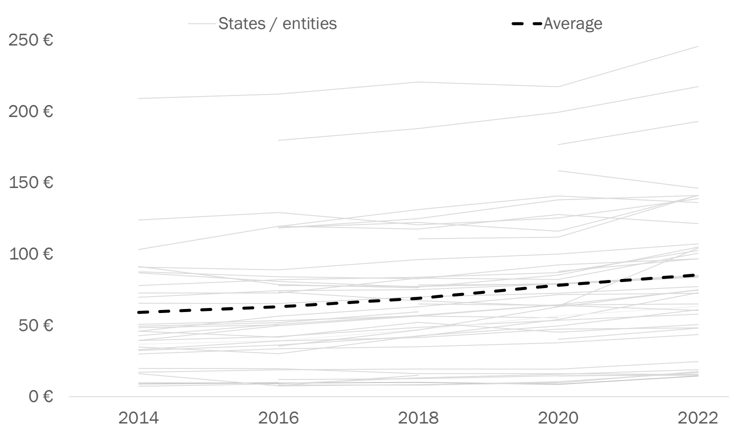


Some countries with a lower GDP per capita tend to invest a bigger part of their GDP in the judicial system. Noticeable examples are **Bosnia and Herzegovina**, **Bulgaria**, **Serbia** and **Ukraine**.

Nonetheless, the graph presented above provides an incomplete picture for comprehending the budgetary data related to European judicial systems. The actual dynamics of these systems are more complex and some specificities unique to each state or entity can play an important role in explaining the differences. It is also necessary to consider political, administrative, and cultural nuances, varying procedures, legal traditions, and the growing reliance on information and communication technology (ICT) in increasingly digitised justice systems.

How have the judicial system budgets evolved?

Figure 2.4 **Evolution of the implemented judicial system budget per inhabitant, 2014-2022 (Q1, Q6, Q12-1 and Q13)**



Between 2014 and 2022, the budget allocated to the judicial system exhibited steady but uneven growth, as depicted in Figure 2.4.

This Figure illustrates the trend (dotted line) in the evolution of the average implemented judicial system budget over a period of 5 evaluation cycles, summarizing the variations experienced by the different states and entities (grey lines). While the general tendency is towards increasing the budget, individual countries experienced more variable paths clustering around the average value, implying that many states and entities allocate a similar budget compared to others. Only some allocate higher budgets to their judicial systems.

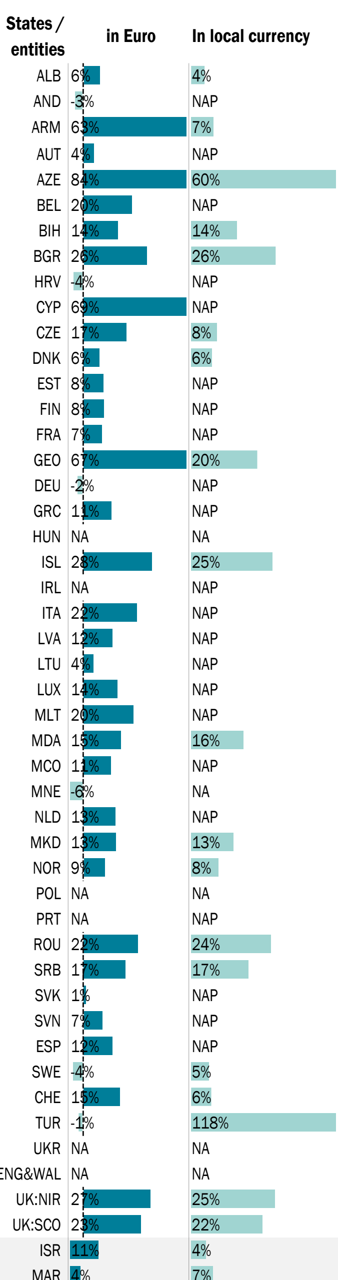
The average implemented judicial budget grew from 59,1 € in 2014 to 85,4 € in 2022. If we look at the variation of the budget in euros, between 2020 and 2022 **Azerbaijan**, **Cyprus**, and **Georgia** saw the most significant growth in their implemented judicial system budgets.

The growth in **Azerbaijan** is due to the budgetary allocations to courts and legal aid. Conversely, there has been negligible expansion in the realm of public prosecution services. However, it should be taken into account that **Azerbaijan** is affected by inflation and devaluation of the national currency.

The large fluctuation of the budget in local currency in **Türkiye** can be explained by an increase in the budget in response to the impact of inflation.

The increase in **Cyprus** is the result of a major restructuring of the posts in the public prosecution service as several new posts were created. At the same time, there was an increase in the salaries of the counsels working at the Attorney General's Office. In **Georgia** there was an increase in judges' salaries, IT investments, justice expenses (expertise, interpretation, etc.) due to a higher number of cases. The constructions or renovations of court buildings also explain the observed increase.

Figure 2.5 **Variation of the implemented budget of the judicial system 2020 – 2022 in Euro and in local currency (Q1, Q2, Q5, Q6, Q7, Q12-1, Q13)**



What are the main components of the judicial system budget?

On average, member States and entities spend about 2/3 of their judicial system budget on courts, around 25% on public prosecution services and the remaining on legal aid (11%) (Figure 2.6). Legal aid proportion appears larger in wealthier countries varying from 3% in group A to 24% in group D.

Figure 2.7 reveals a regional pattern where the Nordic countries, along with **Iceland**, **Ireland**, the **Netherlands**, and the **UK** entities, allocate a larger proportion of their budget to legal aid compared to other countries. Conversely, South-Eastern and Eastern European countries invest less in legal aid and more in courts and prosecution services. This can lead to the conclusion that more wealthy countries have the opportunity to spend more on legal aid. **Iceland**, **Ireland**, **Norway**, and the **UK-Northern Ireland** dedicate more than 30% of the budget to legal aid.

As shown by Figure 2.7, in 2022, the **Czech Republic**, **Malta**, **Monaco**, **Serbia**, **Slovenia** and **Spain** dedicated more than 80% of their judicial system budget to courts. **Albania**, **Azerbaijan**, **Bulgaria**, the **Republic of Moldova**, the **UK-Scotland** and **Ukraine** (predominantly group A countries) spent more than 35% of their budget on prosecution services. In **Cyprus** the budget dedicated to public prosecution services represents 62% of the judicial system budget.

Figure 2.6 **Composition of the judicial system budget by GDP groups in 2022 (Q6, Q12-1, Q13)**

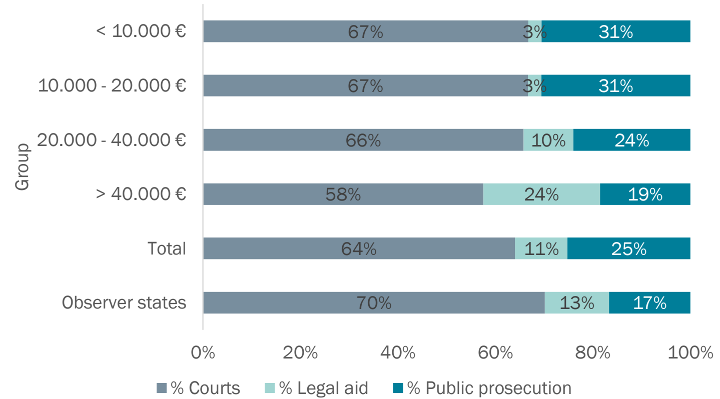
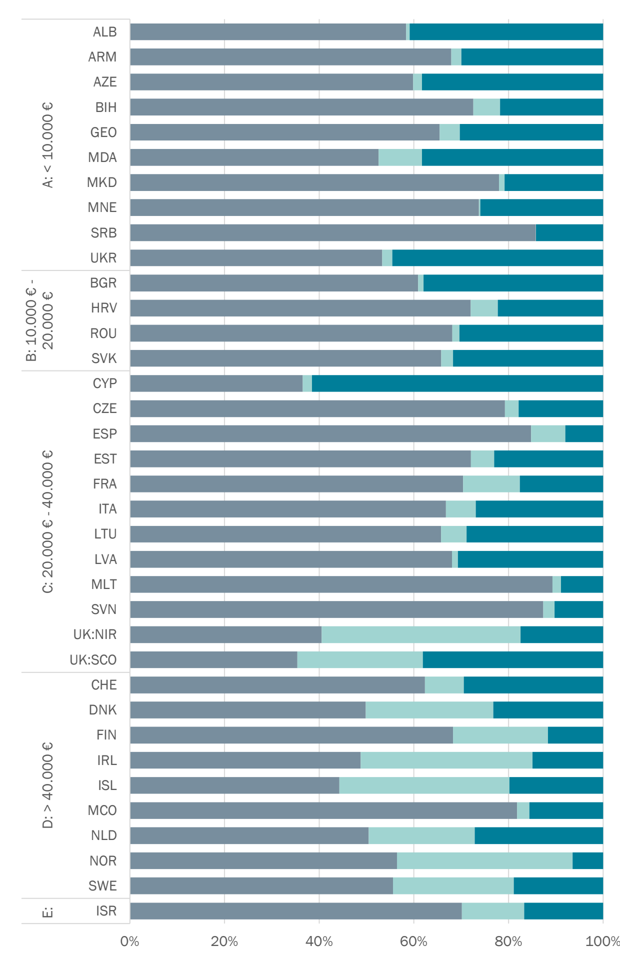
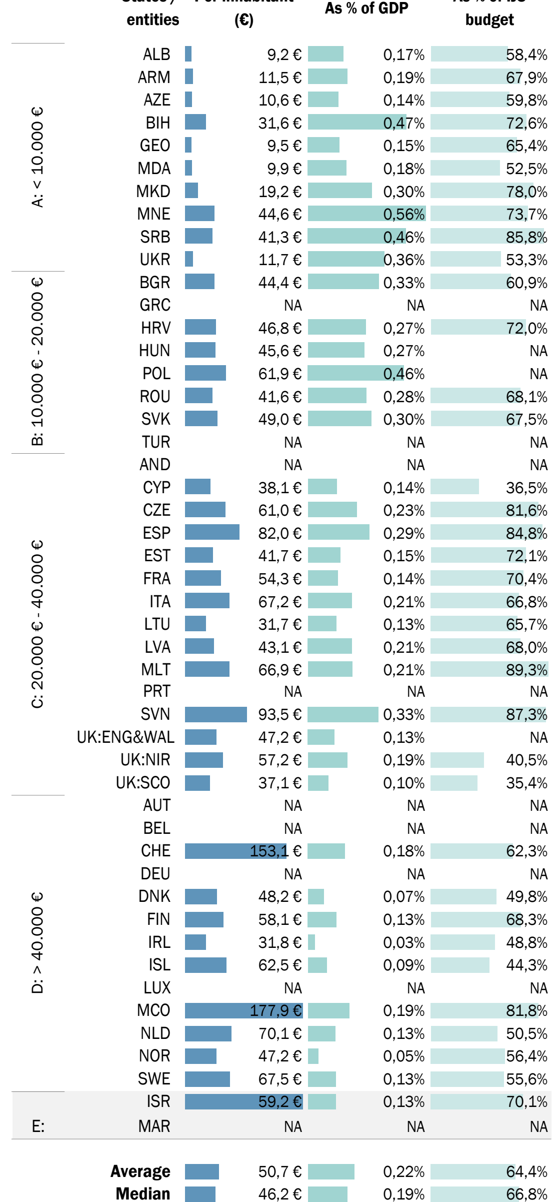


Figure 2.7 **Implemented budget allocated to courts, legal aid and prosecution services in 2022 (Q6, Q12-1, Q13)**



Which states and entities invest the most in their courts?

Figure 2.8 **Implemented courts' budget per inhabitant, as % of GDP and as % of the implemented judicial system budget in 2022 (Q1, Q3, Q6, Q12-1, Q13)**



Group	States / entities	Per inhabitant (€)	As % of GDP	As % of IJS budget
A: < 10.000 €	ALB	9,2 €	0,17%	58,4%
	ARM	11,5 €	0,19%	67,9%
	AZE	10,6 €	0,14%	59,8%
	BIH	31,6 €	0,47%	72,6%
	GEO	9,5 €	0,15%	65,4%
	MDA	9,9 €	0,18%	52,5%
	MKD	19,2 €	0,30%	78,0%
	MNE	44,6 €	0,56%	73,7%
	SRB	41,3 €	0,46%	85,8%
	UKR	11,7 €	0,36%	53,3%
B: 10.000 € - 20.000 €	BGR	44,4 €	0,33%	60,9%
	GRC	NA	NA	NA
	HRV	46,8 €	0,27%	72,0%
	HUN	45,6 €	0,27%	NA
	POL	61,9 €	0,46%	NA
	ROU	41,6 €	0,28%	68,1%
	SVK	49,0 €	0,30%	67,5%
	TUR	NA	NA	NA
C: 20.000 € - 40.000 €	AND	NA	NA	NA
	CYP	38,1 €	0,14%	36,5%
	CZE	61,0 €	0,23%	81,6%
	ESP	82,0 €	0,29%	84,8%
	EST	41,7 €	0,15%	72,1%
	FRA	54,3 €	0,14%	70,4%
	ITA	67,2 €	0,21%	66,8%
	LTU	31,7 €	0,13%	65,7%
	LVA	43,1 €	0,21%	68,0%
	MLT	66,9 €	0,21%	89,3%
	PRT	NA	NA	NA
	SVN	93,5 €	0,33%	87,3%
	UK:ENG&WAL	47,2 €	0,13%	NA
	UK:NIR	57,2 €	0,19%	40,5%
	UK:SCO	37,1 €	0,10%	35,4%
D: > 40.000 €	AUT	NA	NA	NA
	BEL	NA	NA	NA
	CHE	153,1 €	0,18%	62,3%
	DEU	NA	NA	NA
	DNK	48,2 €	0,07%	49,8%
	FIN	58,1 €	0,13%	68,3%
	IRL	31,8 €	0,03%	48,8%
	ISL	62,5 €	0,09%	44,3%
	LUX	NA	NA	NA
	MCO	177,9 €	0,19%	81,8%
	NLD	70,1 €	0,13%	50,5%
	NOR	47,2 €	0,05%	56,4%
	SWE	67,5 €	0,13%	55,6%
E:	ISR	59,2 €	0,13%	70,1%
	MAR	NA	NA	NA
	Average	50,7 €	0,22%	64,4%
	Median	46,2 €	0,19%	66,8%

The court budget constitutes the largest portion of the judicial system budget.

In 2022, countries of groups A and B spent more for their courts, as a percentage of GDP: 0,30% and 0,32% respectively (Fig. 2.9). In total, countries implemented an average of 50,7 € per inhabitant for courts, representing a 13% increase compared to the 2020 expenditure (46,8 €). Group D countries (> 40.000) implemented 79,6 € per inhabitant, while Group A countries a more modest average of 19,9 €. However, significant differences exist between court budgets, even among countries within the same group.

Figure 2.9 **Average courts' budget by different groups of GDP per capita in 2022 (Q1, Q3, Q6)**

Group	Per inhabitant	As % of GDP
A: < 10.000 €	19,9 €	0,30%
B: 10.000 - 20.000 €	48,2 €	0,32%
C: 20.000 - 40.000 €	55,5 €	0,19%
D: > 40.000 €	79,6 €	0,11%
Average	**50,7 €**	**0,22%**
E: (Observer states)	59,2 €	0,13%

Figure 2.10 shows again that countries with a lower GDP per capita spend a higher % of GDP on budgets, even though the absolute figures of implemented courts' budget per inhabitant are lower (for instance **Bosnia and Herzegovina**, **Montenegro** and **Serbia**).

Among countries with GDP per capita below 20 000 € (Figure 2.11), **Poland** invests more in the courts' budget per inhabitant (61,9 €) compared to other countries and also has a relatively high spending when considering the implemented courts' budget as % of the GDP (0,46%). Additionally, it is worth mentioning that in **Ukraine**, the implemented courts' budget represents 0,36% of the GDP, well above the CoE median (0,19 €), but the investment in the implemented courts' budget per inhabitant is quite low (11,7 €) compared to the CoE median (46,2 €).

Figure 2.10 **GDP and total implemented budget allocated to courts per inhabitant, in 2022**

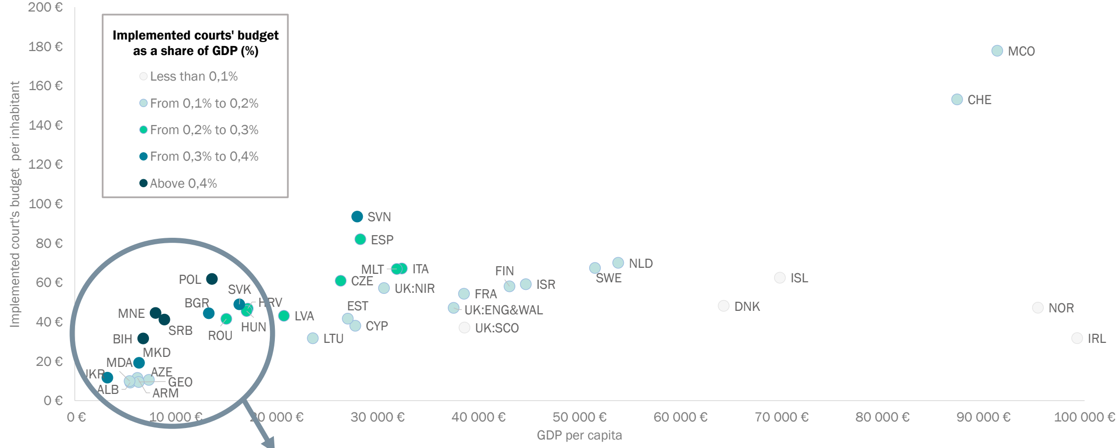
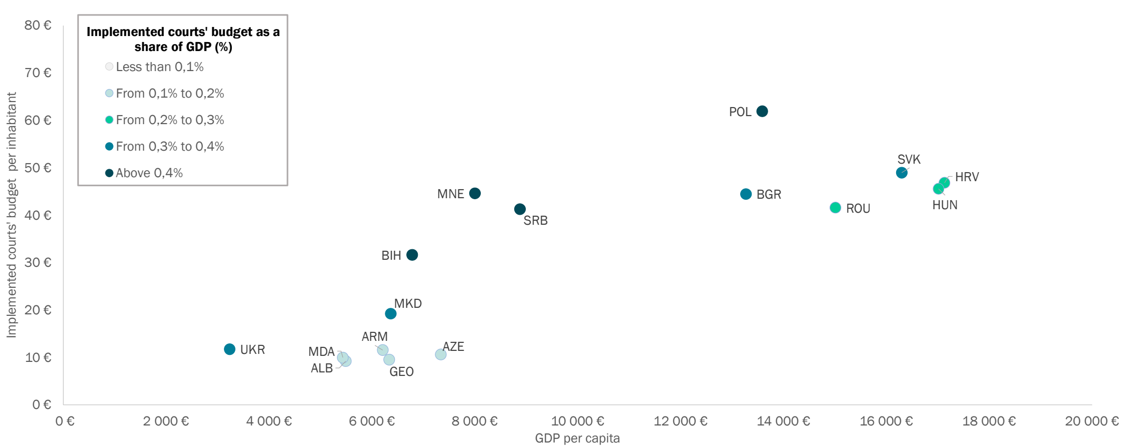


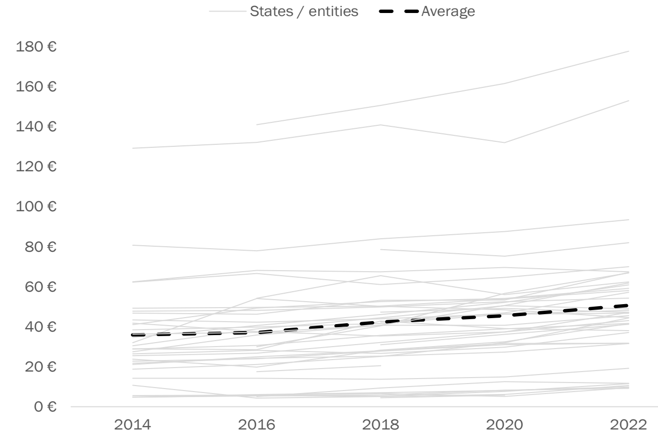
Figure 2.11 **GDP and total implemented budget allocated to courts per inhabitant, in 2022 (GDP per capita below 20 000 €)**



How have the budgets of the courts evolved?

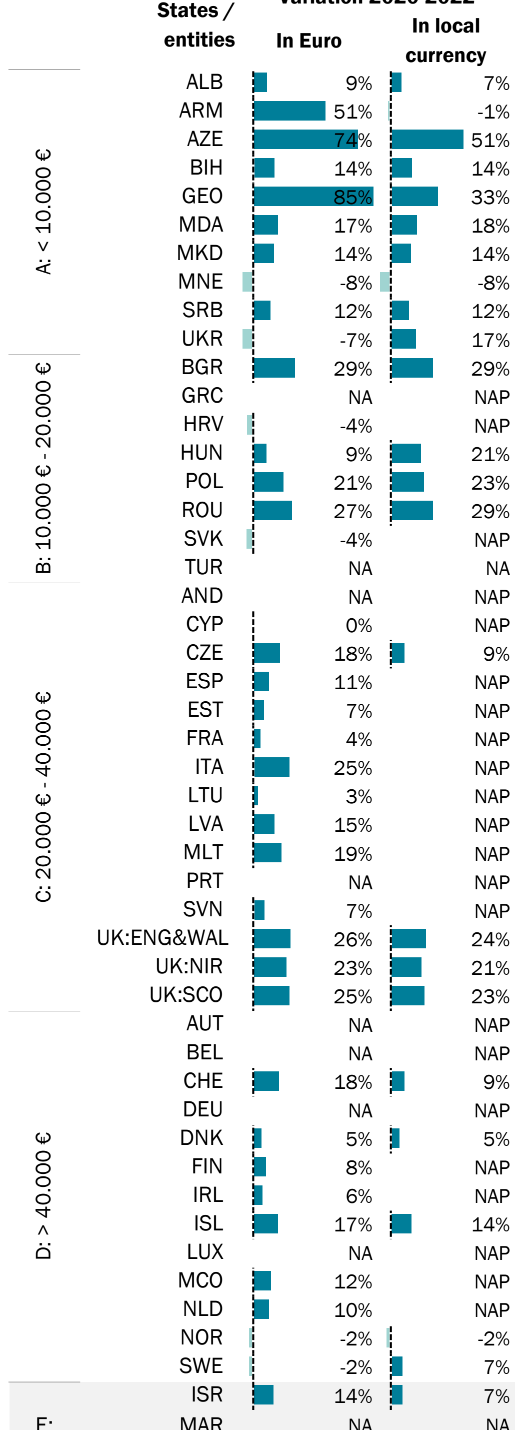
Figure 2.12, similar to the one used for judicial system budgets, illustrates trends for court budgets over a period of 5 evaluation cycles. Most countries' court budgets cluster around the median trend. However, there are some outliers with distinct paths, showing either significantly higher or lower budgets compared to the median trend.

Figure 2.12 **Evolution of the implemented courts' budget per inhabitant, 2014 – 2022 (Q1, Q6)**



The average implemented courts' budget increased from 35,4 € in 2014 up to 46,8 € in 2022, while some countries like **Bulgaria**, **Georgia**, **Italy** and **Poland** experienced significant growth in the last two years. Additionally, despite the possible impact of the COVID-19 pandemic on specific budget categories (as detailed in the subsequent paragraph), the overall court budget remained largely unaffected. This stability can be attributed to the fact that a significant portion of the budget comprises salaries, which experienced minimal changes.

Figure 2.13 **Variation of the implemented courts' budget 2020 – 2022 in Euro and in local currency (Q5, Q6)**



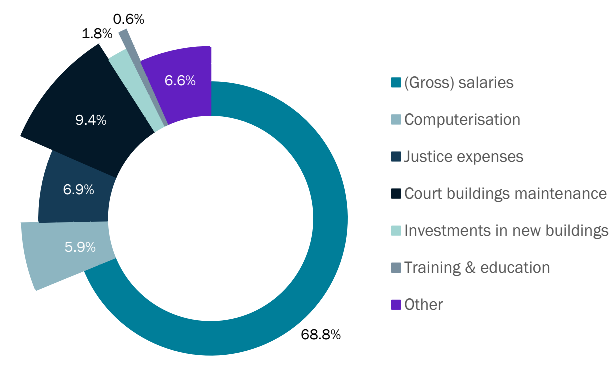
From 2020 to 2022, the general trend is the increase of the budget allocated to courts. The biggest increase in Euros was recorded in **Armenia** (+51%), **Azerbaijan** (+74%) and **Georgia** (+85%). Only six countries reduced their court budget in Euros – **Croatia, Montenegro, Norway,** the **Slovak Republic, Sweden** and **Ukraine.** For example, in **Norway** (-2%), the court reform led to a reduction in the number of court personnel (Fig. 2.11).

The budget increase is primarily due to higher salaries, investments in IT equipment, a rise in the number of cases, higher fees and costs, court building reconstructions, and allocations for new court construction. In **Bulgaria**, the funds for labour remuneration increased, along with pension amounts. Additionally, benefits under the Judiciary System Act and Labour Code saw an increase, as did the allocated funds for expenses for social, household and cultural services and sick leave at the expense of the employer. Notably, court maintenance expenses also rose due to higher energy prices in 2022.

What are the components of the court's budget?

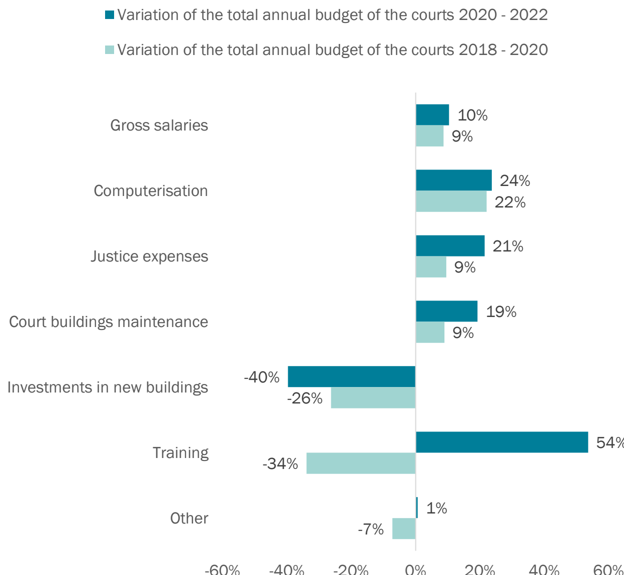
The court budget encompasses various components, including salaries (for judges and non-judge staff), court building maintenance, investments in new facilities, computerisation, justice-related expenses, training and education, and other miscellaneous costs. On average, 68,8% of the court budget are allocated to salaries, 9,4% to maintaining court buildings, 6,9% to justice-related expenses, 5,9% to computerisation, 1,8% to new building investments, 0,6% to training and education, and the remaining 6,6% cover other expenses (Fig. 2.14).

Figure 2.14 **Implemented budget allocated to courts per category of expenses in 2022 (Q6)**



However, there are notable variations among states. In 2022 **Azerbaijan** significantly exceeded the average investment in computerization (26% of the court budget), driven by large-scale ICT development projects, **Ireland** allocated approximately ten times more than the average for new building investments (27% of the court budget, including the buildings of the Central Criminal Court and the seven regional courthouses), **Denmark** and **UK-Northern Ireland** both surpassed the average spending on court building maintenance by about 2.5 times (21% of the court budget in both cases).

Figure 2.15 **Variation in budget by category of expenses, 2018-2020 and 2020 -2022, in % (Q6)**



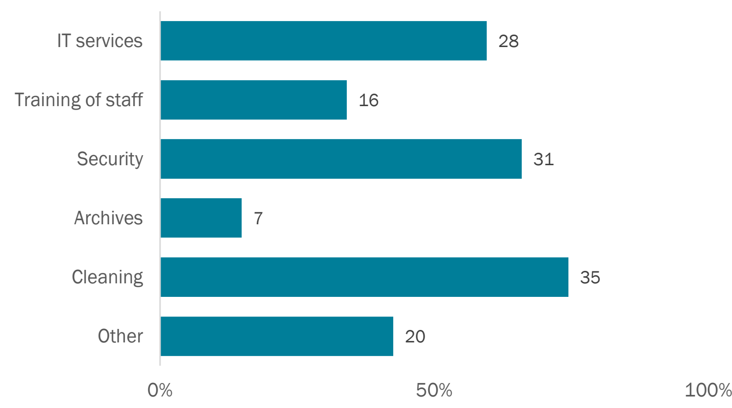
Between 2020 and 2022, European states and entities witnessed significant budget changes, with the most substantial increase (+54%) observed in training, which was expected after a significant decrease of -34% during the COVID-19 pandemic. Computerisation expenses rose by 24% in the period 2020 – 2022, justice-related expenses by 21% and gross salaries by 10% between 2020 and 2022. Court building maintenance budgets grew by 19% from 2020 which is an almost double increase compared with the previous period, (Fig. 2.15). However, there was a further decline in new building investments (-40%) between 2020 and 2022 following the decrease of -26% in the previous period (2018 – 2020). The training budget increase is linked to post-COVID-19 training initiatives, while the shift to online courses and developments in informatisation during the pandemic contributed to lower expenses. On the contrary, in **Hungary**, online and hybrid trainings remained a part of the training system even after the end of the health crisis and this resulted in a decrease in training costs.

Do courts outsource some services?

Outsourcing refers to delegating tasks to external services or other entities (such as private companies) to reduce costs or improve efficiency. In the context of the judiciary, outsourcing regards in particular specialised areas such as ICT and training. However, like any externalisation, it carries risks related to the quality of the service provider and the security/confidentiality of information.

In 2022, 89% of states and entities outsourced at least one service. This percentage has steadily risen since 2012 (when it was 79%).

Figure 2.16 **Outsourcing by category of service in 2022 (Q54-1)**



Countries that significantly use outsourcing services are **Bosnia and Herzegovina**, **Germany**, **Malta** and **Switzerland**, and all these countries outsource all services mentioned in Figure 2.16.

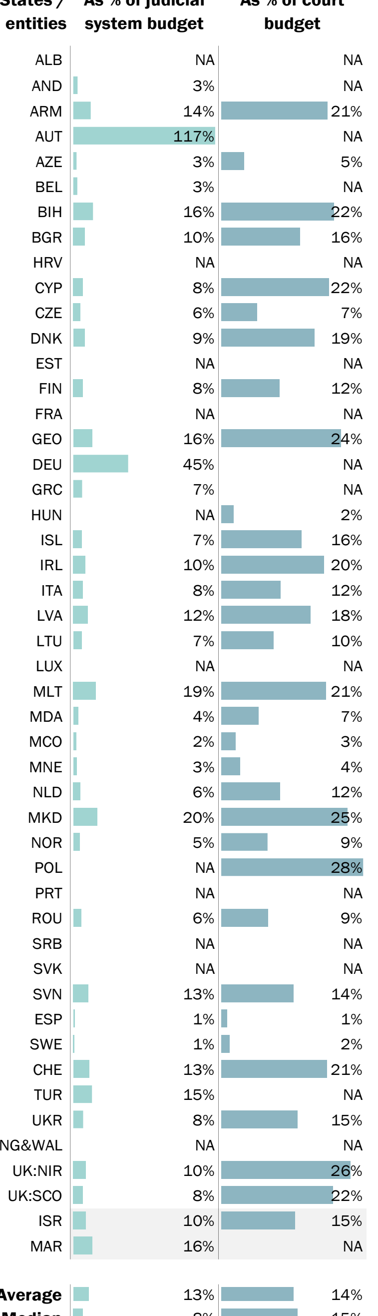
On the other hand, five countries refrain from delegating any services to the private sector: **Andorra**, **Cyprus**, **Monaco**, **North Macedonia**, and the **UK - England and Wales**.

The most frequently outsourced services include cleaning, security, and IT services. **Malta** outsources other services: lease of vehicles for the judiciary, lease of vehicles for court marshals, lease of transport services during trials by jury, accommodation during trials by jury, lease of printers.

COURT FEES AND TAXES

Do the court fees and taxes generate high income?

Figure 2.17 **Court fees and taxes as a percentage of the judicial system budget and the court budget in 2022 (Q6, Q9, Q12, Q13)**



The revenue generated from court fees[2] exhibits substantial differences in-between countries and variation in time. In seven member States and entities (**Austria**, **Bosnia and Herzegovina**, **Georgia**, **Germany**, **Malta**, **North Macedonia** and **Türkiye**) court fees account for 15% or more of the judicial system's budget, while in others, it's less than 5%. The median income from court fees and taxes hovers around 8% of the judicial system budget. Notably, **Austria** stands out with the highest percentage of court fees relative to the judicial system budget (117%), indicating that court fees fully finance **Austria**'s judicial system. This high level is largely attributed to additional charges for services provided by automated registers (such as land and business registers). **Germany** also significantly relies on court fees, which constitute approximately 45% of its judicial system budget. In contrast, countries like **Azerbaijan**, **Monaco**, **Montenegro**, **Spain**, and **Sweden**, collect less taxes and fees (less than 3% of the judicial system's budget).

Most countries experienced an increase in annual court fee income compared to 2020, when 10 countries had court fees and taxes forming more than 20% of the court budget. This significant rise can be partly attributed to the lower court fee income during the COVID-19 period. The pandemic disrupted court operations because of prevention measures. **Austria**'s substantial increase is primarily driven by higher fees from land registry, reflecting rising property prices and increased transactions. **Norway** saw a 22% decrease due to fewer civil cases. **Poland** presented fees for the ordinary and administrative courts, while in the previous cycle (2020), only the ordinary courts were included. **UK-Northern Ireland** and **UK-Scotland** returned to the pre-pandemic level.

2. The term "court fees" refers to the costs associated with legal proceedings, including filing fees, attorney fees, and other administrative expenses. They cover all necessary expenses to advance a case through the judicial system.

BUDGET ALLOCATED TO PUBLIC PROSECUTION SERVICES

Which states and entities invest the most in their public prosecution services?

The budget allocated to prosecution services is on average around 25% of the judicial system budget, with some differences from country to country. Countries that have the largest part allocated to public prosecution services are **Cyprus (62%), Ukraine (45%), Albania (41%), Azerbaijan, Bulgaria, Republic of Moldova**, and **UK-Scotland** (38% for all). The countries that have the lowest part of the judicial system budget allocated to public prosecution services are **Norway** (7%), **Spain** (8%), and **Malta** (9%).

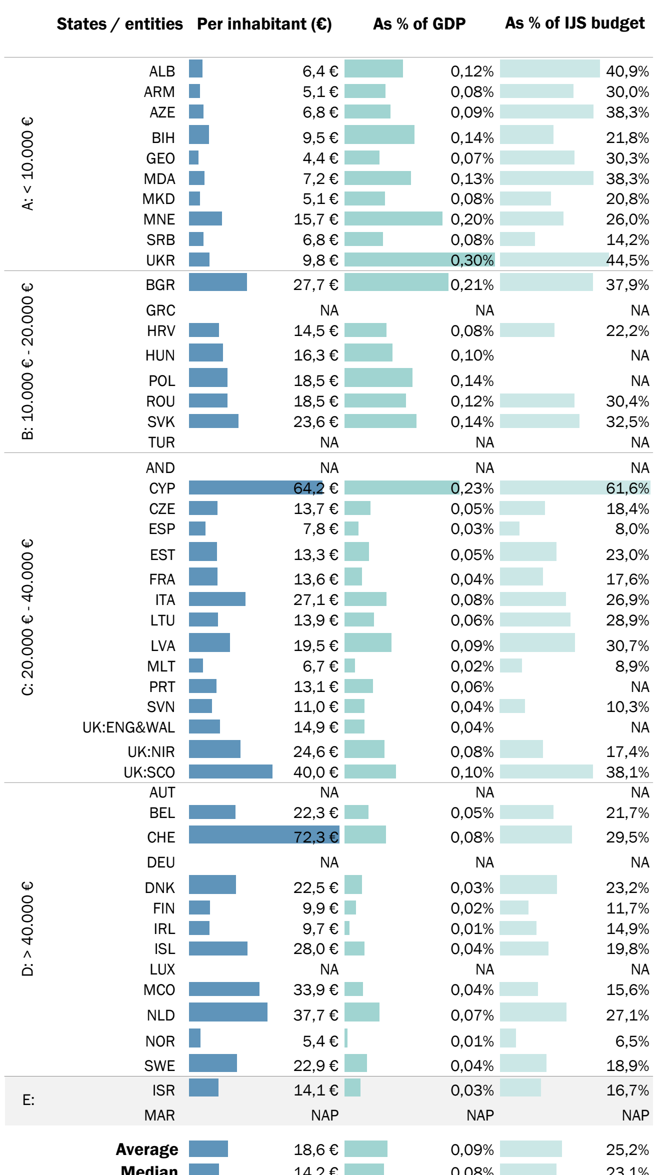
In 2022, states and entities spent on average 18,6 € per inhabitant on prosecution services, which corresponds to 0,09% of the GDP. The average expense per inhabitant in 2022 was 18,75% higher than that for 2020 (16,0 €).

Figure 2.19 **Average budget of public prosecution services by groups of GDP per capita, 2022 (Q1, Q3, Q13)**

Group	Per inhabitant	As % of GDP
A: < 10.000 €	7,7 €	0,13%
B: 10.000 - 20.000 €	19,9 €	0,13%
C: 20.000 - 40.000 €	20,2 €	0,07%
D: > 40.000 €	26,5 €	0,04%
Average	**18,6 €**	**0,09%**
E: (Observer states)	14,1 €	0,03%

This spending is closely tied to the GDP per capita. Group D countries, on average, allocated 26,5 € per inhabitant, while Group A countries allocated a more modest average of 7,7 € (as shown in Figure 2.19). Countries in Group A allocate lower amounts per inhabitant but invest proportionally more in prosecution services relative to their GDP. Meanwhile, countries in Groups C and D invest a smaller percentage of their GDP in prosecution services.

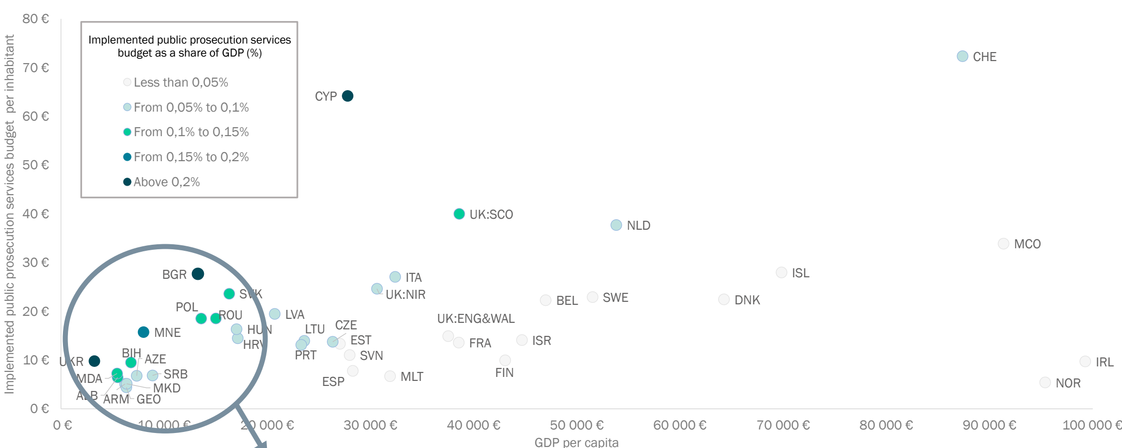
Figure 2.18 **Implemented budget allocated to public prosecution budget per inhabitant, as % of GDP and as % of the implemented judicial system budget in 2022 (Q1, Q3, Q6, Q12-1, Q13)**



Inside the groups, there are some peculiarities, as shown in Figure 2.17. For example, **Montenegro** (15,7 € per inhabitant) from group A, spent about two times more than its group (7,7 € per inhabitant), while **Finland** (9,9 €), **Ireland** (9,7 €), and **Norway** (5,4 €) from group D spent, just like for courts, less than the European average. Within group B, most of the countries allocated a higher budget part of GDP relative to the CoE average. Also, **Ukraine** (0,30%) in group A and **Cyprus** (0,23%) in Group C reported higher budgets as a percentage of GDP relative to the European average.

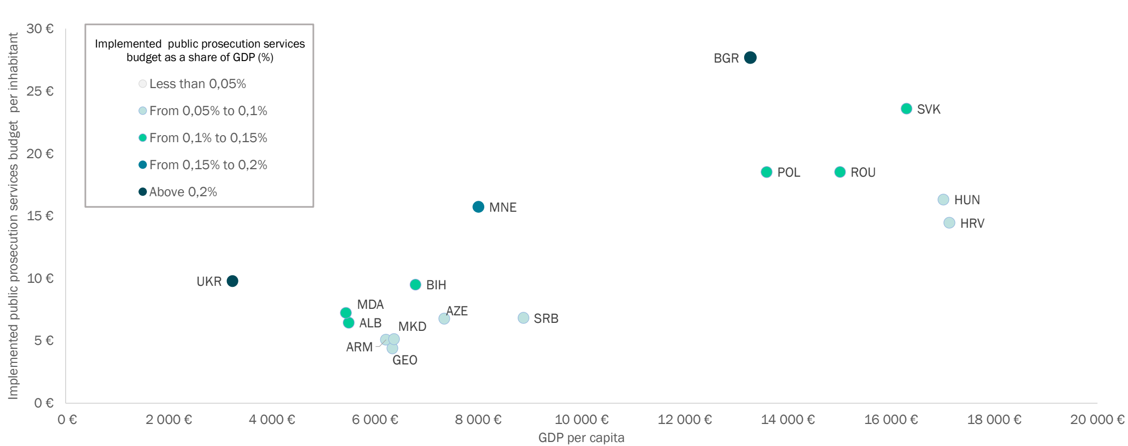
The relationship between the wealth of states and entities and investment in public prosecutors' services is less pronounced. While some countries from the groups of wealthier countries, such as the **Netherlands**, **Switzerland**, and **UK-Scotland**, tend to allocate significantly higher amounts to prosecution services per inhabitant, this is not always the rule, as countries from the same group, such as **Finland**, **Ireland** and **Norway**, invest significantly smaller amounts.

Figure 2.20 **GDP and the total implemented budget of prosecutor services, per capita in 2022 (Q1, Q3, Q13)**



The relationship between wealth and budget per inhabitant is more pronounced if we look at countries with a GDP that is lower than 20 000 € per inhabitant (Figure 2.20) where we see a correlation between GDP per capita and investment in prosecutor services per inhabitant.

Figure 2.21 **GDP and the total implemented budget of prosecutor services, per capita in 2022 (Q1, Q3, Q13) (GDP per capita below 20 000 €)**



Additionally, it is important to underline that some countries like **Bulgaria**, **Montenegro** and **Ukraine** (in dark blue in the chart) have implemented public prosecution services' budgets above 0,2% of GDP. This also confirms that countries with a lower GDP per capita spend a higher percentage of their GDP on courts.

How have the budgets of public prosecution services evolved?

The average implemented budget for public prosecution services increased from 13 € in 2014 to 19 € per inhabitant in 2022. However, this change is not linear for many countries, such as **Armenia** (more dynamic growth in 2022) and **Sweden** (significant increase in 2020).

From 2020 to 2022, almost all countries/ entities increased their expenses for prosecution services (Median + 12%, Average +21%) and this change is more significant than the one for courts. Only three member States (**Croatia**, **Denmark**, **Portugal**) and one observer State (**Israel**) did not increase their implemented budget for public prosecution services.

Extreme cases such as **Cyprus** saw a substantial increase of +194% in Euro, **Azerbaijan** +104% in Euro (or +77% in local currency), and **Georgia** +46% in Euro (or +5% in local currency). In **Cyprus**, the increase was due to a major restructuring within the public prosecution services, including the creation of new positions. Additionally, salaries for counsels at the Attorney General's Office were increased. Furthermore, the emphasis on in-person or live training during the post-pandemic period contributed to a budget increase in this area.

Figure 2.23 **Evolution of the implemented budget for public prosecution services per inhabitant, 2014-2022, in Euro (Q1, Q13)**

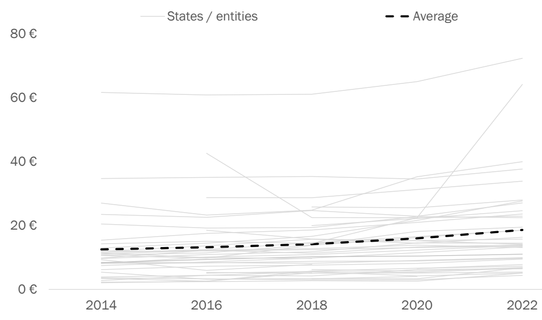
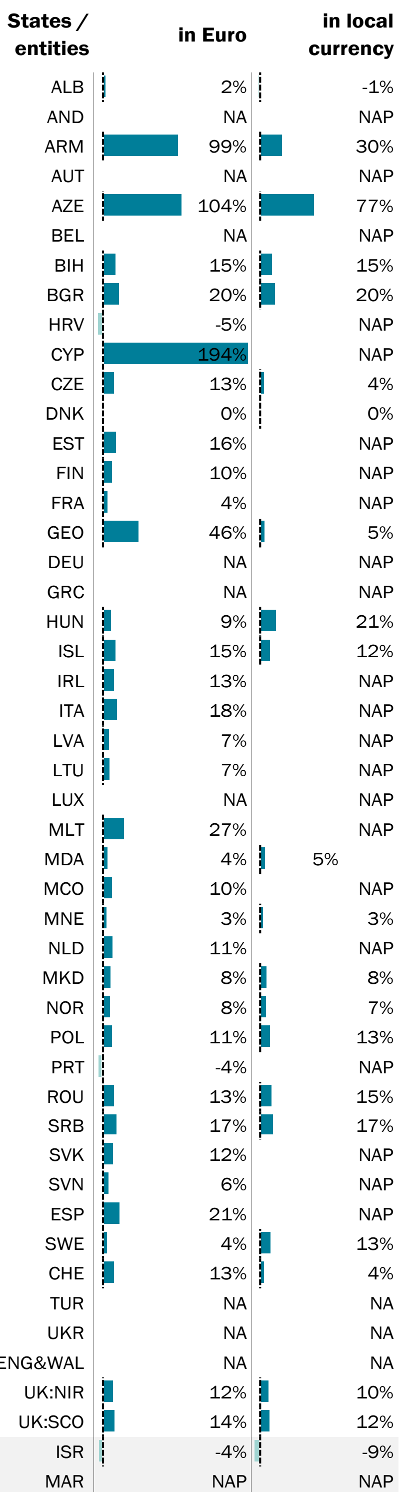


Figure 2.23, similar to the one used for judicial system and court budgets, illustrates trends for prosecution services' budgets over a period of 5 evaluation cycles. Most countries' budgets dedicated to public prosecution are below the average trend, indicating a general tendency towards lower spending. However, there are some outliers with significantly higher budgets. These outliers influence the average, raising it above the budget levels of the majority of countries.

Figure 2.22 **Variations of the implemented public prosecution budget 2020 - 2022, in Euro and local currency (Q5, Q13)**



LEGAL AID

Legal aid is defined as the aid provided by the state to persons who do not have sufficient financial means to seek for a legal advice/assistance or to defend themselves before a court. An adequate budget allocated to legal aid can guarantee access to justice for everyone. In this sense, Article 6 §3 (c) of the ECHR guarantees the right to free legal aid in criminal proceedings under certain conditions. Similarly, although Article 6(1) does not refer explicitly to legal aid, the European Court of Human Rights has interpreted it dynamically to admit that this provision "may sometimes compel the state to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court"[3].

Which states and entities invest the most in legal aid?

Countries with a GDP per capita exceeding 20 000 €, allocate the most funds to legal aid relative to both GDP per capita and per inhabitant. This indicates that more affluent countries tend to invest more in legal aid across all measured metrics.

Figure 2.25 **Average implemented budget for legal aid by different groups of GDP per capita in 2022 (Q1, Q3, Q12-1)**

Group	Per inhabitant	As % of GDP
A: < 10.000 €	0,65 €	0,011%
B: 10.000 - 20.000 €	1,58 €	0,010%
C: 20.000 - 40.000 €	10,29 €	0,033%
D: > 40.000 €	20,82 €	0,032%
Average	**10,00 €**	**0,024%**
E: (Observer states)	5,60 €	0,013%

Figure 2.24 **Implemented legal aid budget per inhabitant, as % of GDP and as % of the implemented judicial system budget in 2022 (Q1, Q3, Q6, Q12-1, Q13)**

Group	States / entities	Per inhabitant (€)	As % of GDP	As % of JJS budget
A: < 10.000 €	ALB	0,11 €	0,002%	0,7%
	ARM	0,36 €	0,006%	2,1%
	AZE	0,33 €	0,005%	1,9%
	BIH	2,44 €	0,036%	5,6%
	GEO	0,62 €	0,010%	4,3%
	MDA	1,74 €	0,032%	9,2%
	MKD	0,28 €	0,004%	1,2%
	MNE	0,18 €	0,002%	0,3%
	SRB	0,01 €	0,000%	0,0%
	UKR	0,47 €	0,015%	2,1%
B: 10.000 € - 20.000 €	BGR	0,84 €	0,006%	1,1%
	GRC	0,31 €	0,002%	0,6%
	HRV	3,73 €	0,022%	5,7%
	HUN	NA	NA	NA
	POL	NA	NA	NA
	ROU	0,91 €	0,006%	1,5%
	SVK	1,86 €	0,011%	2,6%
	TUR	1,15 €	0,011%	7,4%
C: 20.000 € - 40.000 €	AND	7,19 €	0,018%	4,9%
	CYP	1,98 €	0,007%	1,9%
	CZE	2,23 €	0,008%	3,0%
	ESP	6,95 €	0,025%	7,2%
	EST	2,84 €	0,011%	4,9%
	FRA	9,28 €	0,024%	12,0%
	ITA	6,38 €	0,020%	6,3%
	LTU	2,62 €	0,011%	5,4%
	LVA	0,78 €	0,004%	1,2%
	MLT	1,34 €	0,004%	1,8%
	PRT	12,72 €	0,055%	NA
	SVN	2,55 €	0,009%	2,4%
	UK:ENG&WAL	NA	NA	NA
	UK:NIR	59,35 €	0,194%	42,0%
	UK:SCO	27,78 €	0,072%	26,5%
D: > 40.000 €	AUT	2,65 €	0,005%	1,9%
	BEL	12,92 €	0,028%	12,6%
	CHE	20,18 €	0,023%	8,2%
	DEU	6,73 €	0,015%	4,9%
	DNK	26,07 €	0,041%	27,0%
	FIN	17,07 €	0,040%	20,1%
	IRL	23,63 €	0,024%	36,3%
	ISL	50,70 €	0,073%	35,9%
	LUX	11,93 €	0,010%	6,2%
	MCO	5,67 €	0,006%	2,6%
	NLD	31,06 €	0,058%	22,4%
	NOR	31,11 €	0,033%	37,1%
	SWE	30,97 €	0,060%	25,5%
E:	ISR	11,14 €	0,025%	13,2%
	MAR	0,06 €	0,002%	0,4%
	Average	10,00 €	0,024%	9,7%
	Median	2,65 €	0,011%	4,9%

3. Airey v. Ireland, n° 6289/73, §26, 9 October 1979

Furthermore, the judicial systems in the UK entities have consistently emphasised legal aid. As a result, legal aid accounts for 42,0% of the overall judicial system budget in **UK-Northern Ireland**, and 26,5% in **UK-Scotland**. Similarly, Northern European countries maintain a tradition of substantial legal aid, with a considerable portion of the judicial system's total budget dedicated to it: **Norway** (37,1%), **Denmark** (27,0%), and **Sweden** (25,5%).

UK-Northern Ireland also has the most significant legal aid budget per inhabitant (59,35 €).

The legal aid budget in Group A countries is very low for the three parameters of the analysis: per inhabitant, as a percentage of GDP, and as a share of the judicial system budget. **Bosnia and Herzegovina** and the **Republic of Moldova** have slightly more significant allocations to legal aid in terms of share of GDP and of the judicial system budget, but also in terms of legal aid budget per inhabitant which is 2,44 € for **Bosnia and Herzegovina** and 1,74 € for the **Republic of Moldova** (while the average for group A is 0,65 €).

Nordic countries, as well as the **Netherlands**, and the UK entities, allocate the most significant amounts of legal aid per inhabitant. It ranges from 17,07 € in **Finland** (0,04% of GDP and 20,1% of the judicial system budget) to 31,11 € per inhabitant in **Norway** (0,03% of GDP and 37,1% of the judicial system budget). In all Nordic countries, the share of legal aid in the total judicial budget is at least 20%.

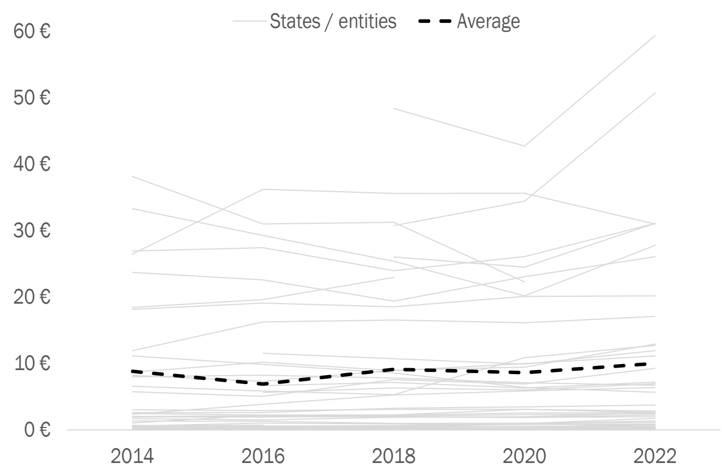
Among other countries from group D, it is important to mention that **Iceland** has significant investments in legal aid (50,7 € per inhabitant, 0,073% of GDP and 35,9% of the judicial system budget).

How have budgets of legal aid evolved?

This Figure, akin to the ones used for the judicial system, courts, and prosecution services budgets, illustrates trends for legal aid budgets over a 5-year period. The legal aid budgets in most countries fall below the European average, reflecting a general tendency towards lower spending. However, some countries have significantly higher budgets, with extreme values. The latter elevate the average, making it higher than the budget levels of the majority of countries.

As it can be seen in Figure 2.26, the average implemented legal aid budget per inhabitant stays stable between 2014 and 2022. However, **Portugal** experienced a significant increase from 2020, after a slight decrease in 2016 and 2018. **Germany**, **Greece** and **Monaco** experienced a decrease in the budget for legal aid in the observed period.

Figure 2.26 **Evolution of the implemented legal aid budget per inhabitant 2014-2022 (Q1, Q12-1)**

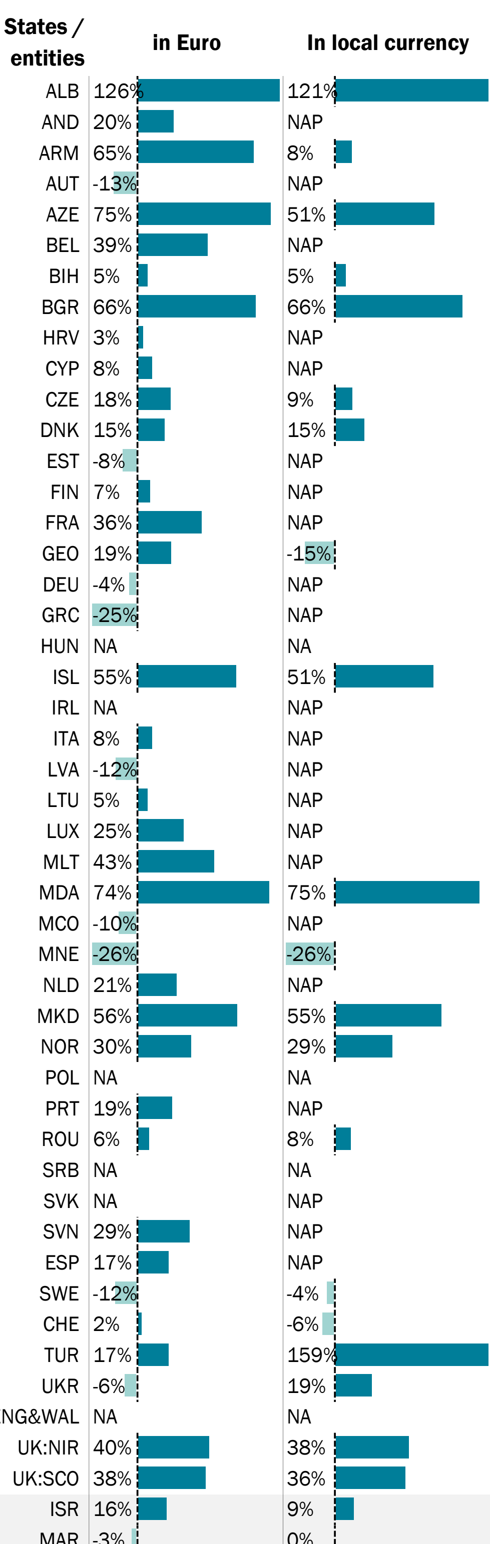


Between 2020 and 2022, the average expenditure on legal aid decreased from 120 million euros to 110 million euros (-9%). The legal aid budget is subject to significant variations, influenced by the volume and the length of proceedings. In certain countries, the rise in the budget is attributed to higher remuneration of legal aid providers. After the COVID-19 crisis, courts resumed their normal functioning, contributing to the increase of the legal aid budget.

From 2020 to 2022, the legal aid budget experienced an upsurge in 27 states and entities, including one observer State, whereas it decreased in 9 countries and one observer State. Notable increases were seen in **Albania**, **Azerbaijan**, **Bulgaria**, **Malta**, the **Republic of Moldova** and **North Macedonia**. Conversely, **Austria**, **Greece**, **Latvia**, **Montenegro**, and **Sweden** experienced the most substantial reductions. Except for **Sweden** and to a lesser degree, **Austria**, the marked decreases predominantly occurred in countries that historically had a low legal aid budget per inhabitant.

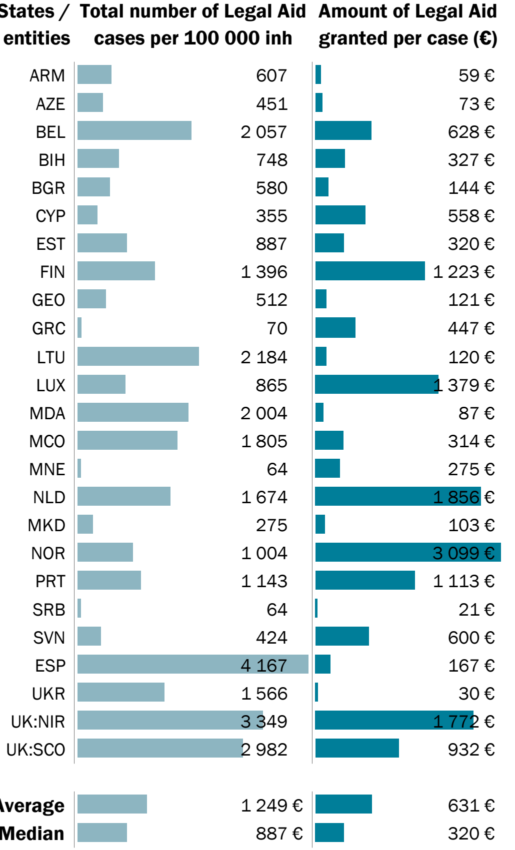
Following the implementation of the new Legal Aid Law in **Albania**, the budget increased substantially, to ensure provision of legal advice and free legal representation in courts. The increase in **Azerbaijan**'s legal aid budget is linked to a growing number of court cases, especially due to a rise in applications following the end of the COVID-19 pandemic. In **Bulgaria**, the increase is attributed to higher legal aid fees and additional compensation for complex and prolonged cases. The **Republic of Moldova**'s budget boost is a result of expanding the legal aid system, diversifying services and beneficiaries, and enhancing system promotion. **Montenegro**'s budget reduction can be explained by the 2022 budget integrating legal aid for courts within the lawyer services section, rather than listing it separately. In **Sweden** (-12%), the implemented budget was lower than the approved one because there were fewer asylum cases needing public counsel than expected.

Figure 2.27 **Variation in implemented legal aid budget, 2020 - 2022, in % (Q5, Q12-1)**



Which states and entities grant the most significant amount of legal aid per case?

Figure 2.28 **Amount of implemented legal aid per case (in €) and total number of LA cases per 100 000 inhabitants in 2022 (Q12-1, Q20)**



The CEPEJ is focused on improving the evaluation of policies that facilitate access to justice via legal aid. For this purpose, it has correlated the demand (the number of litigious and non-litigious cases granted with legal aid per 100 000 inhabitants) with the amount of legal aid per case. Data for this analysis is available only in 23 states and entities.

In general, certain states and entities provide legal aid at a lower cost for a large volume of cases, whereas others allot more funds per case but for fewer instances.

Finland, the **Netherlands**, **Norway**, and **UK – Northern Ireland** allocate the most substantial amounts per case. **Lithuania**, **Spain**, and **UK-Northern Ireland** are among the most generous in terms of the volume of cases receiving legal aid. However, only in **UK-Northern Ireland** a significant expenditure per case and a high number of cases receiving legal aid can be observed. In **Serbia**, on the other hand, one can notice the fewest number of cases with the least amount of legal aid per case.

TRENDS AND CONCLUSIONS

A well-structured and adequately funded budget is essential for a reliable and efficient judicial system. Financial stability and sustainability ensure judicial independence, allowing judges to make decisions without undue influence. Adequate funding contributes to the good functioning of courts, timely case processing, and the strengthening of access to justice. It also supports legal aid services, which further promote better access to justice.

As defined by the CEPEJ, the judicial system budget includes budgets dedicated to courts, public prosecution services, and legal aid. The average implemented judicial system budget constantly increased over the last decade, rising from 59 € in 2014 to 85 € in 2022. However, the portion dedicated to justice is a very low percentage of GDP compared to other sectors. This is true, even though some efforts have been made in recent years, but no decrease has been observed.

The allocation of the judicial system budget is linked to the resources of each country. The judicial system budget per capita tends to be higher in wealthier countries (sometimes exceeding 200 € per inhabitant), while the judicial system budget as a percentage of GDP is greater for less wealthy countries, showing a more significant budgetary effort for their judicial systems.

On average, member States and entities spend about two-thirds of their judicial system budget on courts, around 25% on public prosecution services, and the remaining 11% on legal aid. The proportion allocated to legal aid is larger in wealthier countries, ranging from 3% of the judicial system budget on average in less wealthy countries to 24% on average for wealthier ones.

In 2022, countries spent an average of 51 € per inhabitant on courts, a 13% increase compared to 2020 (46 €), corresponding to 0.22% of the GDP. Between 2020 and 2022, European states and entities experienced significant budget changes for training, with the most substantial increase (+54%) occurring after a 26% decrease during the COVID-19 pandemic. Computerization expenses rose by 24% from 2020 to 2022, a noticeable increase compared to the 9% rise between 2018 and 2020. Justice-related expenses increased by 21%, and gross salaries rose by 10% between 2020 and 2022, similar to the previous period. Court building maintenance budgets grew by 19% from 2020, almost double the increase compared to the previous period. In 2022, 89% of states and entities outsourced at least one service, with cleaning, security, and IT services being the most frequently outsourced.

The budget allocated to prosecution services averages around 25% of the judicial system budget. The average implemented budget increased from 13 € in 2014 to 19 € per inhabitant in 2022, corresponding to 0.09% of the GDP. From 2020 to 2022, nearly all countries/entities increased their expenses for prosecution services (median +12%, average +21%), with this increase being larger than that for courts.

The average implemented legal aid budget per inhabitant remained stable between 2014 and 2022. During the period 2020 - 2022, the average expenditure on legal aid decreased from 120 million euros to 110 million euros (-9%). The legal aid budget experienced an increase in 27 states and entities, including one observer State, while it decreased in 9 countries and one observer State. Legal aid expenses are subject to significant variations, influenced by the volume and length of judicial proceedings. The average budget for legal aid per inhabitant is 10 €, varying from 0,65 € in less wealthy countries to 21,6 € in more wealthy countries.

Revenue generated from court fees varies significantly between countries and over time. The median income from court fees and taxes is around 8% of the judicial system budget and about 15% of the court budget. Most countries saw an increase in annual court fee income compared to 2020, partly due to a lower court fee income during the COVID-19 period, when court operations were disrupted by prevention measures.

Justice professionals

JUDGES AND NON-JUDGE STAFF

Who are judges?

According to the case law of the European Court of Human Rights, the judge determines "matters within its competence on the basis of legal rules, with full jurisdiction and after proceedings conducted in a prescribed manner" (*Ali Riza and others v. Türkiye*, n° 30226/10, § 195, 22 June 2020). He/she is independent from the executive power.

In order to take account of the diversity of statuses and functions that may be associated with the word "judge" in the member States and entities, three types of judges have been defined by the CEPEJ:

- **professional judges**, recruited, trained and remunerated as such and who exercise their function on a permanent basis – the category on which this chapter mainly focusses;
- **occasional professional judges**, who do not perform their duties on a permanent basis, but are paid for their function as judges;
- **non-professional judges** who sit in courts and whose decisions are binding but who do not belong to the professional judges, arbitrators or jury members. This category includes judges without initial legal training.

For these three categories, the report uses full-time equivalents (FTE) for the number of judges' positions effectively occupied, whether they work full-time, part-time or occasionally.

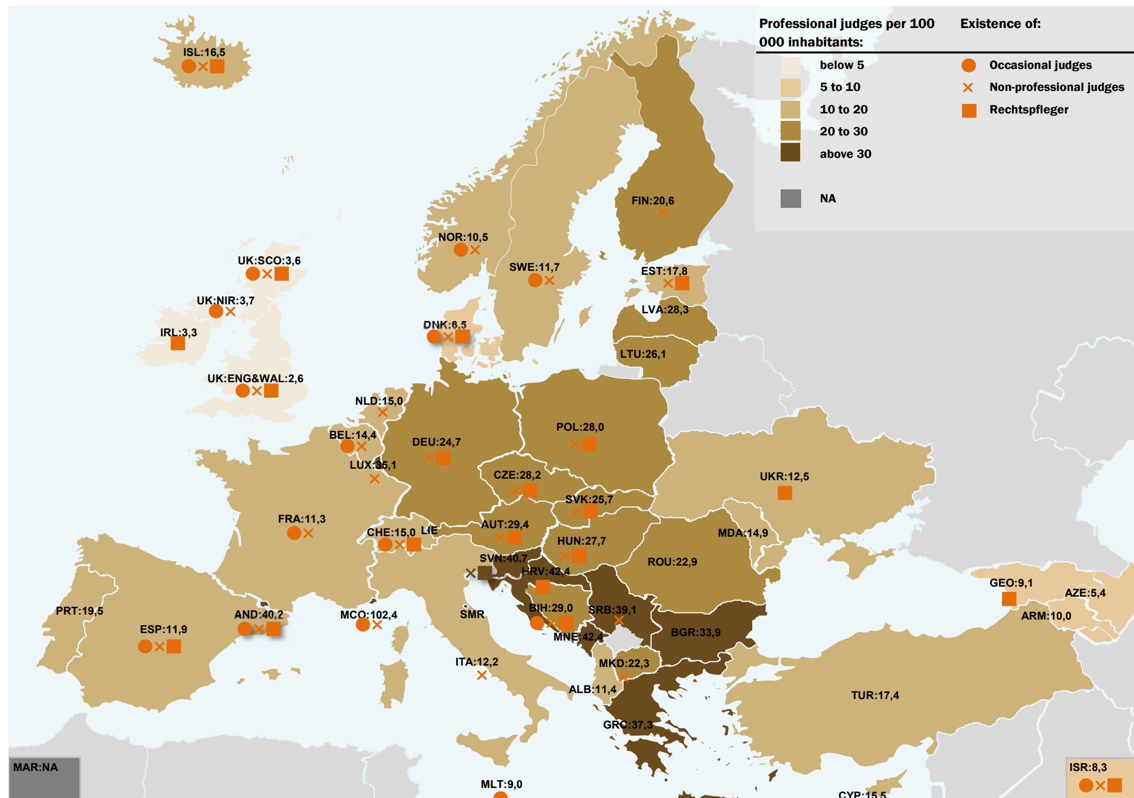
The distribution of professional judges between the three instances is stable between 2012 and 2022: in the member States and entities, 73% of them are generally first instance judges, 22% second instance judges and 5% Supreme Court judges.

❞ Is the number of judges per inhabitant uniform in Europe?

In relation to the population, the number of professional judges varies greatly from one country to another in 2022 (see Map 3.1), from a minimum of 3 judges per 100 000 inhabitants in **UK-England and Wales** to a maximum of 102 in **Monaco**.

Two relatively homogenous geographical areas can be seen on Map 3.1 Most of Central and South-Eastern Europe member States and entities are characterised by rates of over 20 judges per 100 000 inhabitants. These are essentially countries whose legal systems have been influenced by Germanic law. In addition, Eastern European countries traditionally have a high number of judges and non-judge staff per inhabitant. Conversely, the countries of Western and Southern Europe, whose legal systems are based on Nordic law, common law or Napoleonic law, have a lower number of professional judges per 100 000 inhabitants, in most cases less than 15.

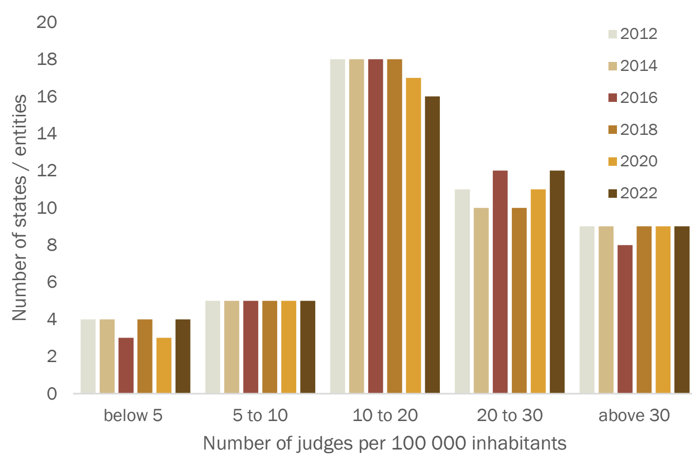
Map 3.1 **Number of professional judges per 100 000 inhabitants in 2022 (Q1, Q46)**



These disparities can be explained, at least to some extent, by the diversity of European judicial organisations and legal systems, which are the product of long historical processes. Thus, the low number of professional judges per inhabitant in **UK-England and Wales**, **UK-Northern Ireland** and **UK-Scotland** can be explained by the very high proportion of cases that fall within the jurisdiction of Magistrates' Courts made up of non-professional judges. The map shows all the countries that also have occasional professional judges, non-professional judges or *Rechtspfleger* (see below).

How has the number of professional judges evolved between 2012 and 2022?

Figure 3.2 **Number of member States and entities by number of professional judges per 100 000 inhabitants, 2012-2022 (Q1, Q46)**



The distribution of the number of professional judges per 100 000 inhabitants shown in Figure 3.2 has remained relatively stable since 2012: nearly 62% of states and entities, representing between 28 and 30 countries depending on the year, have between 10 and 30 professional judges per 100 000 inhabitants.

Figure 3.3 shows the evolution of the number of professional judges per 100 000 inhabitants by country between 2012 and 2022. On average, it has risen from 20,9 to 21,9 in 10 years. The average number of professional judges per inhabitant, therefore, shows a very slight increase, while its median value remains constant at around 17,6 judges per 100 000 inhabitants. In 57% of states and entities, the variation in terms of decrease or increase over this period remains below 7%.

The largest variations appear to be the result of major judicial reforms. In **North Macedonia** (-31,3%), the decrease in the number of judges is due to a shortage of eligible candidates, according to the legal conditions in force (completion of two years' initial training), for appointment by the Council for the Judiciary in the first instance courts. In **Ukraine** (-26,5%), the decrease would be the consequence of a major judicial reform in 2016. In **Austria** (+60,7%), the number of judges increased due to the creation of administrative courts in 2014, included in the statistics only from 2016. In **Bosnia and Herzegovina** (+15,3%), the Council for the Judiciary has increased the number of judges in several courts in view of the number of cases to be dealt with and to avoid excessive delays in trials. In **Türkiye** (+62,2%), one of the explanations provided is the creation of appeal courts which did not exist before and began operating in 2016.

Figure 3.3 **Variation in the number of professional judges, 2012 - 2022 (Q1, Q46)**

The trend between 2012 and 2022 presented in Figure 3.3 shows that, on average, an increase is observed in the majority of states/entities (24), with an average increase of 21,4%, while a decrease is recorded in 15 states with an average decrease of -11,2%. 7 countries remained stable.

It should be noted, however, that variations in the number of judges per 100 000 inhabitants can sometimes be partly explained by population variations.

Figure 3.4 **Variation in the number of professional judges per 100 000 inhabitants per member State and entity, 2012-2022 (Q1, Q46)**

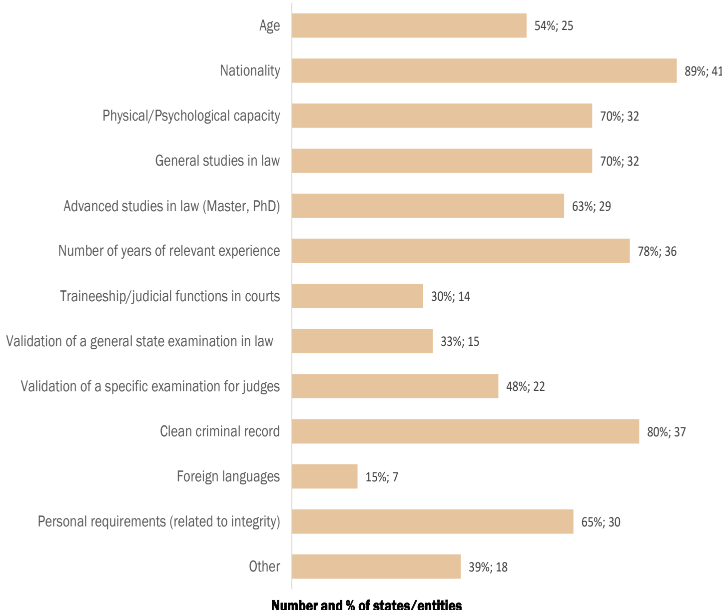
	States / entities	2012	2014	2016	2018	2020	2022	Variation 2012 - 2022
below -10%	ALB	13,5	12,5	12,6	12,1	10,8	11,4	-15,7%
	AZE	6,5	6,3	5,2	5,7	5,2	5,4	-16,3%
	MKD	32,4	30,4	27,3	24,6	23,7	22,3	-31,3%
	SVN	47,1	44,8	42,6	41,7	41,5	40,7	-13,6%
	UK:ENG&WAL	3,6	3,3	3,0	3,1	NA	2,6	-28,1%
	UKR	17,1	18,8	14,6	12,8	13,1	12,5	-26,5%
-10% to 0%	CHE	15,8	15,7	14,9	14,3	15,0	15,0	-4,9%
	CZE	29,1	28,8	28,4	28,4	28,1	28,2	-3,1%
	DNK	6,6	6,7	6,5	6,5	6,6	6,5	-2,2%
	HRV	45,3	44,4	43,3	40,7	40,7	42,4	-6,6%
	HUN	27,9	28,5	28,7	30,2	28,2	27,7	-0,8%
	ISL	17,1	NA	15,7	18,2	17,4	16,5	-3,4%
	MLT	9,5	9,3	9,8	9,5	8,2	9,0	-4,6%
	NOR	11,0	10,8	10,6	10,3	11,0	10,5	-4,6%
	SRB	40,5	38,0	38,5	37,1	38,1	39,1	-3,5%
	SWE	11,8	11,8	11,8	11,9	11,6	11,7	-0,6%
	UK:NIR	3,8	3,7		3,6	3,9	3,7	-3,5%
0% to 10%	BEL	14,3	14,3	14,1	13,3	13,2	14,4	0,6%
	DEU	24,7	23,9	24,2	24,5	25,0	24,7	0,1%
	ESP	11,2	11,5	11,5	11,5	11,2	11,9	6,4%
	EST	17,7	17,6	17,6	17,7	17,6	17,8	0,7%
	FRA	10,7	10,5	10,4	10,9	11,2	11,3	5,4%
	IRL	3,1	3,5	3,5	3,3	3,3	3,3	5,9%
	LTU	25,6	25,8	27,3	27,1	26,5	26,1	2,1%
	LUX	34,1	32,7	31,7	36,2	36,1	35,1	3,0%
	MCO	102,4	95,2	98,5	101,8	104,3	102,4	0,0%
	MNE	42,4	41,0	51,3	50,0	49,8	42,4	0,0%
	NLD	14,4	14,0	13,6	14,6	14,9	15,0	4,4%
	POL	26,2	26,2	26,0	25,5	25,2	28,0	6,5%
	PRT	19,2	19,2	19,3	19,3	19,4	19,5	1,9%
	SVK	24,2	24,4	24,1	25,3	23,9	25,7	6,5%
	UK:SCO	3,5	3,3	3,7	3,7	3,7	3,6	4,8%
above +10%	AND	31,5	31,2	35,6	33,5	34,6	40,2	27,8%
	ARM	7,2	7,5	7,7	8,0	8,2	10,0	37,9%
	AUT	18,3	18,9	27,4	27,3	29,0	29,4	60,7%
	BGR	30,7	30,8	31,8	31,8	31,6	33,9	10,4%
	BIH	25,1	25,9	28,9	29,0	29,3	29,0	15,3%
	CYP	11,9	11,3	13,1	13,5	14,1	15,5	30,6%
	FIN	18,1	18,1	19,4	19,6	19,5	20,6	14,1%
	GEO	5,4	6,8	7,5	8,2	8,8	9,1	68,1%
	GRC	23,3	20,6	25,8	26,8	36,0	37,3	60,2%
	ITA	10,6	11,4	10,6	11,6	11,9	12,2	14,5%
	LVA	21,5	24,4	25,5	NA	29,1	28,3	31,8%
	MDA	12,4	10,8	15,0	16,4	17,5	14,9	20,1%
	ROU	20,2	20,5	23,6	24,1	24,0	22,9	13,3%
	TUR	10,7	11,4	14,1	15,6	17,2	17,4	62,2%
Observers	ISR	8,2	8,3	8,5	8,2	7,8	8,3	1,8%
	MAR			8,4	8,4	7,5	NA	NA
Average		20,9	20,5	21,6	21,2	22,2	21,9	
Median		17,7	17,9	17,8	17,0	17,6	17,6	

How are judges recruited?

A competitive exam is the most common method of recruiting judges, practiced in 58% of the member States and entities (26). It constitutes the single recruitment method in 33% of the member States and entities (15), while in 25% of them (11), it is combined with another recruitment method.

Some member States and entities use a procedure based solely on the experience and seniority of «lawyers», without competition (**Malta**, the **Netherlands**, the **Slovak Republic**, **Slovenia**, **Switzerland**, **UK-Northern Ireland**). Other recruitment procedures are used in 17 member States. Most often, they involve a very specific selection process, or concern particular categories of candidates, such as a selection of eligible candidates by an independent commission (**UK-England and Wales**) or oral examinations of experienced lawyers (**Belgium**).

Figure 3.5 **Recruitment requirements for professional judges in 2022 (Q110-2)**



Among the most common requirements used for the recruitment of professional judges are nationality, absence of criminal record and experience in 89% (41), 80% (37) and 78% (36) of member States and entities respectively. This is followed by the requirement for general legal studies and physical and psychological ability: these two criteria are applied in 70% (32) of countries.

In 83% (38) of member States and entities, the competent authority for the initial recruitment of professional judges is mixed, made up of judges and non-judges.

Only 15% (7) of member States and entities have an authority composed solely of judges: **Austria**, **Cyprus**, **Hungary**, **Latvia**, **Lithuania**, **Romania** and **Switzerland**. The situation where the authority is composed entirely of non-judges applies only to **Switzerland**, where the three possible configurations exist, depending on the canton.

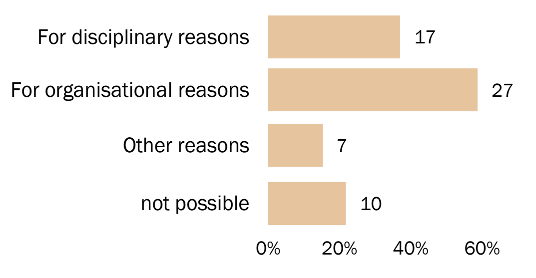
To guarantee the independence of the judiciary, the authority in charge of the recruitment procedures for judges must be independent of the executive power. In most states and entities, this is the Supreme Judicial Council or a similar body. Some of these states and entities distinguish this independent authority, which is actually responsible for the recruitment process of judges, from the formal authority responsible for appointing judges, such as the President of the Republic or the Minister of Justice.

What is the career path for judges in Europe?

The principle of lifetime appointment of judges applies in almost all member States and entities (43). The Consultative Council of European Judges (CCJE) notes that, full-time appointments until the legal retirement age constitute the general rule in European practice and that this is the least problematic approach from the point of view of independence[1]. The situation in **Switzerland**, where judges may be elected by the people or the Parliament, depending on the canton, or appointed by the Court of appeal, is quite specific. As also noted by the CCJE, many civil law systems provide for probationary periods for new judges[2].

A probationary period exists in 37% (17) of member States and entities. Its duration varies widely from country to country, ranging from 3 months in **Denmark**, 1 year in **Cyprus**, 2 years in **Portugal**, 3 to 5 years in **Germany** depending on the *Länder*, up to 3 years *in* **Georgia** and **Latvia** and 5 years in **Bulgaria**.

Figure 3.6 **Transfer of judges without their consent in 2022 (Q121-1)**

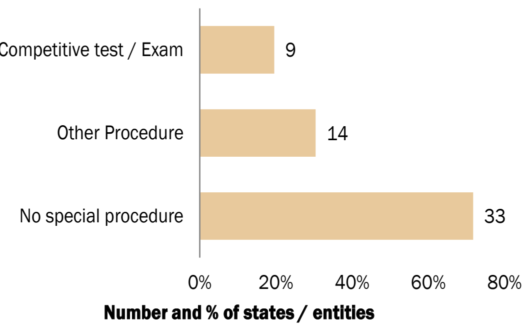


The irremovability of judges, which implies that a judge cannot be reassigned without his or her consent, is generally guaranteed. This fundamental guarantee applies without exception in 22% (10) of member States and entities.

However, there are often exceptions to this rule of irremovability, and a transfer can be made without the consent of the judge, but in this case under very strict conditions. In 59% (27) of member States and entities, it is possible to carry out such a transfer for organisational reasons (restructuring of courts, as in **Azerbaijan**, **Croatia** and **Hungary**, or an occasional shortage of judges to cope with the increase in the number of cases in certain courts, as in **Georgia**). It may also result from disciplinary proceedings before an independent body, as is the case in 37% (17) of member States and entities.

A judge may also be transferred for reasons other than disciplinary or organisational. In **Austria**, for example, judges must be transferred if non-professional circumstances (that have not been inflicted by him-/herself) permanently damage his/her reputation and ability to perform the duties of his/her post to an extent that he/she would not be able to function as a judge at that post anymore. In **Germany**, in addition to disciplinary and organisational reasons, judges may be transferred without their consent in the context of judicial impeachment proceedings following an infringement of constitutional principles or if facts unconnected with the judicial occupation make a measure of this kind necessary in order to avoid grave prejudice to the administration of justice.

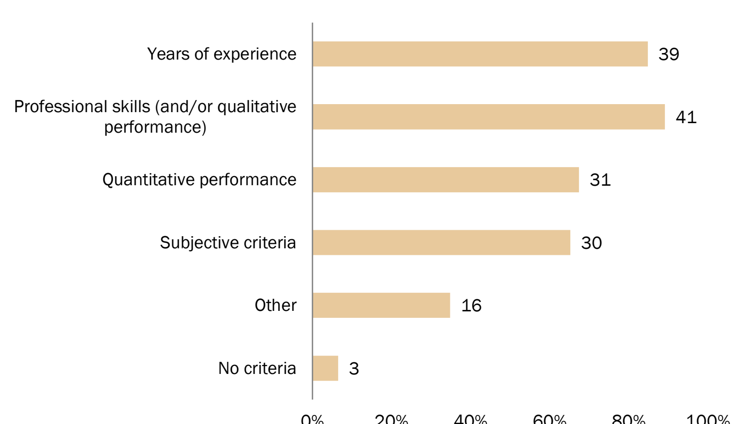
Figure 3.7 **Procedure for the promotion of professional judges in 2022 (Q113)**



Only 20% (9) of member States and entities provide for a competitive test or exam for the promotion of judges. In 71% (33) of European countries, there is no specific procedure, and the recruitment procedure is followed. In most countries, promotion decisions are based on assessments. These are sometimes accompanied by interviews, as in **Bosnia and Herzegovina**, **Croatia** and **Montenegro**.

1. Opinion No. 1(2001) on standards concerning the independence of the judiciary and the irremovability of judges, paragraph 48.
2. Opinion No. 1(2001) on standards concerning the independence of the judiciary and the irremovability of judges, paragraph 49.

Figure 3.8 **Criteria used for the promotion of professional judges in 2022 (Q113-1)**



The vast majority of member States and entities use a wide range of criteria for the promotion of professional judges. In 54% (25) of member States, plus one observer State (**Israel**), the promotion criteria include at least the following four criteria: experience, professional skills (and/or qualitative performance), quantitative performance and subjective criteria. 89% (41) of the member States and entities take into account *a minima* experience and professional skills or qualitative performance. Conversely, no state relies solely on subjective criteria (integrity, reputation, etc.).

In 61% (28) of member States and entities, the body responsible for promoting judges is the same as the one competent for their initial recruitment. In 79% (22) of these countries, it is a mixed authority made up of judges and non-judges. In 18% (5), only judges are appointed as members. In many countries, the competent body is the Supreme Judicial Council or a similar body.

Is the career of a judge still attractive?

The attractiveness of the career of a professional judge depends on several factors, including salary levels, working conditions (workload, size and quality of the team around the judge, opportunities for flexible working hours and location) and opportunities for advancement, all of which can be compared with those of other legal professions (lawyers, legal advisers, etc.). There are also symbolic considerations. However, it is difficult to measure the relative importance of each of these factors.

The ratio between the number of professional judges recruited and the number of applicants reflects both the attractiveness of this career and the selectivity of the recruitment process. The lower this percentage, the greater the number of applicants in relation to the number of posts offered. A low value would therefore suggest that the profession is relatively attractive. In the 31 countries for which this ratio can be calculated, on average 20% of applicants are recruited. The median is 13%. In 65% (20) of these countries, the ratio is below 20%. It should be noted that in some member States, such as **France**, **Italy**, **Portugal**, **Spain** and **Türkiye**, the recruitment procedure is common to both professional judges and prosecutors. The choice of position is made once the candidate has passed the competition. The number of candidates therefore includes those applying for both judges and prosecutors' posts. The ratio is therefore reduced accordingly and is not directly comparable with that of countries where there are two separate recruitment channels for professional judges and prosecutors.

Austria, certain *Länder* in **Germany**, **Lithuania**, **Portugal** and **Romania** report that they have adopted measures to remedy the decline in the number of applicants observed in recent years. These measures may take the form of wage increases (**Austria**, **Lithuania**) or better working conditions (**Austria**, **Portugal**).

Figure 3.9 **Number of applicants and professional judges recruited per 100 000 inhabitants, ratio between the number of judges recruited and the number of applicants, 2022 (Q110-3)**

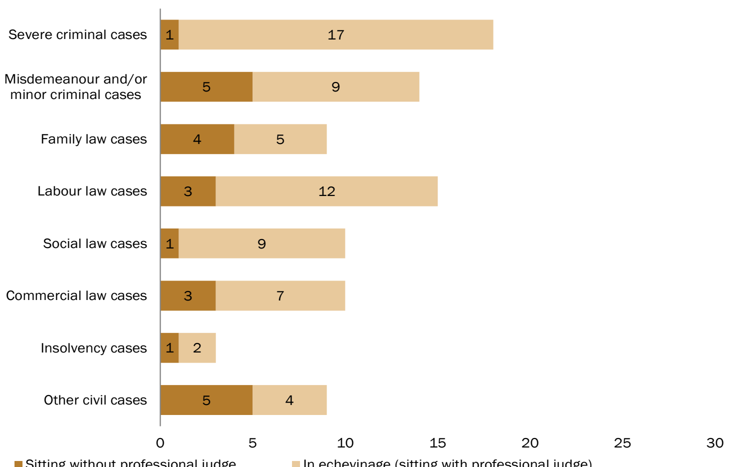
States / entities	Number of applicants	Number of recruited judges	Ratio
ALB	14,46	1,61	11%
AND	0,00	0,00	
ARM	4,80	1,31	27%
AUT	NA	NA	NA
AZE	6,59	1,22	19%
BEL	1,42	0,60	42%
BIH	58,33	0,87	1%
BGR	8,24	0,09	1%
HRV	NA	NA	NA
CYP	9,99	1,30	13%
CZE	NA	1,28	NA
DNK	2,26	0,34	15%
EST	NA	NA	NA
FIN	18,35	2,25	12%
FRA	8,43	0,94	11%
GEO	0,56	0,21	38%
DEU	NA	NA	NA
GRC	11,60	1,07	9%
HUN	12,72	1,41	11%
ISL	3,87	1,03	27%
IRL	4,95	0,25	5%
ITA	6,45	0,36	6%
LVA	3,19	0,80	25%
LTU	1,85	0,94	51%
LUX	2,72	1,97	72%
MLT	NA	0,38	NA
MDA	0,00	0,00	
MCO	23,05	7,68	33%
MNE	NA	10,81	NA
NLD	1,35	0,72	53%
MKD	27,05	2,72	10%
NOR	7,05	1,09	15%
POL	1,72	0,64	37%
PRT	10,15	1,16	11%
ROU	6,27	0,40	6%
SRB	33,00	2,19	7%
SVK	NA	1,01	NA
SVN	17,81	2,36	13%
ESP	10,12	0,43	4%
SWE	6,02	1,96	33%
CHE	NA	NA	NA
TUR	49,23	1,76	4%
UKR	NA	NA	NA
UK:ENG&WAL	9,14	NA	NA
UK:NIR	25,39	3,40	13%
UK:SCO	NA	NA	NA
ISR	0,35	0,14	40%
MAR	NA	NA	NA
Average	11,66	1,54	20%
Median	7,05	1,05	13%

Do non-professional judges exist in all countries?

Non-professional judges exist in 54% (25) of member States and entities. They are known as "*Handelsrichter*" in **Germany**, "*Justices of Peace*" in **UK-England and Wales** and **UK-Scotland**, **Spain** and **Italy**, and "*juges consulaires*" in **France**.

The Consultative Council of European Judges (CCJE)[3] points out that, in some member States, the appointment of non-professional judges is regarded as a useful link between the judiciary and the public. The use of non-professional judges can also help to reduce the workload of professional judges.

Figure 3.10 **Tasks entrusted to non-professional judges in 2022 (Q49-1)**



In 75% (18) of the countries with non-professional judges, they can deal with serious criminal offences, and in 56% (14) with minor offences. In 60% (15) of these countries, they can rule on labour law cases, in 40% (10) on social law and commercial law cases, and in 36% (9) on family cases.

In **France**, for example, non-professional judges deal with labour law and commercial law cases, in **Italy** with small civil and commercial disputes and minor criminal cases, in the **Netherlands** with family law, labour law, social law, commercial law, bankruptcy cases and minor criminal offences, and in **Spain** with civil disputes under 90€.

In the vast majority of member States and entities, non-professional judges do not decide cases on their own but are part of a panel made up of both professional judges (who chair the panel) and non-professional judges (*échevinage* system/ mixed bench).

The system of *échevinage* (see Figure 3.10) is used for the majority of cases of almost all types, but to varying degrees. For serious criminal offences, the mixed bench is almost systematic. The practice of *échevinage* is also predominant in social law (90% of countries using non-professional judges in this area), labour law (80%) and commercial law (70%). In addition to non-professional judges, in **Belgium** in particular there are substitute judges who may sit alone, without a professional judge by their side, when they are called upon to temporarily replace an absent judge. These substitute judges are mainly lawyers who have legal training and extensive legal experience and must pass a rigorous exam before being appointed. They can also be notaries, university professors or retired judges.

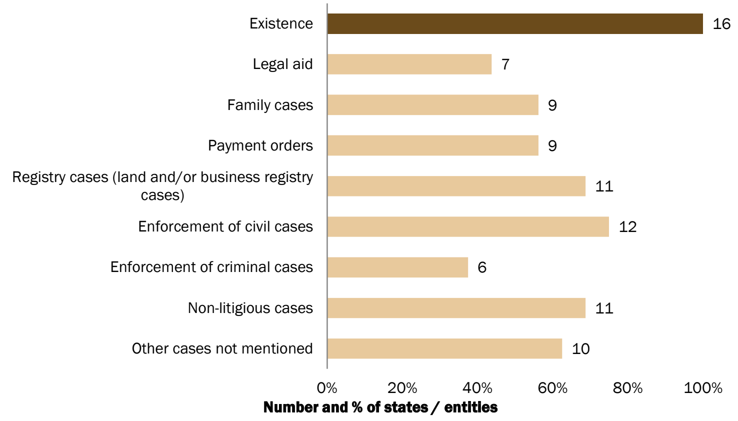
3. Opinion No. 18, paragraph 32.

How do non-judge staff contribute to the work of judges?

The existence, alongside judges, of competent staff performing well-defined functions and with a recognised status is an essential condition for the effective functioning of judicial systems. The CEPEJ evaluation grid distinguishes between five categories of non-judge staff:

- The ***Rechtspfleger*** is defined as an independent judicial body in accordance with the tasks assigned to it by law. While not assisting the judge, the *Rechtspfleger* contributes to the judicial work by taking on certain tasks. These tasks may relate to family and guardianship law, inheritance law, legislation on the land register, commercial registers, decisions on the granting of nationality, certain criminal cases, the enforcement of sentences, the reduction of sentences in the form of community service, prosecutions at district court level, decisions on legal aid, etc.
- **Judicial staff**, in particular **registry staff**, directly assist the judge by providing judicial support (assistance during hearings, judicial preparation of cases, transcription of court hearings, judicial assistance in drafting the judge's decisions, legal advice).
- **Administrative staff** do not directly assist the judge but are responsible for administrative tasks (registering cases in the IT system, checking payment of court fees, administrative preparation of files, archiving, etc.) and/or court management (head of secretariat, head of IT department, court finance director, human resources director, etc.).
- **Technical staff** are members of staff who carry out operational tasks or perform technical or maintenance functions. These include cleaning staff, security guards, IT maintenance staff, electricians, etc.
- **Other non-judge staff** include all non-judge staff who do not fall into the above categories.

Figure 3.11 **Number of member States and entities with a Rechtspfleger (or equivalent body) according to the tasks entrusted to them in 2022 (Q53)**



35% of member States and one observer State (16) have set up *Rechtspfleger* (or equivalent bodies). These are responsible for judicial or quasi-judicial tasks with autonomous powers and whose decisions may be appealed. The tasks entrusted to them are mainly the execution of civil cases (in 75% of cases), register cases (69%), the handling of non-litigious cases (69%), family cases (56%) and the execution of payment orders (56%). To a lesser extent, they handle legal aid (44%) and the execution of criminal cases (37%).

The distribution of non-judge staff between the three court instances is stable for the period 2018-2022 in Europe. In 2022, 79% of them are at first instance (compared with 73% for professional judges), 16% at second instance (compared with 22% for professional judges) and 4% at the Supreme Court level (compared with 5% for professional judges).

Staff support to help judges deal with their cases is often essential to improve the efficiency of justice, with court clerks playing a central role in this respect. The ratio of non-judge staff per professional judges varies greatly from one country to another, ranging in 2022 from a minimum of 1,1 in **Luxembourg** to a maximum of 9,9 in **Malta**. On average, between 2012 and 2022, it has hardly changed and is around 4 non-judge staff per one professional judge.

On average, non-judge staff consists of 2 judicial assistants such as registrars, one person responsible for administrative tasks and one person who performs technical or maintenance functions. However, as Figure 3.9 shows, non-judge staff are distributed very differently from one country to another. Of the 37 countries for which disaggregated data are available, 74% (28) have more judicial staff than administrative staff. In 26% (9) of cases, the opposite is true. It should be noted that some countries report a large proportion of non-judge staff, or even all of them, in the "other" category (**Hungary**, **Spain**, **Ukraine**).

Figure 3.12 **Non-judge staff by professional judge in 2022 (Q1, Q46, Q52)**

States / entities	Total	Categories (1+2+3)	Rechtsflèger (1)	Assist the judges (2)	Administrative (3)	Technical (4)	Other (5)
ALB	3,32	2,59	NAP	1,97	0,62	0,74	NAP
AND	4,09	3,18	NAP	0,70	2,48	0,91	NA
ARM	5,33	3,65	NAP	1,05	2,60	1,67	NAP
AUT	2,02	1,84	0,27	0,25	1,33	0,04	0,14
AZE	5,29	4,56	NAP	2,27	2,29	0,73	NAP
BEL	3,39	3,04	NAP	2,94	0,10	0,35	0,00
BIH	3,45	3,07	0,09	1,19	1,79	0,38	NAP
BGR	3,01	2,71	NAP	2,26	0,45	0,29	0,02
HRV	3,68	3,27	0,36	2,56	0,35	0,41	NAP
CYP	3,59	2,24	NAP	1,06	1,19	1,02	0,32
CZE	3,23	3,00	0,82	1,48	0,71	0,21	0,02
DNK	4,62	4,37	0,82	0,03	3,52	0,23	0,02
EST	3,40	3,01	0,23	2,50	0,28	0,25	0,14
FIN	1,91	NA	NAP	NA	NA	NA	NA
FRA	3,30	3,07	NAP	2,63	0,45	0,12	0,11
GEO	5,41	2,91	0,01	2,48	0,41	2,50	NAP
DEU	2,54	2,04	0,40	1,31	0,33	0,19	0,31
GRC	1,20	NA	NAP	NA	NA	NA	NAP
HUN	3,19	NA	0,37	0,35	NA	NA	2,54
ISL	1,16	1,05	0,39	0,50	0,16	0,00	0,11
IRL	7,33	6,59	0,14	5,70	0,75	0,29	0,44
ITA	3,62	3,07	NAP	2,41	0,66	0,27	0,27
LVA	3,09	2,82	NAP	2,14	0,68	0,24	0,03
LTU	3,50	3,05	NAP	1,90	1,15	0,33	0,11
LUX	1,07	1,00	NAP	0,99	0,01	0,02	0,05
MLT	9,87	7,40	NAP	6,34	1,06	0,26	2,21
MDA	4,89	3,87	NAP	2,23	1,64	1,01	NAP
MCO	1,15	0,85	NAP	0,50	0,35	0,25	0,05
MNE	4,22	3,12	NAP	2,61	0,51	0,48	0,62
NLD	2,90	NA	NAP	NA	NA	NA	NA
MKD	5,37	4,56	NAP	1,37	3,18	0,34	0,47
NOR	1,76	NA	NAP	NA	NA	NA	NA
POL	4,25	3,48	0,25	2,39	0,84	0,24	0,53
PRT	2,65	2,50	NAP	2,46	0,04	0,13	0,02
ROU	2,54	1,91	NAP	1,53	0,38	0,38	0,24
SRB	3,42	2,77	NAP	1,47	1,30	0,64	0,01
SVK	3,32	3,31	0,76	1,55	1,00	0,01	NA
SVN	3,96	3,76	0,54	1,30	1,92	0,21	NAP
ESP	8,69	NA	0,78	NAP	NAP	NAP	7,91
SWE	3,97	3,19	NAP	2,65	0,55	0,14	0,63
CHE	3,25	2,93	0,01	1,56	1,36	0,12	0,21
TUR	NA	NA	NAP	NA	NA	NA	NA
UKR	4,62	1,59	NAP	1,13	0,46	0,34	2,69
UK:ENG&WAL	9,40	NA	NAP	NA	NA	NA	NA
UK:NIR	9,83	9,83	NAP	6,48	3,35	NA	NA
UK:SCO	9,82	9,36	NAP	0,90	8,47	0,46	NAP
ISR	5,64	3,90	0,09	1,22	2,59	0,85	0,89
MAR	NA	NA	NAP	NA	NA	NA	NA
Average	4,12	3,44	0,39	1,98	1,28	0,44	0,72
Median	3,45	3,06	0,37	1,56	0,73	0,29	0,17

Figure 3.13 **Non-judge staff compared with the number of professional judges per 100 000 inhabitants; non-judge staff per professional judge in 2022 (Q1, Q46, Q52)**

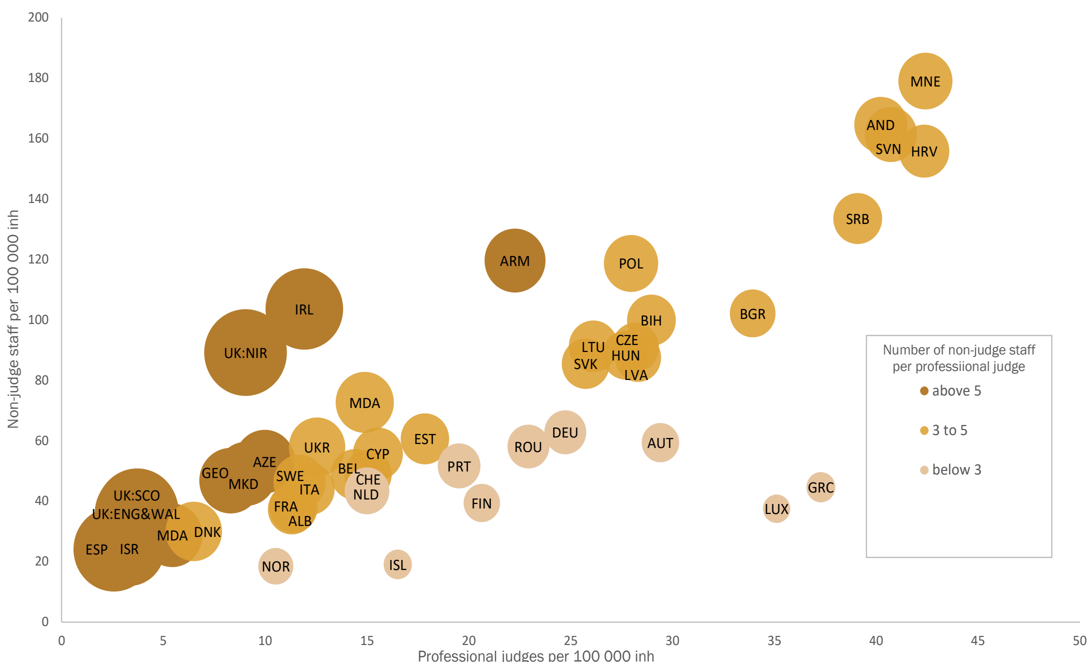


Figure 3.13 (in which **Monaco** is not shown) cross-references three different values: the number of professional judges per 100 000 inhabitants (horizontal axis), non-judge staff per 100 000 inhabitants (vertical axis) and the ratio between the two. The latter is illustrated by the colour and size of the circles: the darker and larger the circle, the higher the ratio and the larger the team around the judge.

Insofar as non-judge staff assist professional judges or relieve them of certain tasks (for example *Rechtspfleger*), one might expect a negative correlation between the number of professional judges and non-judge staff per 100 000 inhabitants. This would mean that the larger the team supporting judicial activity, the fewer the number of professional judges. Figure 3.12 shows that this is not the case and that there is even a positive correlation between these two indicators. In other words, countries with more professional judges also tend to have more non-judge staff. The significance of this effect depends on the degree of assistance provided to the judge, the extent to which decisions are transferred to the *Rechtspfleger*, in those countries where they exist, or the proportion of administrative tasks or court management tasks that may be carried out by judges.

However, in those states and entities where the number of professional judges per 100 000 inhabitants is lower, the number of non-judge staff per professional judge is generally higher. Indeed, with the exception of **North Macedonia**, all states and entities with 5 non-judge staff per professional judge have less than 12 professional judges per 100 000 inhabitants, while ratios of less than 3 non-judge staff per professional judge can only be found in states and entities with 10 or more professional judges per 100 000 inhabitants.

PROSECUTORS AND NON-PROSECUTOR STAFF

Who are the prosecutors?

According to the definition given in the Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, the public prosecutors are «public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system».

Figure 3.14 **Roles and responsibilities of public prosecutors in criminal matters, in 2022 (Q105)**

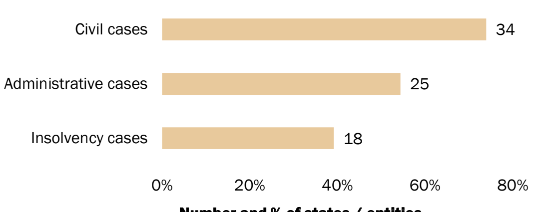
Role	Number of states / entities
To conduct or supervise investigation	41
When necessary, to request investigation measures from the judge	39
To charge	44
To present the case in court	46
To propose a sentence to the judge	38
To appeal	45
To supervise the enforcement procedure	21
To discontinue a case without needing a decision by a judge	43
To end the case by imposing or negotiating a penalty or measure without requiring a judicial decision	26
Other significant powers	22

Number of states / entities

In all member States and entities, public prosecutors are competent to present cases before the courts. They can also appeal against decisions in almost all countries (with the exception of **UK-England and Wales**, except for the most serious crimes, under specific conditions), and bring charges (except in **UK-Northern Ireland** and **UK-Scotland**). Among the other most frequent powers are the possibility of discontinuing a case without a judge's decision (93% of member States and entities), conducting or supervising investigations (89%), requesting investigation measures from the judge (85%) and proposing a sentence to the judges (83%). In a smaller number of countries, prosecutors have other powers, such as the possibility of closing a case by imposing or negotiating a penalty or measure without requiring a judicial decision.

Other significant powers include, for example, the supervision and control of prisons (**Greece**), participation in the development and implementation of national and international crime prevention programmes (**Lithuania**), the arrest of suspects in cases of *flagrante delicto* and the conduct of home and office searches (**Portugal**), the defence of the rights and interests of minors, missing persons (**Romania**), the possibility of exceptional appeal against final court decisions and to bring an action against the defendant to obtain the confiscation of assets of illegal origin (**Slovenia**), the power to impose coercive measures on a suspect such as arrest or detention (**Sweden**) and the investigation of all deaths requiring further information (**UK-Scotland**).

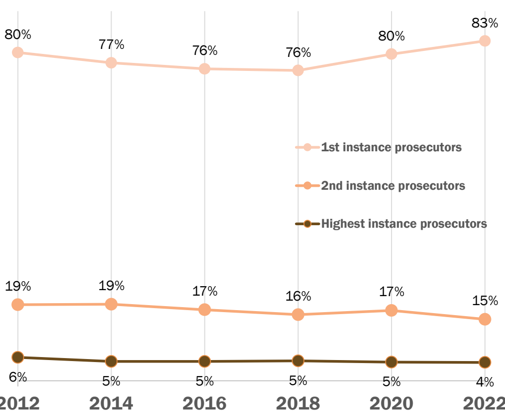
Figure 3.15 **Roles and responsibilities of public prosecutors in other than criminal matters in 2022 (Q106)**



In addition to the essential role they play in criminal matters, public prosecutors are also granted important competences in civil matters in 74% (34) of the member States and entities, and the two observer States (**Israel**, **Morocco**). They also intervene in administrative matters in 54% (25) of the member States and entities and one observer State (**Israel**), and in insolvency matters in 39% (18) of the member States and entities and the two observer States.

Public prosecutors are competent for all 13 roles listed in Figures 3.14 and 3.15 in two member States, **Monaco** and **Portugal**. They exercise at least 10 of these powers in 54% (25) of the states and entities and the two observer States. Conversely, they are competent for less than half of these roles in four member States and entities: **Ireland**, **Malta**, **UK-England and Wales** and **UK-Northern Ireland**.

Figure 3.16 **Distribution of public prosecutors by instance (medians), 2012-2022 (Q1, Q55)**



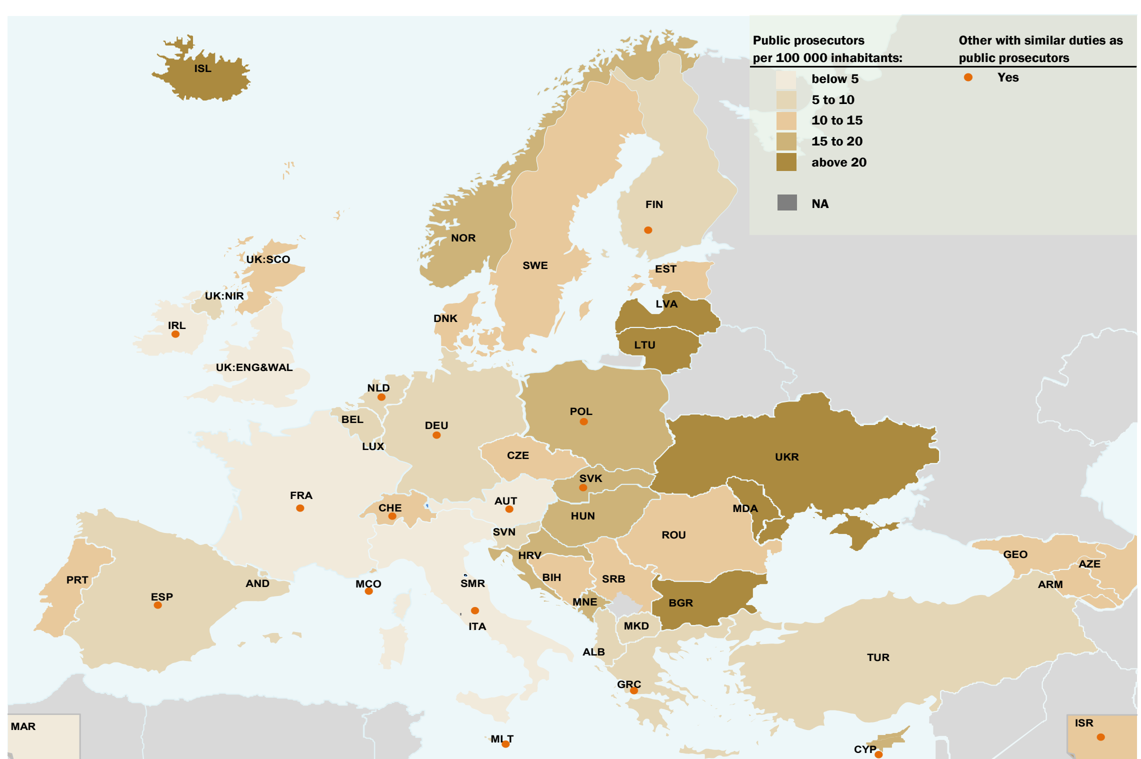
The distribution of public prosecutors by instance has changed slightly since 2012, mainly to the detriment of the second instance. In 2022, in the member States and entities, 83% of them are first instance prosecutors (compared with 80% in 2012), 15% second instance prosecutors (compared with 19% in 2012), while the proportion of prosecutors will remain stable at Supreme Court level, at around 5% over the same period. However, it should be stressed that these figures cover at most 52% (24) of member States and entities, for at least two reasons. Not all member States and entities have three instances within the Public Prosecution Service. In a number of member States (**Andorra**, **Estonia**, **Finland**, **Georgia**, **Ireland**, **Malta**, **Monaco**, **Spain**, **Sweden**, **Switzerland**, **Ukraine** and **Israel**), prosecutors are not attached to a specific instance and are competent to intervene at all instances.

Is there a uniform number of public prosecutors per capita in Europe?

The number of prosecutors per 100 000 inhabitants varies greatly from one country to another, from a minimum of 3 in **France** and **Ireland** to a maximum of 24 in **Bulgaria**, **Latvia** and the **Republic of Moldova**. Map 3.17 illustrates this diversity. As one moves towards the east of Europe, the number of prosecutors per inhabitant tends to increase, with rates generally higher than 15 per 100 000 inhabitants, although a number of exceptions in both the north-east (**Finland** and **Sweden**) and the south-east (**Albania**, **Greece**, **North Macedonia**) nuance the findings.

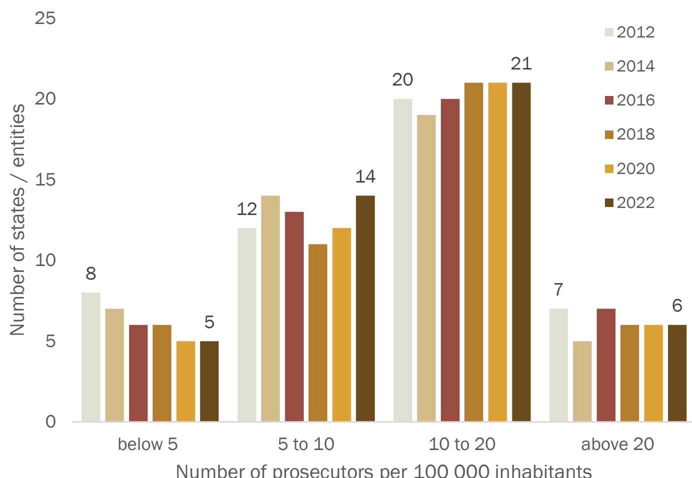
In addition, 15 member States and one observer State (**Israel**) have other staff with duties comparable to those of prosecutors, providing support to the latter. In **Italy**, the "*Vice Procuratore*" assists prosecutors with hearings on minor offences, case law studies and the preparation of requests to discontinue a case. In **France**, "*délégués du procureur*" are responsible for implementing alternative measures to prosecution and summary criminal procedures (*ordonnances pénales*), monitoring the enforcement of sentences and participating in the local crime prevention policies. In 8 member States and entities, this number is very significant compared to the number of public prosecutors. In 2022, for every 100 prosecutors, there are 35 staff with comparable functions in **Austria**, 19 in **France**, 20 in **Monaco**, 23 in **Ireland**, 76 in **Italy**, 361 in **Malta**, 24 in the **Netherlands** and 25 in **Switzerland**.

Map 3.17 **Number of prosecutors per 100,000 inhabitants in 2022 (Q1, Q55)**



How has the number of public prosecutors evolved between 2012 and 2022?

Figure 3.18 **Distribution of member States and entities by number of prosecutors per 100 000 inhabitants, 2012-2022 (Q1, Q55)**



The distribution of member States and entities according to the number of prosecutors per 100 000 inhabitants has little changed since 2012.

However, there has been a slight change in the groups of countries with the lowest number of prosecutors, indicating that there are fewer and fewer states with very few prosecutors ("less than 5") and more in the "5 to 10 prosecutors" group. In 2022, around 72% of member States and entities has between 5 and 20 prosecutors per 100 000 inhabitants.

Figure 3.20 shows the trend in the number of prosecutors per 100 000 inhabitants for each member State or entity between 2012 and 2022. On average, this number increased slightly between 2012 and 2016, from 11,6 to 12,1, a level at which it has remained since. The sharp increase in **Malta** is attributed to a 2020 reform, with the attorney general now exclusively exercising the role of public prosecutor. This reform led to more prosecutors being recruited to the Attorney General's office, an effort that continued in 2022. The substantial increase observed in **Norway** in 2022 is the result of budgetary increases decided by the new government.

Figure 3.19 **Variation in the number of public prosecutors, 2012 - 2022 (Q1, Q46)**

Public prosecutors (per 100 000 inhabitants)

Average **12.2**

Median **11,2**

Variations since 2012:

- in 11 countries there is a decrease of more then 1%. Average decrease is: -11,8%

- in 34 countries there is an increase of more then 1%. Average increase is: 23,5%

- in 1 country there almost no change.

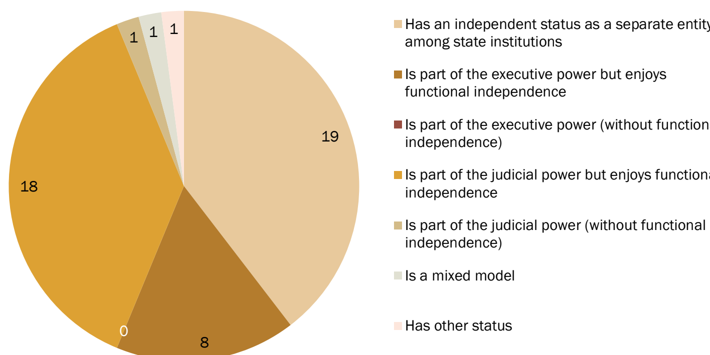
The trend between 2012 and 2022 presented in Figure 3.19 shows that, on average, an increase is observed in the majority of states/entities (31), with an average increase of 23,5%, while a decrease is recorded in 11 states with an average decrease of -11,8%. The number remained stable since 2012 only in one state.

Figure 3.20 **Number of public prosecutors per 100 000 inhabitants and variation, by member State and entity, 2012-2022 (Q1, Q55)**

States / entities		2012	2014	2016	2018	2020	2022	Variation 2012 - 2022
below -10%	ALB	11,7	11,2	11,2	NA	10,5	7,2	-38,3%
	ISL	25,2	NA	20,7	19,6	17,1	21,9	-12,9%
	LTU	25,5	24,6	24,4	23,8	23,0	21,1	-17,5%
	MKD	10,0	9,7	8,3	8,9	9,0	8,5	-14,9%
	UKR	29,8	30,6	23,8	25,1	21,2	23,0	-22,8%
-10% to 0%	CZE	11,8	11,7	11,7	11,6	11,4	11,5	-3,0%
	EST	13,1	12,8	13,0	12,8	12,7	12,7	-2,6%
	MCO	13,8	10,6	13,3	13,1	13,0	12,8	-7,5%
	POL	15,7	15,3	15,2	14,8	15,3	15,7	-0,4%
	PRT	14,9	14,2	14,5	13,5	13,8	14,4	-3,2%
	ROU	12,0	11,8	13,4	13,0	12,7	11,6	-3,2%
	UK:NIR	9,7	8,7		8,6	8,5	9,3	-4,0%
0% to 10%	AUT	4,1	4,0	4,1	4,3	4,5	4,3	4,8%
	AZE	11,6	11,3	11,3	12,0	13,1	12,2	5,5%
	BEL	7,4	7,6	7,6	7,7	7,6	7,5	1,9%
	CHE	10,4	10,8	10,4	10,5	11,1	11,3	7,8%
	ESP	5,3	5,2	5,3	5,2	5,4	5,6	4,9%
	FIN	7,4	6,6	6,8	7,1	7,0	7,9	7,0%
	FRA	2,9	2,8	2,9	3,0	3,2	3,2	9,3%
	HUN	18,3	19,0	19,2	19,7	19,0	19,5	6,8%
	RUS	22,8	23,4	25,2	23,5			0,0%
	SVN	9,2	9,4	10,5	10,2	9,8	9,8	6,5%
	SWE	10,6	10,4	9,6	9,3	10,1	11,1	5,2%
above +10%	AND	5,2	6,5	6,8	7,7	9,0	8,5	62,6%
	ARM	10,5	10,1	10,6	11,1	12,0	13,4	27,2%
	BGR	20,1	20,4	21,3	21,8	22,0	23,9	18,8%
	BIH	8,1	9,7	10,9	10,8	10,3	10,4	28,1%
	CYP	12,9	12,8	13,7	14,0	15,3	19,6	51,1%
	DEU	6,5	6,5	6,7	7,1	7,5	7,7	17,9%
	DNK	10,1	12,2	12,1	11,6	NA	13,5	33,6%
	GEO	9,0	11,8	11,8	11,3	11,1	11,1	23,0%
	GRC	5,0	5,3	5,5	5,4	NA	5,7	14,5%
	HRV	14,5	13,4	14,6	14,6	15,4	16,2	11,9%
	IRL	1,9	1,9	2,2	2,2	2,6	2,7	37,2%
	ITA	3,2	3,4	3,5	3,7	3,8	3,8	20,4%
	LUX	8,8	8,3	8,0	9,0	9,8	9,8	12,3%
	LVA	22,1	22,8	22,9	23,5	24,4	24,3	10,0%
	MDA	20,9	19,6	24,5	24,1	24,3	23,6	12,9%
	MLT	3,6	2,7	3,9	4,0	7,4	8,8	149,1%
	MNE	14,7	17,4	16,6	19,2	20,2	16,6	13,2%
	NLD	4,7	4,7	5,4	NA	5,4	5,8	22,4%
	NOR	12,2	NA	13,8	14,7	16,1	19,5	59,7%
	SRB	9,2	9,2	8,8	11,2	11,3	10,4	13,8%
	SVK	16,7	17,5	17,1	17,9	16,9	18,7	12,2%
	TUR	5,8	6,8	6,0	7,4	8,2	8,7	51,3%
	UK:ENG&WAL	4,5	3,9	3,6	4,2	4,5	5,0	10,7%
	UK:SCO	10,4	8,8	8,7	NA	10,1	12,3	17,4%
Observers	ISR	7,5	7,3	14,2	14,0	13,6	13,2	76,8%
	MAR			2,8	2,8	2,8	NA	0,0%
Average		11,6	11,3	11,8	12,1	12,0	12,2	
Median		10,4	10,4	11,0	11,2	11,1	11,2	

What is the status of public prosecutors in Europe?

Figure 3.21 **Status of public prosecutor in 2022 (Q115)**



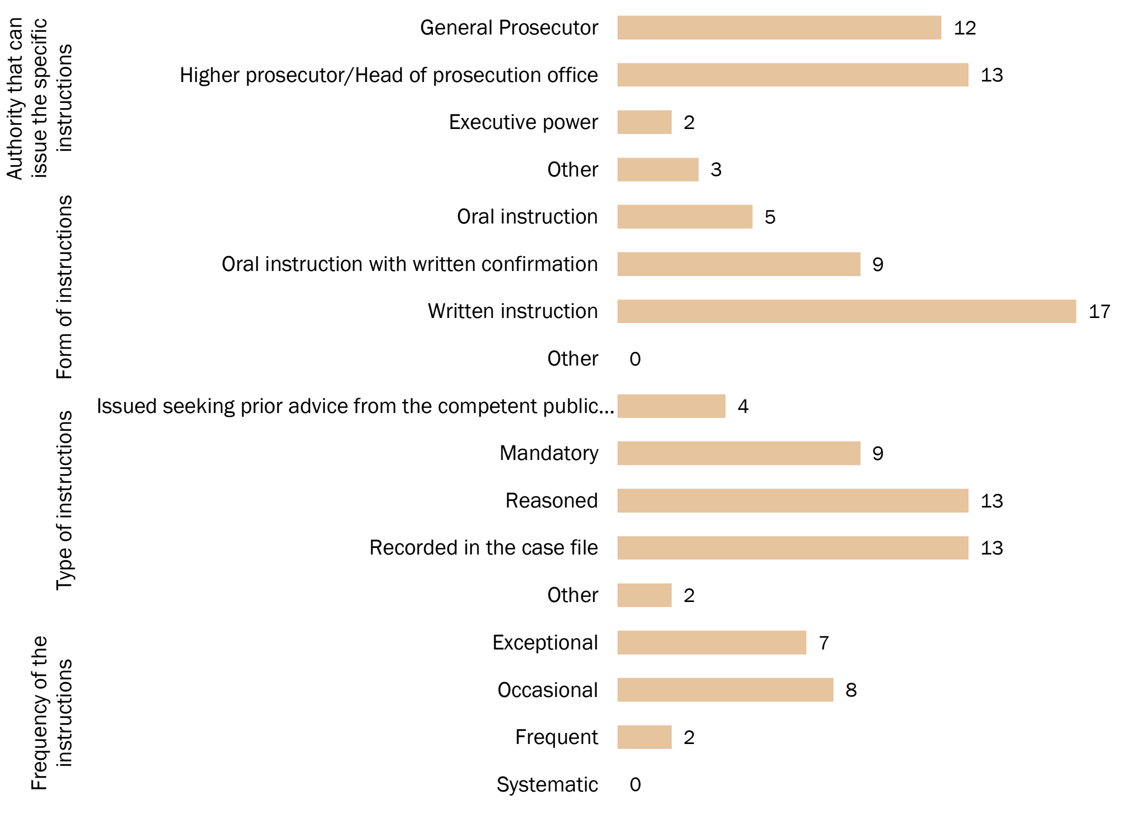
In a large majority of member States and entities and one observer State, the public prosecutor's office has independent status as a separate entity among the state institutions (41% of them) or enjoys at least functional independence as part of the judicial power (39%) or, less frequently, as part of the executive power (17%). In **Switzerland**, these three models exist depending on the cantons. The other models (see Figure 3.21) are the exception. The status of the public prosecutor may therefore vary fundamentally from one member State to another.

The complete independence of prosecutors from any influence in the prosecution of individual cases is only guaranteed in a minority of states and entities. It is true that in 59% (27) of member States and entities and one observer State (**Israel**), there is a law or other regulation that prohibits specific instructions to a prosecutor to prosecute or not to prosecute in a given case. However, just over half of these states and entities (14) declare that, even in this case, there are exceptions. An absolute ban on instructions in individual cases is guaranteed in only 28% (13) of member States and entities and one observer State (**Israel**).

At the same time, exceptions to regulations designed to prevent specific instructions in individual cases are often surrounded by guarantees of independence. For example, the Minister of Justice in **Belgium** and **Luxembourg**, and in the latter country also the Prosecutor General, may give instructions to prosecute, but may not give instructions not to prosecute a case. In **France**, the Prosecutor General may instruct the public prosecutors, by means of written instructions recorded in the case file, to initiate or arrange for the initiation of proceedings, or to refer to the competent court such written requisitions, that s/he deems appropriate. On the other hand, such instructions may not consist of discontinuing a case or not prosecuting a case. In **Albania** and **Croatia**, there is an obligation to issue reasoned written instructions. The right not to follow instructions exists if they are deemed unlawful (**Croatia**, **Spain**, **Portugal**), inadmissible for other reasons (**Spain**), illegal, incorrect, unfounded to act in the case or inappropriate for achieving the expected legal effects and benefits of the procedure (**Croatia**), or if they seriously violate the prosecutor's legal conscience (**Portugal**).

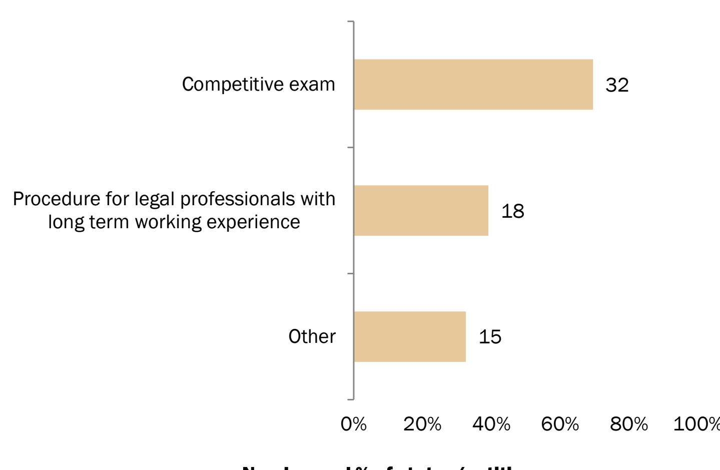
The following Figure shows the differences in the practical application of the specific instructions in the 17 countries where they are not prevented by regulations (37% of cases). Predominantly, in 16 of these 17 countries, only the Prosecutor General and/or the hierarchically superior prosecutor/head of department are authorised to issue instructions. Only a few countries provide for the possibility of instructions being issued by the executive or the Minister of Justice. In most cases, instructions must be given in writing or at least confirmed in writing, and often they must also be recorded in the case file, which increases comprehension/ understanding for the parties to the proceedings. In addition, in the Napoleonic judicial systems, despite the written instructions, during the hearings the prosecutor is independent in his or her plea according to the saying: "The pen is subservient, but speech is free". The vast majority of these states and entities (15) report that instructions are issued only exceptionally or occasionally. In 5 member States (**Albania**, **Montenegro**, **Poland**, **Serbia** and **Spain**), the prosecutor has the option of objecting to an instruction or referring a report to an independent institution.

Figure 3.22 **Specific instructions in 2022 (Q115-3, Q115-4, Q115-5, Q115-6)**



How are public prosecutors recruited?

Figure 3.23 **Recruitment of public prosecutors in 2022 (Q116)**



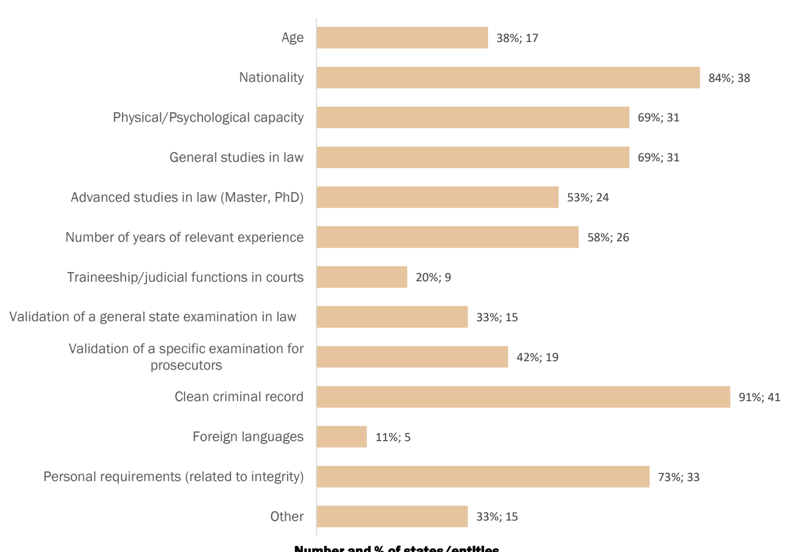
The most widespread requirements used for the recruitment of prosecutors are the same as for professional judges: clean criminal record and nationality, in 91% (41) and 84% (38) of member States and entities respectively. For prosecutors, on the other hand, integrity is a condition in 73% (33) of countries, ahead of general legal studies and physical and psychological abilities, which are taken into account in 69% (31) of countries as for judges. Experience is a recruitment criterion for prosecutors in only 58% (26) of member States and entities, compared with 78% (35) for judges.

Like judges, prosecutors are appointed until retirement age in almost all member States and entities (44 out of 46) and one observer State (**Israel**). Half of the member States and entities and the same observer State mention the existence of a probationary period for new prosecutors, varying greatly in length from 3 months to 5 years, depending on the country.

As with judges, the open competitive exam is the most common method of recruitment for prosecutors, either as the sole way of recruitment in 37% (17) of member States and entities or in combination with other methods of recruitment in 33% (15) of cases.

39% (18) of member States and entities have introduced a specific procedure for experienced legal professionals, although this is never the only method of recruitment, as is the case for judges in some countries. Other recruitment methods are used in 15 member States. Most often, they involve a very particular selection process, or concern some specific categories of candidates.

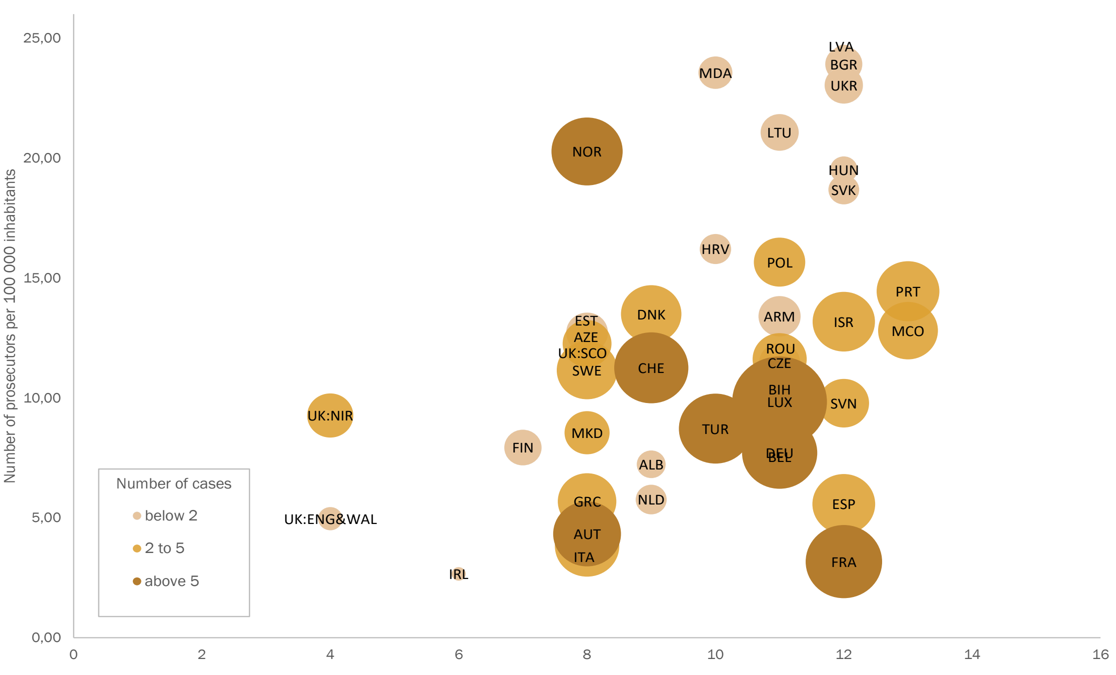
Figure 3.24 **Recruitment requirements for public prosecutors in 2022 (Q116-2)**



Is the workload of prosecutors the same in all countries?

Although there is no single, commonly shared indicator of the workload of prosecutors, the data suggest that there are considerable disparities in this area.

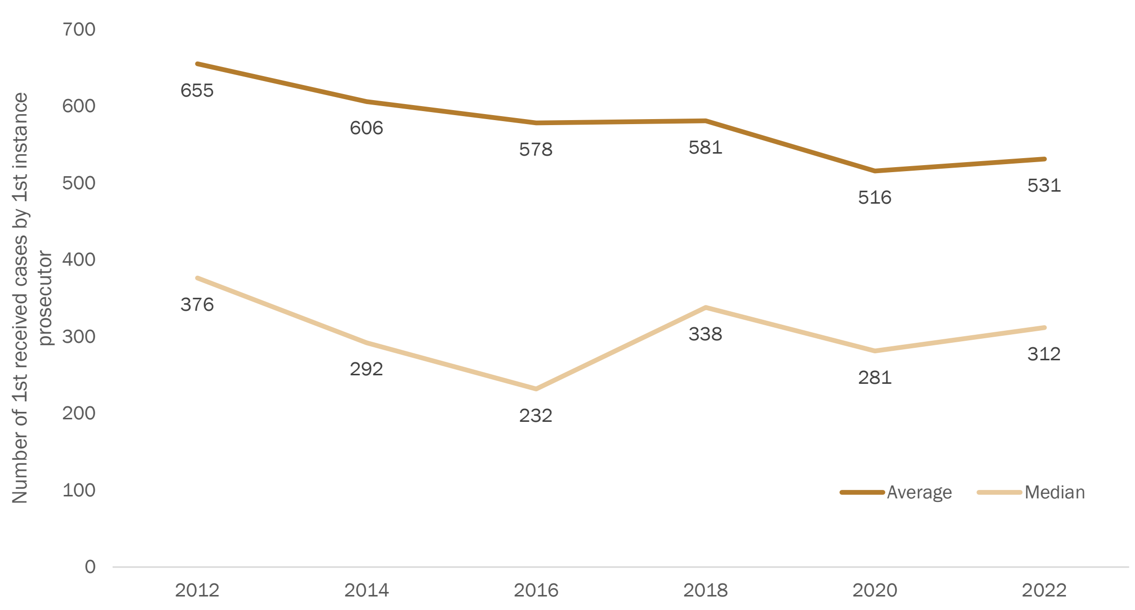
Figure 3.25 **Number of roles of public prosecutors compared with the number of public prosecutors per 100 000 inhabitants; first instance criminal cases received by public prosecutors per 100 inhabitants in 2022 (Q1, Q55, Q105, Q106, Q107)**



The workload of public prosecutors can be measured by taking into account the number of prosecutors, the number of cases received by prosecutors and the diversity of their functions ("number of roles of public prosecutors"). Figure 3.25 shows these three indicators. The size and colour of the circles illustrate the number of first instance criminal cases received by public prosecutors per 100 inhabitants. There are major differences between states and entities. For example, **France** has one of the lowest numbers of public prosecutors per capita in Europe, at 3,2 per 100 000 inhabitants, with the European median at 11,2. At the same time, public prosecutors have to deal with a very high number of first instance criminal cases received, which is 6,4 per 100 inhabitants, while the European median being 2,3, with a wide range of roles (12). In the light of these indicators, prosecutors also have a fairly heavy workload in **Austria**, **Italy** and **Luxembourg**. However, as pointed out above, **Austria**, **France**, and **Italy** also have staff with functions similar to those of public prosecutors, which may partly nuance this finding. Conversely, many countries, mainly in Central and Eastern Europe, have a large number of prosecutors (more than 10, or even more than 20 prosecutors per 100 000 inhabitants) for a relatively low number of cases received (less than 3 first instance criminal cases per 100 inhabitants), even if their field of competence is broad (more than 10 different roles). On the other hand, these states/entities, which have more than 10 prosecutors per inhabitant, have no other staff with functions similar to those of prosecutors.

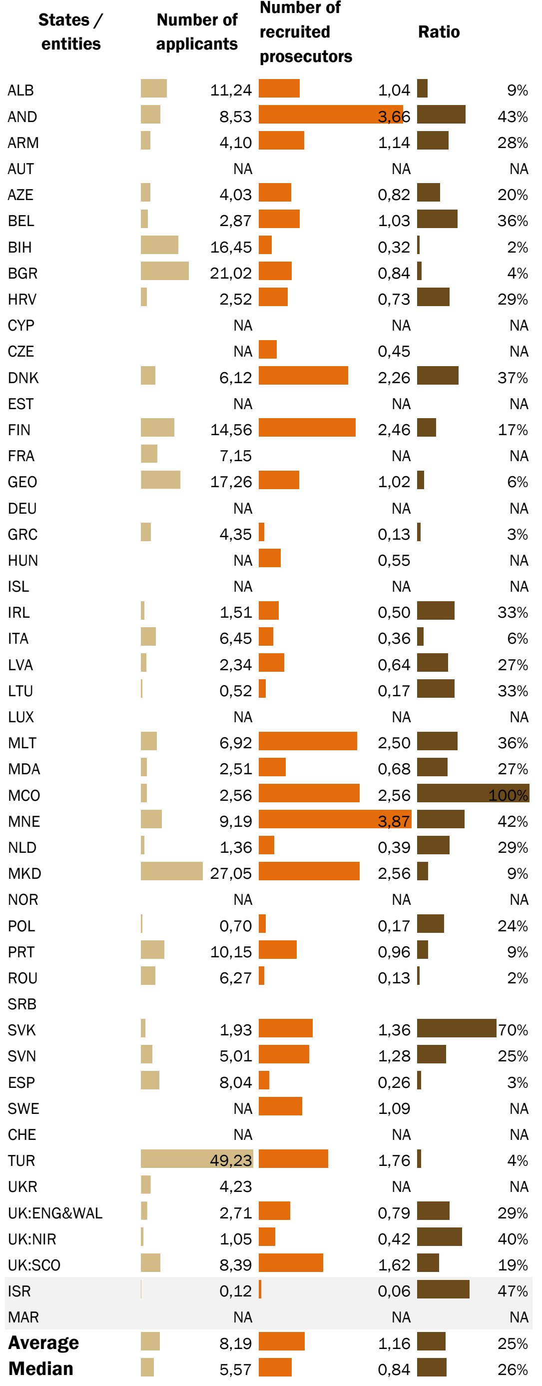
As mentioned above, the average number of prosecutors per 100 000 inhabitants has increased very slightly since 2012. Over the same period, the number of first instance criminal cases received per inhabitant has decreased in 80% (28) of the 35 countries for which this information is available and, in 54% (19) of them, the decrease has been greater than 20% (for a median value of -21%). As a result of these two trends, the average and median number of cases received per first instance prosecutor both fell by 17% between 2012 and 2022 (see Figure 3.25). While this reduction may imply an improvement in the workload of public prosecutors, looking at these figures alone is potentially misleading. Practical experience suggests that an increase in the complexity of certain cases (organised crime, corruption, terrorism, financial crime, cybercrime, trafficking in human beings, etc.) is likely to increase the average effort required per case. No data have yet been collected to measure the significance of this last effect.

Figure 3.26 **Variation in the number of criminal cases received per first instance prosecutor (average and median), 2012 - 2022 (Q55, Q107)**



Is the career of a public prosecutor still attractive?

Figure 3.27 **Number of applicants and prosecutors recruited per 100 000 inhabitants; ratio between the number of prosecutors recruited and the number of applicants, 2022 (Q116-3)**



As with judges, the attractiveness of the career of a public prosecutor depends on a number of factors, including salary levels, working conditions (workload, size and quality of the prosecutor's team, opportunities for flexible working hours) and promotion opportunities, all of which can be compared with those of other legal professions (lawyers, legal advisers, etc.). Symbolic considerations also come into play.

The lower the ratio between the number of prosecutors recruited and the number of applicants, the more candidates the profession attracts in relation to the number of posts offered.

In the 32 member States and entities for which this ratio can be calculated, on average 25% of applicants are recruited to the post of public prosecutor. The median is 26% (compared with 13% for professional judges). 29% (13) of these countries have a ratio of less than 20%. By this indicator alone, a career as a prosecutor would seem to be relatively less attractive than that of a professional judge. Once again, it should be recalled that for some countries, such as **Italy**, **Portugal**, **Spain** and **Türkiye**, the ratio is calculated on the basis of all applicants to the judiciary, for both prosecutor and professional judge posts, and is therefore not directly comparable with that for countries where there are two separate recruitment channels, one for professional judges and the other for prosecutors.

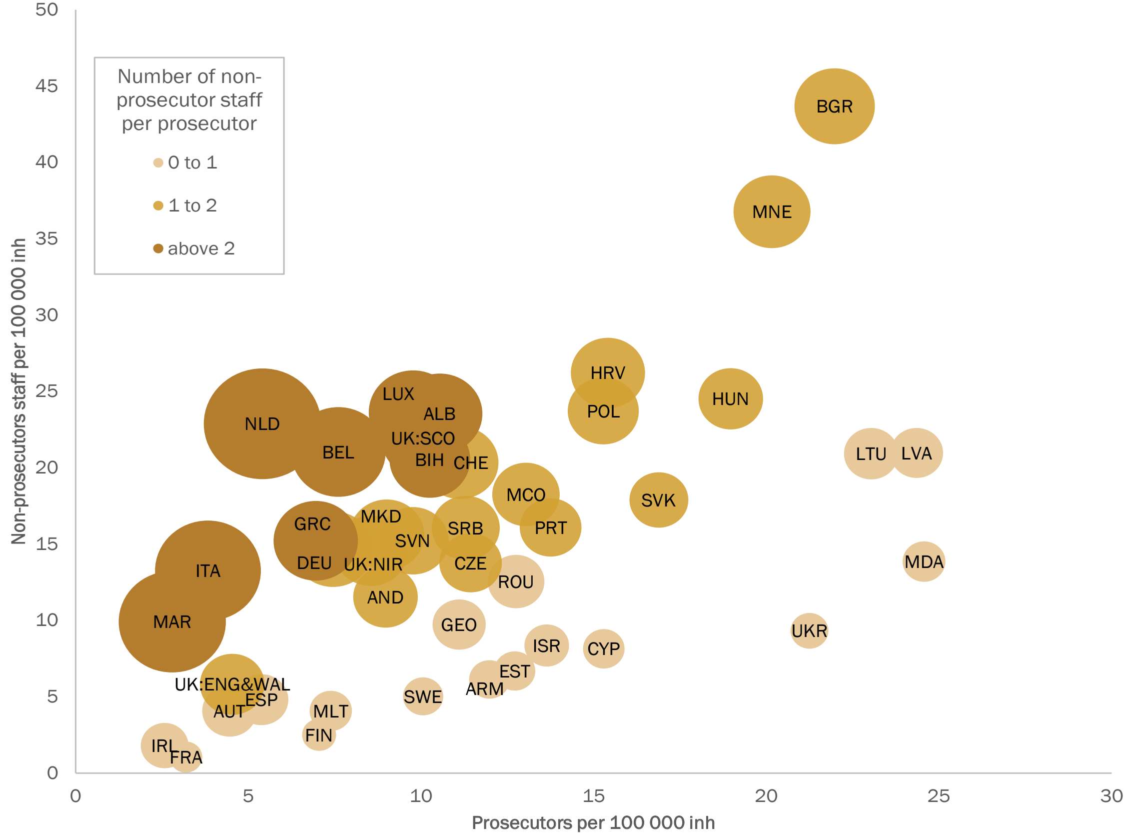
Eight countries report having adopted measures to remedy the decline in the number of applicants for prosecutor posts: these are the five countries that have also introduced this type of measure for professional judges (**Austria**, **Germany**, **Lithuania**, **Portugal**, **Romania**), plus **Ireland**, the **Netherlands** and **UK-Scotland**). These measures may take the form of salary increases (**Austria**, **UK-Scotland**) or improved working conditions (**Austria**, **Portugal**). In **Austria** and **Ireland**, it has also been made easier for other legal professionals to become prosecutors. This may also take the form of closer cooperation with universities to attract future applicants, as in **Lithuania**, or better dissemination of recruitment procedures, as in the **Netherlands** and **Portugal**.

What staff support can public prosecutors count on?

Like judges, public prosecutors may be assisted by staff who carry out many and varied tasks: secretarial work, research, preparation of cases or assistance during proceedings. The law may also entrust non-prosecutor staff (*Rechtspfleger* or equivalent) with certain functions that fall within the remit of the public prosecution services.

In 2022, the average ratio of non-prosecutor staff to prosecutors is 1.5. It is at the same level as in 2012, with no significant change over this period.

Figure 3.28 **Non-prosecutor staff compared with the number of prosecutors per 100 000 inhabitants, and non-prosecutor staff per prosecutor in 2022 (Q1, Q55, Q60)**

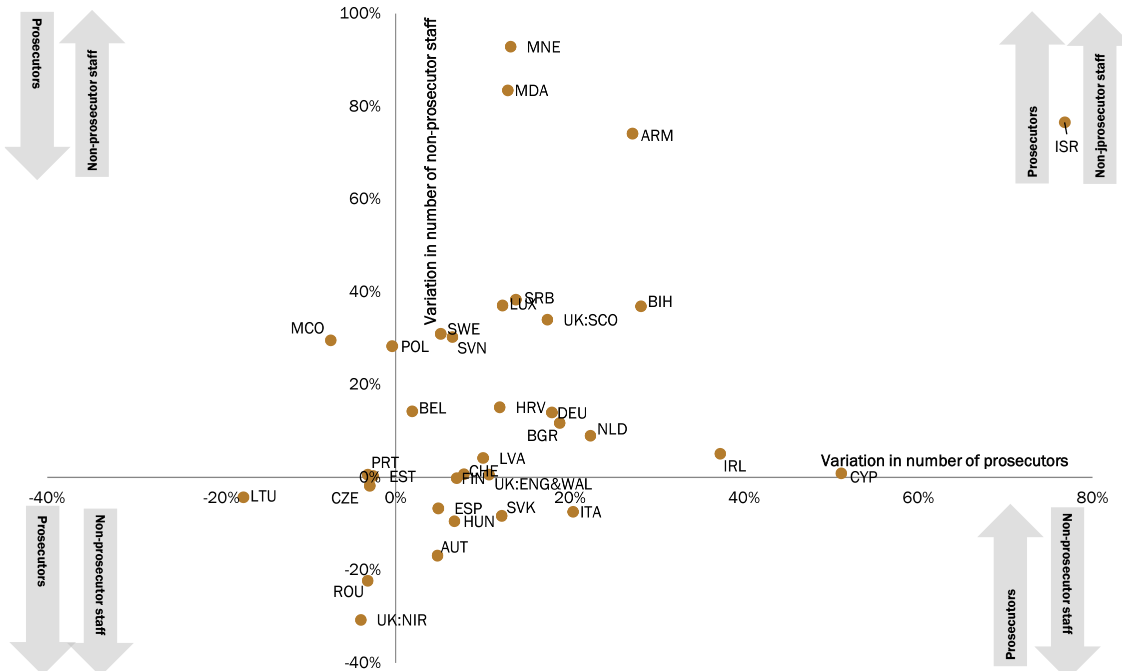


As can be seen in Figure 3.28, similar to judges, there is a positive correlation between non-prosecutor staff and the number of public prosecutors per 100 000 inhabitants. This means that there are generally more non-prosecutor staff in countries with a higher number of public prosecutors.

However, in the member States and entities with the fewest public prosecutors per 100 000 inhabitants, there are generally more non-prosecutor staff per public prosecutor. As can be seen from the Figure, all member States and entities with more than 2 non-prosecutor staff per public prosecutor (largest and darkest circles) have less than 11 public prosecutors per 100 000 inhabitants. In contrast, 62% of member States and entities with up to 2 non-prosecutor staff per public prosecutor (smaller and lighter circles) have more than 11 public prosecutors per 100 000 inhabitants.

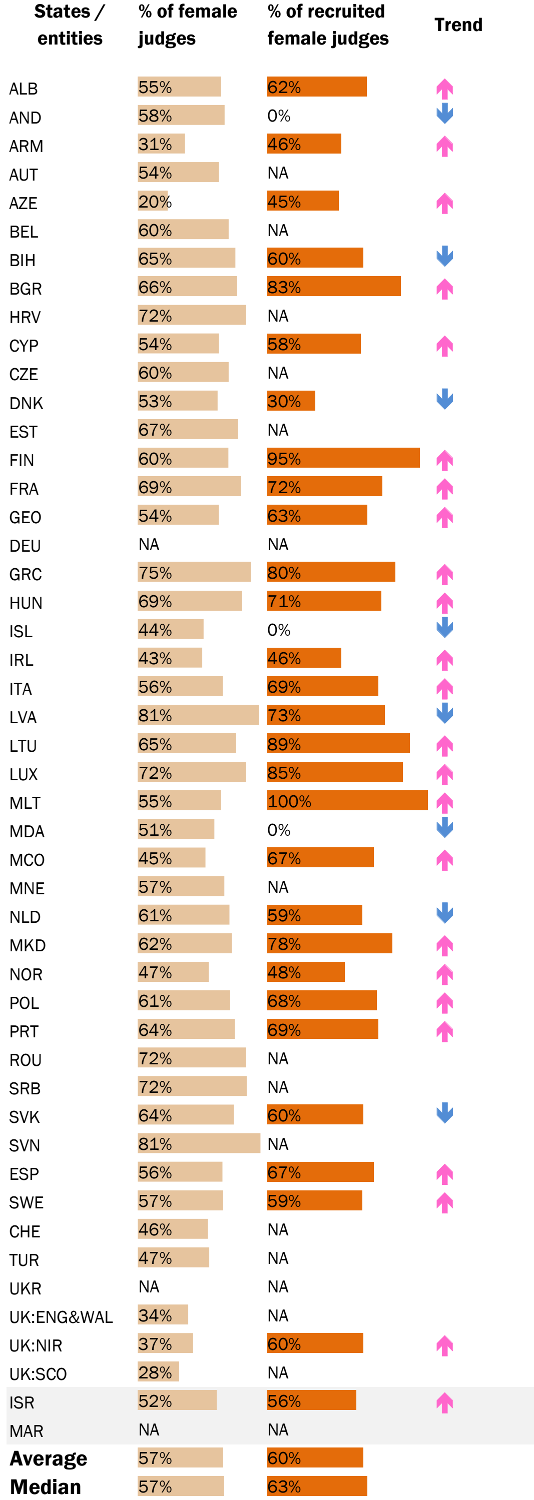
Between 2012 and 2022, there have been significant variations in both the number of non-prosecutor staff and the number of public prosecutors in a number of states and entities. Both increased together in 67% (22) of the 33 countries for which data are available. In 18% (6) of cases, the increase in the number of public prosecutors was accompanied by a decrease in the number of staff assisting them.

Figure 3.29 **Variation in non-prosecutor staff compared with the variation in the number of public prosecutors between 2012 and 2022 (Q55, Q60)**



GENDER BALANCE AMONG JUDGES AND PROSECUTORS

Figure 3.30 **Percentage of women among professional judges in office and among professional judges recruited in 2022 (Q110-3)**



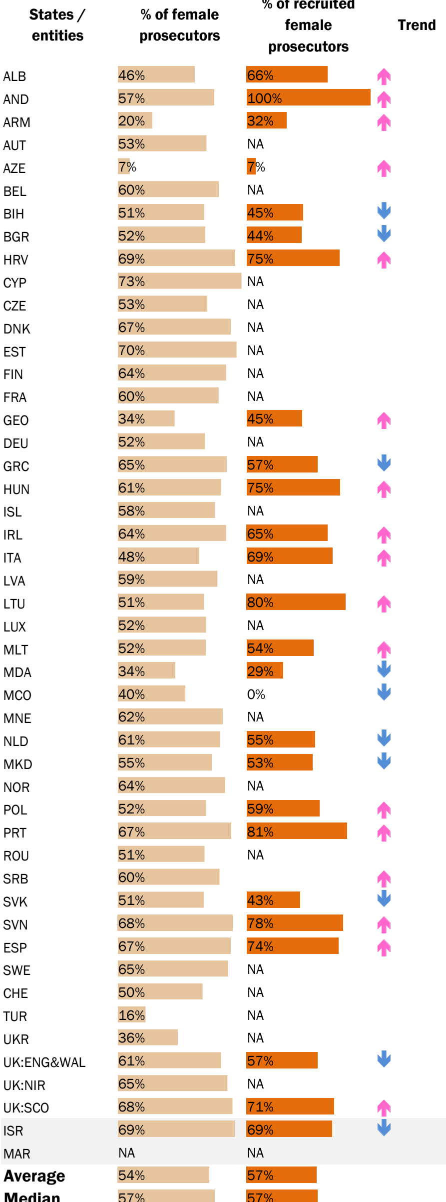
States / entities	% of female judges	% of recruited female judges	Trend
ALB	55%	62%	↑
AND	58%	0%	↓
ARM	31%	46%	↑
AUT	54%	NA	
AZE	20%	45%	↑
BEL	60%	NA	
BIH	65%	60%	↓
BGR	66%	83%	↑
HRV	72%	NA	
CYP	54%	58%	↑
CZE	60%	NA	
DNK	53%	30%	↓
EST	67%	NA	
FIN	60%	95%	↑
FRA	69%	72%	↑
GEO	54%	63%	↑
DEU	NA	NA	
GRC	75%	80%	↑
HUN	69%	71%	↑
ISL	44%	0%	↓
IRL	43%	46%	↑
ITA	56%	69%	↑
LVA	81%	73%	↓
LTU	65%	89%	↑
LUX	72%	85%	↑
MLT	55%	100%	↑
MDA	51%	0%	↓
MCO	45%	67%	↑
MNE	57%	NA	
NLD	61%	59%	↓
MKD	62%	78%	↑
NOR	47%	48%	↑
POL	61%	68%	↑
PRT	64%	69%	↑
ROU	72%	NA	
SRB	72%	NA	
SVK	64%	60%	↓
SVN	81%	NA	
ESP	56%	67%	↑
SWE	57%	59%	↑
CHE	46%	NA	
TUR	47%	NA	
UKR	NA	NA	
UK:ENG&WAL	34%	NA	
UK:NIR	37%	60%	↑
UK:SCO	28%	NA	
ISR	52%	56%	↑
MAR	NA	NA	
Average	57%	60%	
Median	57%	63%	

Figures 3.30 and 3.31 show the percentage of women judges and prosecutors in office in 2022 (1st column) and the percentage of women recruited (2nd column). The third trend column shows whether the number of women judges has increased or decreased as a result of new recruitments.

The proportion of women among professional judges has risen on average from 49% in 2012 to 57% in 2022 (+8 percentage points). The percentage of women among judges recruited in 2022 confirms this trend. It is higher than the proportion of women among professional judges in 24 of the 32 countries for which this information is available. This is particularly the case in **Armenia**, **Azerbaijan**, **Ireland** and **UK-Northern Ireland**, where the proportion of women among professional judges is less than 50% in 2022.

Beyond this upward trend, there are still major disparities between member States and entities. In 2022, in **Croatia**, **Greece**, **Latvia**, **Luxembourg**, **Romania**, **Serbia** and **Slovenia**, more than 70% of professional judges at first instance are women. On the other hand, this percentage is below 50% in 10 countries. Overall, it appears that common law countries continue to have a high percentage of men as professional judges.

Figure 3.31 **Percentage of women among public prosecutors in office and public prosecutors recruited 2022 (Q116-3)**



States / entities	% of female prosecutors	% of recruited female prosecutors	Trend
ALB	46%	66%	↑
AND	57%	100%	↑
ARM	20%	32%	↑
AUT	53%	NA	
AZE	7%	7%	↑
BEL	60%	NA	
BIH	51%	45%	↓
BGR	52%	44%	↓
HRV	69%	75%	↑
CYP	73%	NA	
CZE	53%	NA	
DNK	67%	NA	
EST	70%	NA	
FIN	64%	NA	
FRA	60%	NA	
GEO	34%	45%	↑
DEU	52%	NA	
GRC	65%	57%	↓
HUN	61%	75%	↑
ISL	58%	NA	
IRL	64%	65%	↑
ITA	48%	69%	↑
LVA	59%	NA	
LTU	51%	80%	↑
LUX	52%	NA	
MLT	52%	54%	↑
MDA	34%	29%	↓
MCO	40%	0%	↓
MNE	62%	NA	
NLD	61%	55%	↓
MKD	55%	53%	↓
NOR	64%	NA	
POL	52%	59%	↑
PRT	67%	81%	↑
ROU	51%	NA	
SRB	60%		↑
SVK	51%	43%	↓
SVN	68%	78%	↑
ESP	67%	74%	↑
SWE	65%	NA	
CHE	50%	NA	
TUR	16%	NA	
UKR	36%	NA	
UK:ENG&WAL	61%	57%	↓
UK:NIR	65%	NA	
UK:SCO	68%	71%	↑
ISR	69%	69%	↓
MAR	NA	NA	
Average	54%	57%	
Median	57%	57%	

The proportion of female prosecutors has increased from 49% in 2012 to 54% in 2022 (+5 percentage points). In general, the proportion of women among prosecutors is lower than among judges.

As in the case of judges, the proportion of women among prosecutors recruited in 2022 is higher than the proportion of women in public prosecution services in 17 of the 27 countries that provided these data. This is particularly the case in **Armenia**, **Azerbaijan**, **Georgia** and **Italy**, where the percentage of women prosecutors is below 50% in 2022.

Once again, these figures reveal major disparities. In **Cyprus** and **Estonia**, the percentage of female prosecutors is over 70%. Conversely, it is less than 50% in 9 countries.

There are also disparities depending on the instances and hierarchical levels.

For several years now, the majority of professional judges at first and second instance have been women. By 2022, 60% of first instance judges and 53% of second instance judges are women.

Figure 3.32 **Evolution in percentage of female judges, 2012-2022 (Q46 and Q47)**

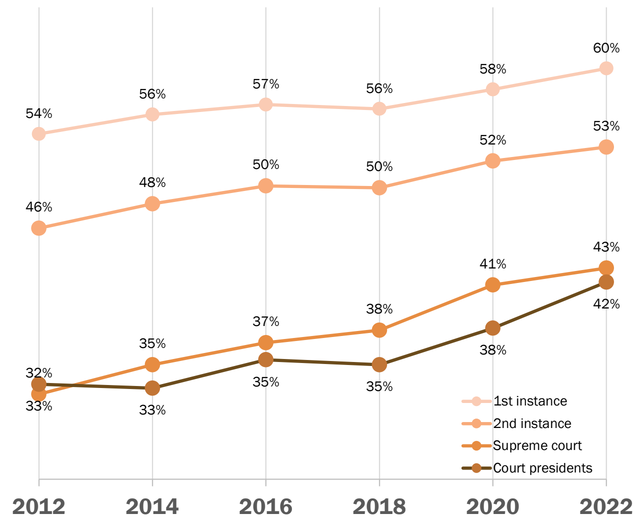
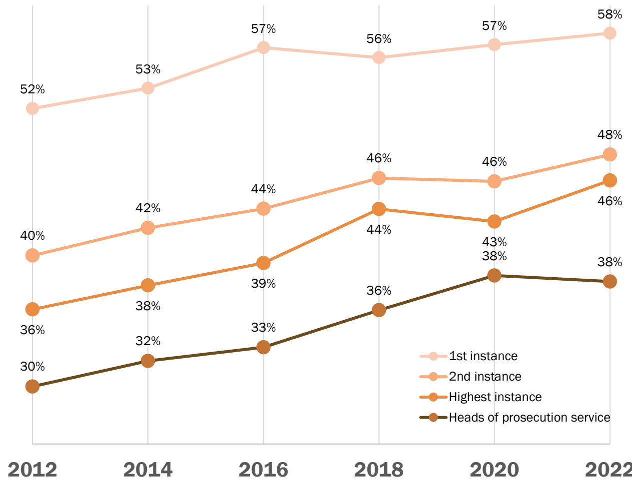


Figure 3.33 **Evolution in the percentage of female prosecutors, 2012-2022 (Q55 and Q56)**



Unlike professional judges, the majority of prosecutors are women only at first instance, where they account for 58% of prosecutors in 2022. It should be recalled, however, that the distribution of public prosecutors by instance does not apply in 13 countries.

Is the glass ceiling still a reality in the judicial functions?

The higher the hierarchical level, the lower the proportion of women in the judiciary, including judges and public prosecutors, and the longer the list of countries where this percentage remains below 50%. This observation, which was made in 2012 when the glass ceiling was translated into figures, is still valid in 2022. As Figures 3.32 and 3.33 clearly show, on average, the proportion of women has not yet broken the 50% barrier in the Supreme Courts, as presidents of tribunals or as heads of public prosecution services. In 2022, on average, 57% of judges and 54% of public prosecutors exercising their functions within the Supreme Courts, 58% of presidents of courts and 62% of heads of public prosecution offices are men.

This does not mean, however, that the situation is static. The proportion of female professional judges has increased between 2012 and 2022 for all courts. Above all, this general increase is more pronounced the higher the hierarchical level. It is 6 percentage points at first instance, 7 points at second instance and 11 points at Supreme Court level. In other words, the gap between the different instances is narrowing. The average percentage of women among court presidents has followed a similar trend. It rises from 33% in 2012 to 42% in 2022 (+9), with most of the increase occurring between 2018 and 2022 (+7). In 2022, this percentage has exceeded 50% in 17 countries (compared with 10 in 2012).

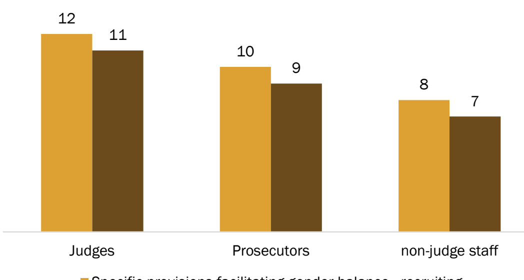
More or less identical trends can be observed for public prosecutors over the same period: an increase in the proportion of women common to all courts, but more pronounced the higher the hierarchical level. Between 2012 and 2022, the increase is also 6 percentage points at first instance, 8 percentage points at second instance and 10 percentage points at the highest instance. The proportion of women heads of public prosecution services also increases by 8 percentage points over this period, although it remains stable at 38% since 2020. In 2022, there are 9 countries in which the proportion of women heads of public prosecution offices exceeds 50%: **Croatia**, **Cyprus**, **Estonia**, **Iceland**, **Ireland**, **Malta**, **Montenegro**, **Portugal** and **Slovenia**. There were 4 in 2012.

The glass ceiling is therefore beginning to crack for professional judges and, to a lesser extent, for public prosecutors.

However, a comparison between the percentages of women among judges in office and among judges applying for promotion moderates the results of this analysis. In 2022, the percentage of female judges applying for promotion is lower than the percentage of female professional judges in 12 of the 14 countries for which this information is available. For prosecutors, a similar difference can be observed in 4 of the 11 countries for which these data are available.

Are measures being taken to promote gender balance within the judicial system?

Figure 3.34 **Specific provisions to facilitate gender balance in recruitment and promotion procedures in 2022, by type of profession (Q61-2 and Q61-3)**



A quarter of states and entities report having implemented specific provisions to facilitate gender equality in the recruitment and promotion procedures of judges. A fifth do so for prosecutors.

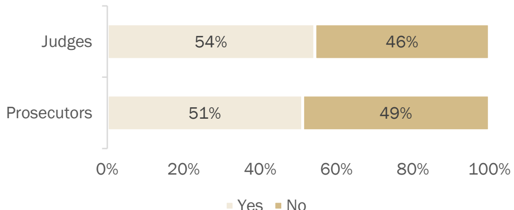
A minority of countries refer to specific provisions to facilitate gender balance in the appointment procedures of presidents of courts (9 member States) and heads of public prosecution services (7 member States). **Austria**, **Bosnia and Herzegovina**, **Denmark**, **Germany**, **Montenegro** and **Spain** state that they have general policies in favour of parity for the recruitment and promotion of judges and prosecutors, as well as for the appointment of presidents of courts and heads of public prosecution offices.

A quarter of the states and entities (11) have a general document on gender equality specific to the judicial system. Only **France**, **Germany**, the **Republic of Moldova**, **Spain**, and **UK-England and Wales** report the existence of studies or official reports on the causes of any gender inequalities in the recruitment or promotion of judges and prosecutors.

ARRANGEMENTS FOR WORKING HOURS AND CONDITIONS

What are the possibilities for adjusting the working hours and conditions of judges and prosecutors?

Figure 3.35 **Part-time work opportunities for judges and public prosecutors in 2022 (Q46-1-1, Q55-1-1)**



Part-time work should be understood as working fewer hours than normal full-time work (< 90%), with remuneration being reduced proportionately. Judges and prosecutors are allowed to work part-time in the majority of member States and entities (54% and 51% respectively). In 41% (19) of them, both judges and prosecutors have this possibility. In 37% (17) of cases, neither profession can work part-time. In **Andorra**, **Latvia**, **Montenegro**, **Poland** and **Ukraine**, only judges and not prosecutors may do so; in **Iceland**, **Ireland**, **Norway**, the **Slovak Republic** and **Israel**, the reverse is true.

There seems to be a relation between the possibility of working part-time and the proportion of women judges and prosecutors: the latter is significantly higher on average in countries where part-time working is possible (59% for judges and 60% for prosecutors) than in countries where it is not (55% for judges and 48% for prosecutors). It may also be that the possibility of working part-time leads more women to choose a career within the judiciary. But it may also be that the feminisation of the profession has led some member States and entities to offer the possibility of part-time work for this profession. Finally, it is also possible that the two have occurred at the same time.

The number of judges and prosecutors working part-time is only available for a small third of countries (15 and 13 respectively). On average, 12% of judges and 7% of prosecutors work part-time. 78% of judges and 87% of prosecutors working part-time are women.

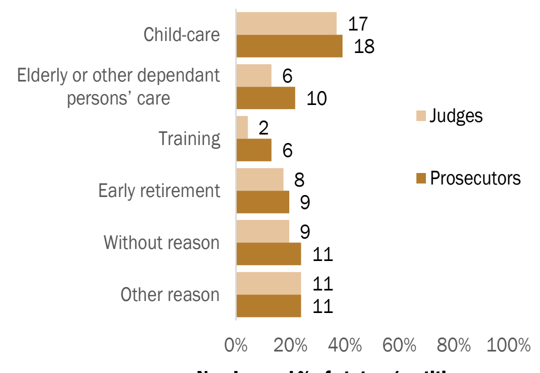
In addition, the proportion of part-time work decreases from one instance to the next and tends towards zero at the Supreme Court level, for both judges and prosecutors.

When is part-time work possible?

Child-care is the main reason why member States and entities allow judges and prosecutors to work part-time. Elderly care, early retirement, and other reasons such as health, care of parents or other close relatives, care for terminally ill persons or studies (PhD) are also accepted in a number of countries.

Part-time work for no particular reason is possible in 9 member States and entities for judges, and in 11 for prosecutors. This applies to both judges and prosecutors in **Finland**, **France**, **Germany**, **Luxembourg**, the **Netherlands** and **Switzerland**, only to judges in **Latvia**, **Lithuania** and **UK-England and Wales**, and only to prosecutors in **Austria**, **Denmark**, **Ireland**, **UK-Northern Ireland** and **UK-Scotland**.

Figure 3.36 **Reasons for part-time work for judges and prosecutors in 2022 (Q46-1-2, Q55-1-2)**

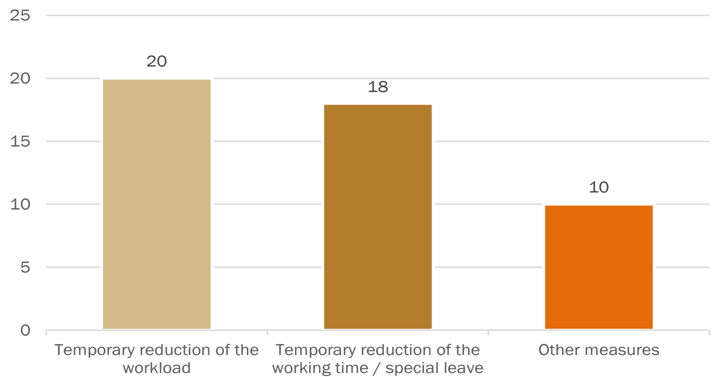


Are there possibilities for regular adjustment of working time or conditions with or without reduced remuneration?

Other regular adjustments of working hours or working conditions are sometimes possible. This is the case for judges in 64% of countries (16 out of 25) that have introduced the possibility of part-time work and in 29% (6 out of 21) of countries that do not offer it. Similarly, prosecutors can benefit from other types of adjustments in 70% of countries (16 out of 23) that offer the possibility of part-time work and in 22% (5 out of 23) of those that do not.

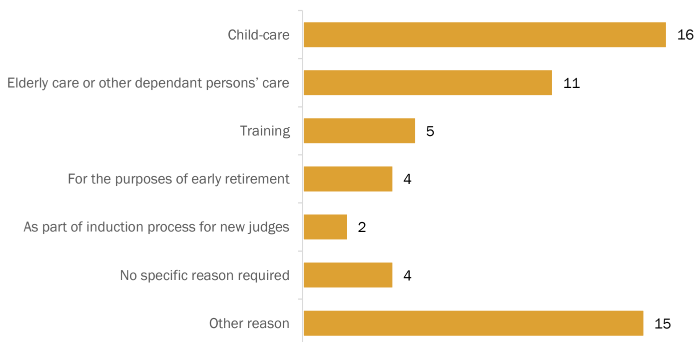
However, this more global approach also shows that 33% of member States and entities (15 out of 46) do not offer judges any possibility of adjusting their working time or working conditions. Prosecutors have no possibility of adjusting their working hours or conditions in 39% of member States and entities (18 out of 46).

Figure 3.37 **Possibilities for regular adjustments of working time or conditions (other than part-time work) for judges and prosecutors in 2022 (Q46-1-4, Q55-1-4)**



43% (20) of member States and entities offer the possibility of a temporary reduction in the workload, 39% (18) the possibility of reduction in working time (other than part-time work) or specific leave, and 22% (10) offer other types of measures (see below).

Figure 3.38 **Reasons justifying regular adjustments of working hours or conditions (other than part-time work) for judges in 2022 (Q46-1-5)**



As with part-time work, child-care and elderly care or other dependant persons' care are the two main reasons why member States and entities (16 and 11 respectively) allow other types of adjustments for judges' working time and conditions. These two main reasons for adjusting the working time and conditions are found in even greater proportions among prosecutors. 24 member States and entities authorise this in order to facilitate child-care, and 16 in order to facilitate elderly care or other dependant persons' care.

In **Germany**, for example, special paid leave may be granted for a specific period in the event of a child's illness. In **Luxembourg**, special leave is also available for the birth and upbringing of a child. In **Italy**, a temporary reduction in workload may be granted in specific circumstances, for example when a judge is appointed to the Judicial council of a court of appeal or when his or her health or that of a close family member becomes a cause of concern.

PROFESSIONAL ETHICS OF JUDGES AND PROSECUTORS

judges and public prosecutors occupy an important place in society. Their behaviour directly affects public confidence and the administration of justice. They therefore have a duty to maintain the highest standards of ethical behaviour.

The Consultative Council of European Judges (CCJE[4]) stated "i) judges should be guided in their activities by principles of professional conduct, ii) such principles should offer judges guidelines on how to proceed, thereby enabling them to overcome the difficulties they are faced with as regards their independence and impartiality, iii) the said principles should be drawn up by the judges themselves and be totally separate from the judges' disciplinary system, iv) it is desirable to establish in each country one or more bodies or persons within the judiciary to advise judges confronted with a problem related to professional ethics or compatibility of non-judicial activities with their status". Consistently, the CCJE has emphasised in the *Magna Carta of Judges* (2010) that deontological principles, drafted by the judges themselves and distinguished from disciplinary rules, shall guide the actions of judges and be included in their training[5]. The Consultative Council of European Prosecutors (CCPE)[6], called for ethics rules for prosecutors to be adopted and published, for ethics teaching to be offered in initial and in-service training, and for mechanisms and resources (specific independent bodies, experts within the Councils of Justice or prosecutorial councils, etc.) to be in place to assist prosecutors as regards the questions they raise.

This section examines the extent to which these requirements have been implemented in the member States and entities.

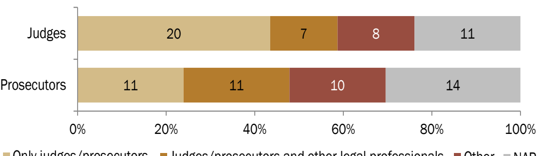
Are there institutions addressing ethics of judges and prosecutors?

In three quarters of countries, there are institutions or bodies that advise on ethical issues relating to the conduct of judges and prosecutors (e.g., involvement in political life, use of social media, etc.). In some cases, such body may be a separate institution, for example a commission within a Supreme Judicial Council. Beyond the opinions, sometimes it may also have competence to rule in matters of ethics.

The institutions and bodies responsible for ethics perform very different tasks in different countries. In general, they publish a code of ethics or general opinions, recommendations or guidelines concerning the ethical conduct of judges and/or prosecutors. They may also play a role in monitoring behaviour likely to constitute professional misconduct and/or in disciplinary proceedings, as in **France**, **Latvia**, **Portugal** and **Türkiye**. In **Bulgaria**, the Professional Ethics Committee even gives an opinion in selection procedures for posts to be filled within the judicial authorities and the posts of administrative heads and deputy administrative heads. In some countries, such as **Türkiye**, judges, prosecutors and/or other bodies may also address specific questions to the competent institutions or bodies.

In almost 60% of member States and entities, the institutions or bodies that deal with ethical issues are made up of judges or prosecutors, with or without other legal professionals.

Figure 3.39 **Composition of the institution/body giving opinions on ethical questions relating to the conduct of judges and public prosecutors in 2022 (Q138-1, 138-4)**



Members from outside the judiciary include, for example, professors or academic experts in **Bosnia and Herzegovina**, **France**, **Serbia** and **Spain**, lawyers in **Bosnia and Herzegovina**, **Malta** and **Norway**, representatives of civil society in **Norway**, representatives of the political sphere in **France**, **Malta** and **Lithuania**, and lay judges in **North Macedonia**.

Opinions on ethical issues concerning judges and prosecutors are available to the public in the vast majority of countries that have such institutions: 89% for judges and 85% for prosecutors, often on the Internet. These figures are slightly up compared to 2020.

4. Opinion No. 3 (2002) on the Principles and Rules Governing Judges' Professional Conduct, in Particular Ethics, Incompatible Behaviour and Impartiality, paragraph 49.
5. Opinion No. 3 (2002) on the Principles and Rules Governing Judges' Professional Conduct, in Particular Ethics, Incompatible Behaviour and Impartiality, paragraph 18.
6. Opinion No. 13 (2018) on Independence, Accountability and Ethics of Prosecutors, recommendation xiv, paragraphs 63 and 64.

What role do ethical issues play in training and disciplinary procedures?

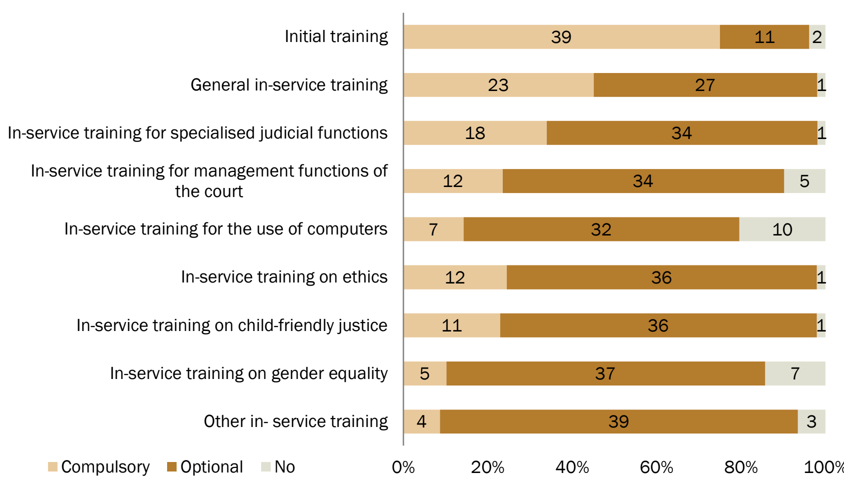
In-service training in ethics should cover the standards prescribing how judges and prosecutors must behave in order to preserve their independence and impartiality and avoid any irregularities. Such training is available in almost all member States and entities, mainly on a voluntary basis, in 78% of countries (36) for judges and 70% (32) for prosecutors (see Figures 3.40 and 3.41, *infra).*

TRAINING OF JUDGES AND PROSECUTORS

How are judges and prosecutors trained?

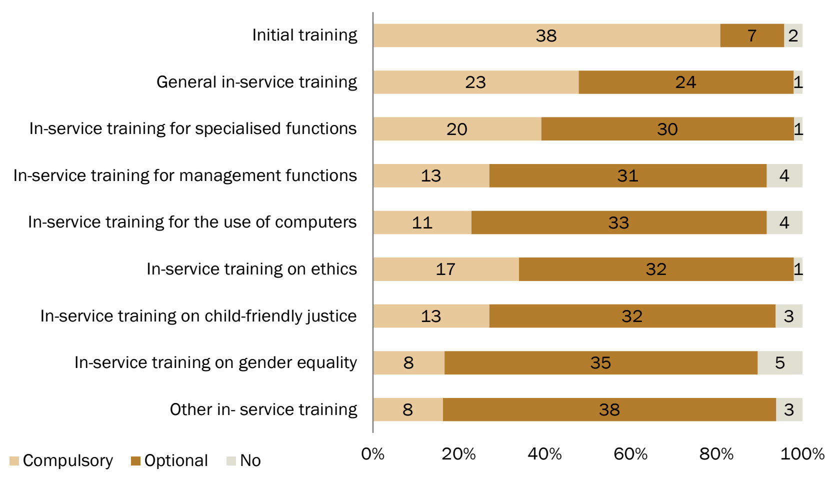
In 85% (39) of the member States and entities and the two observer States (**Israel**, **Morocco**), initial training is compulsory for judges. Only in **Cyprus**, **Finland**, **Iceland**, **Serbia**, **Sweden** and **UK-Northern Ireland** it is optional.

Figure 3.40 **Training of judges in 2022 (Q127)**



In-service training, on the other hand, is mostly optional. The Consultative Council of European Judges (CCJE) recommends that the in-service training should normally be based on the voluntary participation of judges and that there may be mandatory in-service training only in exceptional cases[7]. At least voluntary training is widely available for all the topics listed in Figure 3

Figure 3.41 **Training of public prosecutors in 2022 (Q129)**



Initial training for prosecutors is compulsory in 83% (38) of the member States and entities and the two observer States. Only in **Cyprus**, **Estonia**, **Finland**, **Ireland**, **Malta**, **Lithuania**, **Serbia** and **UK-England and Wales** initial training is not compulsory.

7. Opinion No. 4(2003) on Appropriate Initial and In-service Training for Judges at National and European Levels, paragraph 37

How many training courses do judges and public prosecutors attend on average?

Figure 3.42 **Frequency of in-service training of judges in 2022 (Q128)**

	Regularly	Occasional
General in-service training	42	4
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	32	14
In-service training for management functions of the court (e.g. court president)	26	17
In-service training for the use of computer facilities in courts	19	19
In-service training on ethics	28	18
In-service training on child-friendly justice	29	18

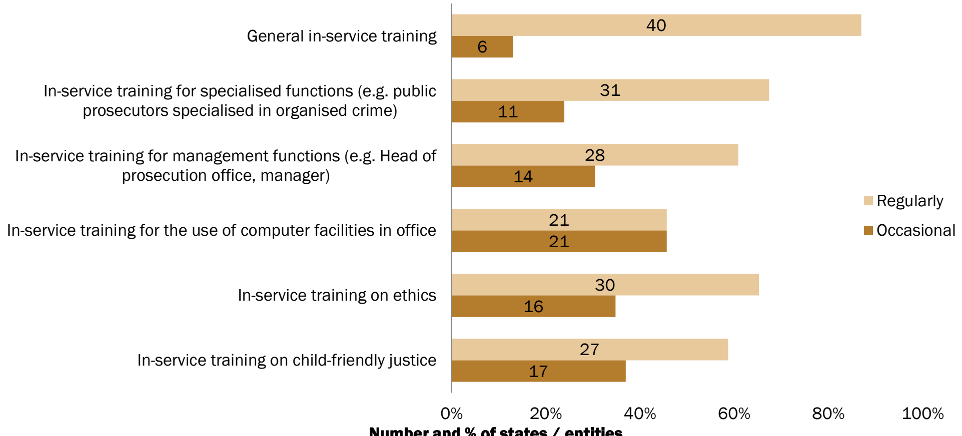
0% 20% 40% 60% 80% 100%

Number and % of states / entities

In-service training sessions are available on a regular basis (e.g., every year) for judges in the majority of member States and entities, in 91% (42) of them for general in-service training, 70% (32) for in-service training for specialised judicial functions, 63% (29) for in-service training on child-friendly justice, 61% (28) for in-service training on ethics and 57% (26) for in-service training relating to specific management functions. Only continuous training relating to the use of IT tools in the courts is applied both regularly and occasionally.

Whatever its purpose, in-service training is most often occasional, depending on the needs, in **Albania**, **Iceland**, **Italy**, the three Baltic States (**Estonia**, **Latvia**, **Lithuania**), **Luxembourg**, **Poland**, the **Slovak Republic**, **Sweden**, **Switzerland**, **Ukraine** and **UK-Northern Ireland**.

Figure 3.43 **Frequency of in-service training of public prosecutors in 2022 (Q130)**



The same applies to public prosecutors. General in-service training is regularly offered in 87% (40) of member States and entities, in-service training for specialised judicial functions in 67% (31) of them, in-service training on ethics in 65% (30), in-service training for specific management functions in 61% (28) and finally in-service training on child-friendly justice in 57% (27) of countries.

The list of countries where in-service training sessions are occasionally offered to prosecutors, according to their needs, partly overlaps with that of judges. It includes **Albania**, **Cyprus**, **Georgia**, **Iceland**, **Italy**, **Lithuania**, **Luxembourg**, **Malta**, **Norway**, **Poland**, **Sweden**, **Switzerland**, **Ukraine** and **UK-Scotland**.

Figure 3.44 **Number of participations in live trainings (in person, hybrid or videoconference) per judge and prosecutor, 2022 (Q131-2 and Q131-3)**

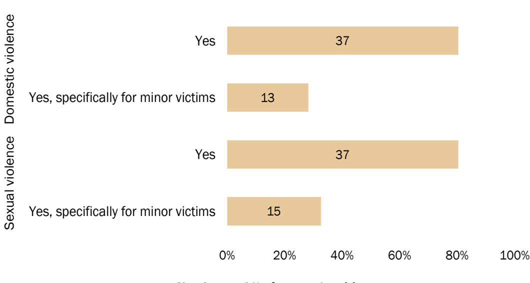
States / entities		Judge	Proesecutor
below 1 training	ARM	0,8	0,9
	BGR	0,7	0,6
	FRA	0,2	0,0
	GEO	1,0	2,6
	GRC	0,6	0,5
	ITA	0,6	0,6
	LUX	0,2	0,6
	NOR	0,1	NA
	POL	0,9	0,7
	ROU	0,6	0,8
	SRB	0,6	1,3
	SWE	0,6	0,9
	TUR	0,7	0,2
	UK:NIR	0,5	1,3
1 to 2	CZE	1,9	1,6
	ESP	1,1	0,4
	IRL	1,7	NA
	ISL	2,0	NA
	PRT	1,8	1,6
	SVK	1,4	1,0
	UKR	2,0	1,6
2 to 5	ALB	2,8	3,5
	AUT	2,2	3,1
	AZE	3,1	0,1
	BEL	3,2	4,2
	BIH	3,7	4,8
	CYP	2,4	NA
	DNK	2,1	1,8
	EST	4,6	NA
	FIN	2,1	2,0
	LTU	2,9	4,1
	LVA	3,0	0,1
	MKD	3,4	4,1
	MNE	3,0	3,0
	UK:SCO	2,1	NA
5 to 10	AND	9,9	10,7
	MDA	6,5	3,6
NA	CHE	NA	NA
	DEU	NA	NA
	HRV	NA	NA
	HUN	NA	1,3
	MCO	NA	NA
	NLD	NA	NA
	SVN	NA	NA
	UK:ENG&WAl	NA	NA
Observers	ISR	5,2	3,1
	MAR	NA	NA
Average		2,1	2,0
Median		1,9	1,3

In 2022, there are on average 2 attendances at training courses per professional judge and per public prosecutor. In the majority of states and entities, the rates of participation in training courses for judges and prosecutors are very similar.

However, there are major differences from one country to another. In 55% (21) of the 38 member States and entities for which this information is available, the average rate of participation in training is less than 2 per judge. For prosecutors, this is the case in 66% (22) of the 33 countries for which this rate can be calculated.

Is there a specific training for public prosecutors in domestic and sexual violence matters?

Figure 3.45 **Specific training for public prosecutors in domestic and sexual violence in 2022 (Q59-1)**



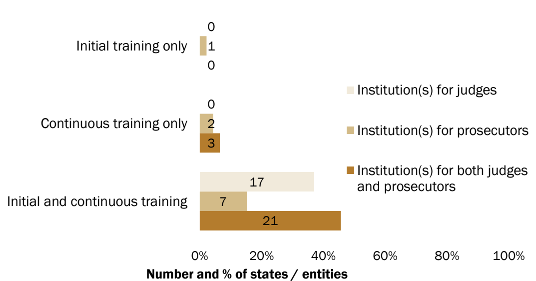
In 80% (37) of member States and entities and one observer State (**Israel**), prosecutors receive specific training in domestic violence and sexual violence. This figure is slightly up on 2020, when 33 countries already included this type of training. In the **Czech Republic**, each public prosecutor's office now has a prosecutor specialising in sexual and domestic violence. In **Cyprus** and **Georgia**, prosecutors now receive special training on these issues. This is in line with the requirement set out in Article 15 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS n° 210, Istanbul, 11 May 2011), which encourages member States and entities to strengthen the training of professionals dealing with victims or perpetrators of all acts of violence covered by the scope of the Convention.

Furthermore, one third (15) of the member States and entities have prosecutors specifically trained in the area of sexual violence against minors and 28% (13) in the area of domestic violence against minors, without any significant improvement being noted in relation to 2020. There is therefore still room for improvement with regard to Article 36(1) of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS n° 201, Lanzarote, 25 October 2007), which states that it is necessary to ensure that training on children's rights and sexual exploitation and sexual abuse of children is available for the benefit of all persons involved in the proceedings, in particular judges, prosecutors and lawyers.

A number of countries can be cited as examples. In **Germany**, 9 of the 12 Länder have public prosecutors specifically trained in domestic and sexual violence against minors. In **Latvia**, prosecutors are required to acquire special knowledge in the field of children's rights protection, including the types of child abuse (sexual, physical, emotional), their characteristics, domestic violence and contact with minors during criminal proceedings. In **Romania**, a network of prosecutors specialised in handling cases involving minors was created in 2018. The competent prosecutors deal with cases involving both minors as perpetrators and victims, analyse the jurisprudence of the public prosecutors' offices and propose to take over complex cases that receive intensive media coverage. In addition, these prosecutors disseminate the specialised information that they have gathered in the course of their work at the decentralised training sessions in which they take part, and they also transmit information on recent developments in national, European Court of human rights and international human rights case law.

How are the training institutions for judges and prosecutors organised in Europe?

Figure 3.46 **Institutions responsible for training of judges and public prosecutors in 2022 (Q131)**



At least 87% (40) of member States and entities have specific training institutes for judges and prosecutors. Almost all these institutions offer both initial and continuing training. 46% (21) of member States and entities have common training institutes for judges and prosecutors, for both initial and continuing training. In **Finland**, **Ireland**, **Latvia**, **Lithuania**, **Malta**, **Sweden**, **UK-Northern Ireland** and **UK-Scotland**, there is a training institute for judges only, but not for prosecutors. Some states do not have their own training institution because of the small number of judges and prosecutors: **Luxembourg**, for example, has arranged for judges to attend training courses at the French *Ecole nationale de la magistrature,* the Belgian *Institut de formation judiciaire* and the *International Academy of European Law* in Trier (**Germany**).

SALARIES OF JUDGES AND PUBLIC PROSECUTORS

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

The issue of judges' remuneration requires a comprehensive approach which, beyond the purely economic aspect, takes account of the impact that it can have on the efficiency of justice as well as on its independence in connection with the fight against corruption within and outside the judicial system. Justice policies should also consider the salaries of other legal professions to make the judicial profession attractive to highly qualified legal practitioners.

The comparisons made by the CEPEJ are based on two indicators: firstly, the remuneration of a judge/prosecutor at the beginning of his or her career, and secondly, the remuneration of a judge/prosecutor of the Supreme Court which constitutes the top of the judicial hierarchy or the last instance of appeal. It should be noted that, in some systems, the salaries of judges and prosecutors do not depend on the position held (first instance or highest instance), but rather on seniority (i.e., the number of years of service), as in **Finland**.

How much do judges earn in Europe?

To assess the level of remuneration of judges, for the purposes of comparison, it is important to relate it to the average salary of the state or entity concerned. To analyse salaries at the beginning of a career, it is furthermore necessary to consider the recruitment procedure. If a judge is recruited after his/her graduation from the judicial training school following a competition, he/she will take office relatively young and his/her remuneration will be a starting salary. The situation is different for a judge recruited after a long professional experience, for whom the remuneration will necessarily be higher. In this respect, the amounts shown in Figure 3.47 should be put into perspective in **Ireland**, **Malta**, **Norway**, **Switzerland**, **UK-Northern Ireland**, **UK-Scotland** and **Israel**, where judges are recruited from among already experienced lawyers.

Figure 3.47 divides the member States and entities into four groups according to the level of the ratio between the gross salary of judges at the beginning of their career and the national average gross salary. In all member States and entities, judges receive at least the average salary of their country at the beginning of their career. On average, their gross salary is 2.5 times the average national salary at the beginning of their career and 4.9 times for Supreme court. At the start of their careers, judges' salaries vary between 1.5 and 3.5 times the average national salary in 61% of states and entities. At Supreme court level, it varies between 2.5 times and 6.5 times the average national salary in 74% of them.

In almost all countries, the gross salary of Supreme Court judges is at most three times the gross salary at the beginning of their career.

Figure 3.47 **Average gross salary of judges in relation to the average gross national salary in 2022 (beginning of career / Supreme Court) (Q4, Q132)**

	States / entities	Beginning of career	Highest instance	Ratio end / beginning	Absolute at the beginning of carreer	Absolute at highest instance	Variation beggining of career 2012 - 2022
below 1,5 times	DEU	1,0	2,5	1,3	54 224 €	139 986 €	31,8%
	FIN	1,5	3,0	1,6	70 628 €	141 720 €	15,1%
	FRA	1,1	2,9	2,2	46 812 €	122 192 €	27,2%
	LUX	1,4	2,4	2,8	96 084 €	169 916 €	32,7%
	MCO	1,0	2,1	1,4	48 922 €	98 182 €	6,4%
	NLD	1,3	2,4	1,8	89 236 €	160 741 €	20,6%
	SVN	1,4	2,7	1,9	34 101 €	66 528 €	4,5%
1,5 to 3,5 times	AND	2,3	3,8	1,8	63 959 €	103 832 €	-13,4%
	AUT	1,6	4,3	2,1	59 188 €	163 801 €	19,5%
	BEL	1,8	3,2	1,8	83 937 €	153 479 €	29,4%
	BGR	2,8	4,9	2,3	30 085 €	53 144 €	109,7%
	BIH	2,8	5,3	1,9	29 224 €	55 907 €	23,4%
	CHE	2,0	4,4	1,3	159 200 €	356 000 €	22,5%
	CYP	2,9	5,2	2,0	77 916 €	138 494 €	6,8%
	CZE	2,2	5,0	2,6	44 182 €	100 367 €	66,8%
	DNK	3,2	6,0	1,6	140 244 €	261 648 €	33,9%
	ESP	2,3	5,5	2,6	57 855 €	140 534 €	21,8%
	EST	2,8	3,7	3,0	56 952 €	74 786 €	61,2%
	HRV	1,7	3,5	2,3	27 754 €	57 558 €	15,6%
	HUN	1,9	4,3	1,3	30 157 €	69 818 €	70,9%
	IRL	3,1	5,6	1,8	139 917 €	257 872 €	14,2%
	ISL	2,0	2,6	3,4	137 346 €	178 516 €	90,8%
	ITA	1,7	5,8	1,6	57 500 €	194 005 €	5,5%
	LTU	1,7	2,5	1,5	36 242 €	54 213 €	94,7%
	LVA	2,2	3,5	1,8	36 948 €	57 712 €	87,0%
	MDA	2,0	3,0	1,1	12 453 €	19 270 €	267,0%
	MKD	2,1	2,9	1,5	19 170 €	27 023 €	11,1%
	MNE	1,8	3,1	2,0	19 557 €	32 864 €	-3,0%
	NOR	2,0	3,2	1,7	120 093 €	189 907 €	-8,1%
	POL	1,7	4,9	1,8	26 931 €	79 666 €	22,7%
	PRT	2,6	5,7	1,4	48 728 €	106 533 €	69,8%
	ROU	2,9	5,8	1,6	42 541 €	86 142 €	72,3%
	SRB	2,0	4,7	3,0	20 967 €	49 741 €	24,0%
	SVK	2,9	4,3	2,2	45 775 €	66 264 €	54,1%
	SWE	1,8	3,2	2,0	76 973 €	134 036 €	41,3%
3,5 to 6 times	ALB	3,7	4,7	2,4	25 304 €	32 420 €	238,2%
	ARM	3,9	8,6	1,4	26 137 €	58 082 €	2182,7%
	GEO	4,5	7,2	2,0	30 024 €	47 812 €	137,6%
	MLT	4,6	5,0	2,4	97 161 €	105 451 €	141,6%
	UK:NIR	4,1	7,8	1,7	137 739 €	263 572 €	12,4%
	UK:SCO	4,4	6,8	2,2	166 195 €	254 813 €	5,6%
	UKR	5,3	23,5	1,8	24 173 €	107 230 €	196,5%
above 6 times	AZE	6,8	9,2	4,4	37 416 €	50 798 €	229,3%
NA	GRC	NA	NA	NA	31 710 €	96 037 €	5,1%
	TUR	NA	NA	1,9	16 079 €	29 370 €	-30,1%
	UK:ENG&WAL	NA	NA	1,5	NA	NA	NA
Observers	ISR	3,4	5,0	1,5	137 421 €	201 619 €	59,2%
	MAR	NA	NA	2,8	21 869 €	61 848 €	NA
Average		2,5	4,9	2,0	60 750 €	115 733 €	
Median		2,1	4,3	1,8	46 812 €	100 367 €	

How high are prosecutors' salaries in Europe?

In Figure 3.48, the salaries of public prosecutors have been divided into four groups according to the level of the ratio between their gross salary at the beginning of their career and the national average gross salary, as in the previous Figure for judges. In almost all member States and entities, prosecutors, like judges, receive a gross salary that is at least as high as the average salary.

On the other hand, the gross salary of prosecutors at the beginning of the carrier is, on average 1,9 times the average national salary, this ratio being of 3,7 at the Supreme Court level. At the beginning of their career, prosecutors' salaries vary between 1,5 times and 3 times the average national salary in 57% of member States and entities. It is less than 1,5 times the average national salary in a third of member States and entities, while for judges this is true in only 11% of cases. At Supreme Court level, the gross salary of prosecutors varies between 2,5 and 6,5 times the average national salary in 54% of member States and entities (compared with 74% for judges), bearing in mind that this figure could only be constructed for a smaller number of countries than in the case of judges.

Prosecutors' salaries are inevitably affected by the diversity that characterises their statutory position within the member States and entities and observer States, which makes comparisons more difficult than for judges in certain cases. In addition, in some member States, the activities of public prosecutors are supplemented, at least in part, by the police activities, particularly criminal investigation police activities. Remuneration levels therefore differ significantly.

As with judges, in almost all countries the gross salary of Supreme court prosecutors is at most three times their gross salary at the beginning of their career.

Figure 3.48 **Average gross salary of public prosecutors compared to average gross national salary in 2022 (beginning of career / Supreme court) (Q4, Q132)**

	States / entities	Beginning of career	Highest instance	Ratio end / beginning	Absolute at the beginning of carreer	Absolute at highest instance	Variation begging of career 2012 - 2022
below 1,5 times	CYP	1,3	NAP	1,3	35 010 €	NAP	9,3%
	DEU	1,0	2,2	1,6	54 224 €	126 640 €	31,8%
	DNK	1,1	2,9	1,0	49 137 €	126 411 €	-7,7%
	FIN	1,1	2,0	2,6	50 880 €	95 000 €	7,1%
	FRA	1,2	2,9	2,6	48 838 €	122 192 €	29,2%
	IRL	0,8	NA	1,9	36 450 €	NA	20,6%
	ISL	1,1	1,9	1,9	77 420 €	132 000 €	108,2%
	LTU	1,4	2,4	1,8	31 092 €	52 236 €	113,7%
	LUX	1,4	2,4	2,1	96 084 €	169 916 €	32,7%
	MCO	1,0	2,1	NAP	48 922 €	98 182 €	6,4%
	NLD	1,3	NA	2,1	87 637 €	NA	39,4%
	NOR	1,0	2,1	2,6	60 748 €	121 813 €	-8,3%
	SVN	1,4	2,7	1,1	34 101 €	66 528 €	4,5%
	SWE	1,4	2,3	1,9	56 520 €	97 680 €	5,7%
	UK:NIR			2,5			NA
1,5 to 3,5 times	ALB	3,4	4,6	2,3	23 507 €	31 673 €	213,4%
	AND	2,3	3,6	2,3	63 959 €	99 470 €	-13,4%
	ARM	2,2	2,3	2,8	15 077 €	15 332 €	NA
	AUT	1,7	4,3	2,1	62 782 €	163 801 €	19,5%
	AZE	3,1	8,2	1,7	17 108 €	44 842 €	222,5%
	BEL	1,8	3,3	NA	83 937 €	156 288 €	29,4%
	BGR	2,8	4,9	3,4	30 085 €	53 144 €	109,7%
	BIH	2,8	5,3	1,2	29 266 €	55 611 €	23,6%
	CHE	1,7	2,3	1,7	138 000 €	190 000 €	23,1%
	CZE	2,0	4,2	1,8	39 763 €	83 522 €	67,3%
	ESP	2,3	5,5	NAP	57 855 €	140 534 €	21,8%
	EST	2,6	3,0	1,6	52 350 €	59 828 €	215,0%
	GEO	2,3	5,1	2,0	14 900 €	33 568 €	64,2%
	HRV	1,7	3,5	1,8	27 754 €	57 558 €	15,6%
	HUN	1,5	3,2	NA	24 609 €	52 213 €	39,5%
	ITA	1,7	5,8	1,4	57 500 €	194 005 €	5,5%
	LVA	2,2	2,7	2,0	36 192 €	44 880 €	87,0%
	MDA	1,7	2,7	2,7	10 991 €	17 052 €	285,2%
	MKD	1,9	2,7	2,2	18 014 €	25 461 €	12,0%
	MLT	2,7	NAP	1,6	56 958 €	NAP	153,0%
	MNE	1,7	3,1	1,9	18 310 €	32 650 €	-16,3%
	POL	1,7	4,5	1,5	26 931 €	73 651 €	22,7%
	PRT	2,6	5,7	2,0	48 728 €	106 533 €	69,8%
	ROU	2,9	4,4	2,4	42 541 €	65 993 €	72,3%
	SRB	1,7	3,3	1,7	18 368 €	34 595 €	2,4%
	SVK	2,7	4,0	1,4	42 249 €	62 130 €	50,6%
	UK:SCO			1,8			NA
3,5 to 6 times	UKR			..			NA
NA	GRC	NA	NA	NA	31 710 €	87 247 €	5,1%
	TUR	NA	NA	..	16 079 €	29 370 €	-30,1%
	UK:ENG&WAL			..	NA		NA
Observers	ISR	0,9	2,9	3,1	37 992 €	116 212 €	65,7%
	MAR	NA	NA	2,8	21 869 €	61 848 €	NA
Average		1,9	3,6	1,9	44 585 €	84 725 €	
Median		1,7	3,2	1,9	41 006 €	70 090 €	

Are there salary differences between judges and prosecutors?

Figure 3.49 **Ratio between gross salaries of judges and public prosecutors at the beginning of their careers and at Supreme court level in 2022 (Q4, Q132)**

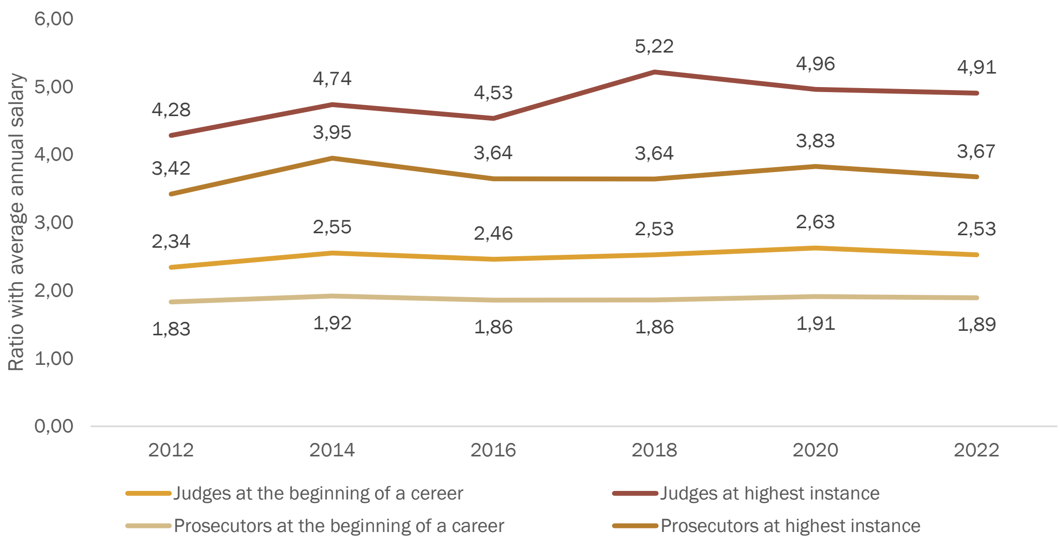
States / entities	Ratio of salarier judges and prosecutors: Beginning of career	Ratio of salarier judges and prosecutors: Highest instance
ALB	1,08	1,02
AND	1,00	1,04
ARM	1,73	3,79
AUT	0,94	1,00
AZE	2,19	1,13
BEL	1,00	0,98
BIH	1,00	1,01
BGR	1,00	1,00
HRV	1,00	1,00
CYP	2,23	NA
CZE	1,11	1,20
DNK	2,85	2,07
EST	1,09	1,25
FIN	1,39	1,49
FRA	0,96	1,00
GEO	2,02	1,42
DEU	1,00	1,11
GRC	1,00	1,10
HUN	1,23	1,34
ISL	1,77	1,35
IRL	3,84	NA
ITA	1,00	1,00
LVA	1,02	1,29
LTU	1,17	1,04
LUX	1,00	1,00
MLT	1,71	NA
MDA	1,13	1,13
MCO	1,00	1,00
MNE	1,07	1,01
NLD	1,02	NA
MKD	1,06	1,06
NOR	1,98	1,56
POL	1,00	1,08
PRT	1,00	1,00
ROU	1,00	1,31
SRB	1,14	1,44
SVK	1,08	1,07
SVN	1,00	1,00
ESP	1,00	1,00
SWE	1,36	1,37
CHE	1,15	1,87
TUR	1,00	1,00
UKR	1,26	2,64
UK:ENG&WAL	NA	NA
UK:NIR	2,96	3,34
UK:SCO	2,82	NA
ISR	3,62	1,73
MAR	1,00	1,00
Average	1,39	1,34
Median	1,08	1,09

The gross salary of judges is almost systematically equal to or higher than that of public prosecutors, both at the beginning of their careers and at Supreme Court level. In 46% (21) of the member States and entities and in one observer State (**Morocco**), the salaries of judges and prosecutors are almost identical, both at the beginning of their careers and at Supreme Court level.

The differences observed in some countries between the salaries of judges and public prosecutors can be attributed, at least in part, to the fact that judges are recruited from among experienced lawyers and jurists, i.e., older professionals whose starting salaries are higher.

How have the salaries of judges and public prosecutors evolved?

Figure 3.50 **Variation in average ratios of gross salaries of judges and public prosecutors compared to gross annual salaries, 2012 - 2022 (Q4, Q132)**



Since 2012, the average ratio of judges' salaries compared to average gross salaries has risen slightly, both at the beginning (+8%) and at the end of their career (+14.5%). Regarding the prosecutors, this ratio has also risen slightly, by 3% at the start of their careers and by 7% at the end, although by less than for judges.

The gap in judges' salaries between the beginning of their career and the highest court is therefore more or less the same in 2012 and 2022: the average salary of Supreme Court judges is around 1,9 times higher (Figure 3.47) than that of judges at the beginning of the career. Similarly, the average salary of prosecutors at the highest level is 1,9 times higher than that of prosecutors at the beginning of their career, in 2022 as in 2012.

However, it is important to stress that these averages conceal divergent trends and must also be analysed in the light of trends in national gross average salaries in Europe. In a number of member States, for example, the ratio of judges' and/or prosecutors' salaries to average salaries has fallen. Often, this is not due to a decrease in the gross salaries of judges or prosecutors, but to a more significant increase in average salaries relative to the latter. Variations in average salaries must therefore be monitored closely to ensure that judges' and prosecutors' salaries are maintained in relative terms.

LAWYERS

Respecting the lawyer's mission is essential to the rule of law. Quality of justice depends on the possibility for a litigant to be represented and for a defendant to prepare his or her defence, both functions performed by a professional who is trained, competent, available, offering ethical guarantees and working at a reasonable cost.

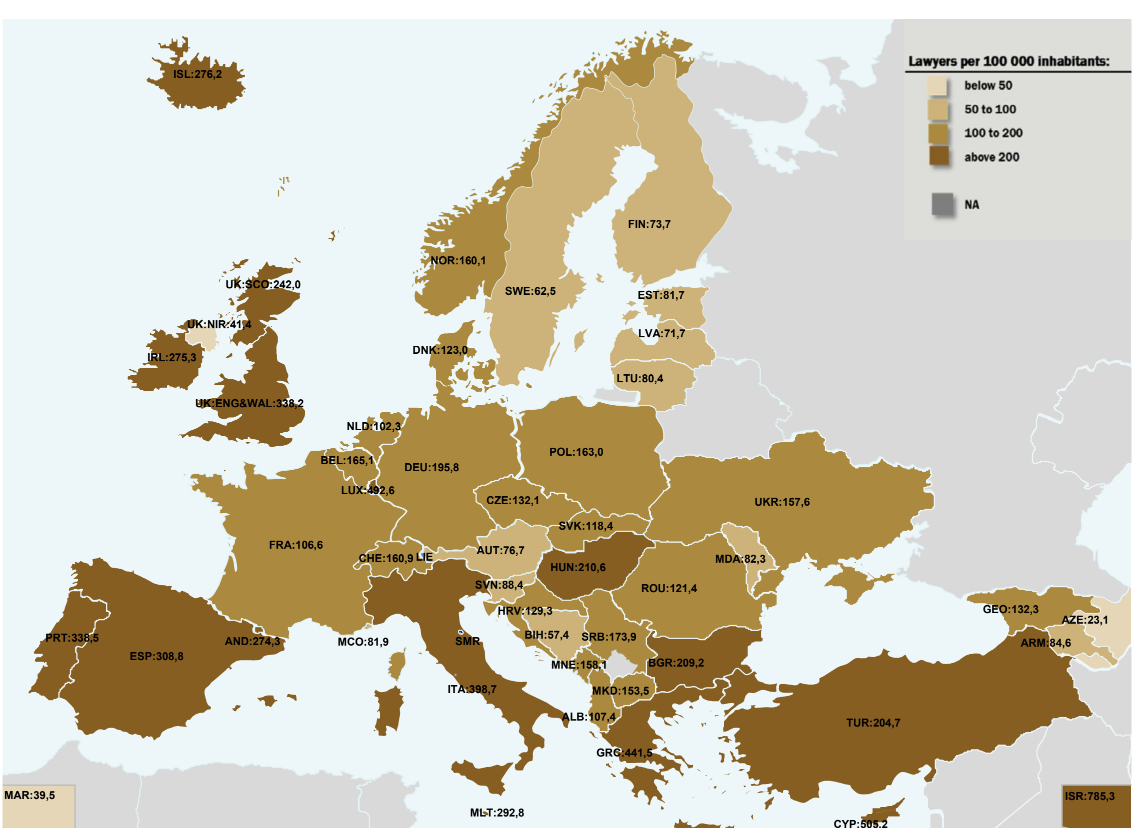
Who are the lawyers?

For the purposes of this Chapter, the term lawyer refers to the definition of the Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe on the Freedom of Exercise of the Profession of Lawyer: *"a person qualified and authorised according to national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters".* Accordingly, a lawyer may be entrusted with legal representation of a client before a court, as well as with the responsibility to provide legal assistance.

Is the number of lawyers per capita uniform across Europe?

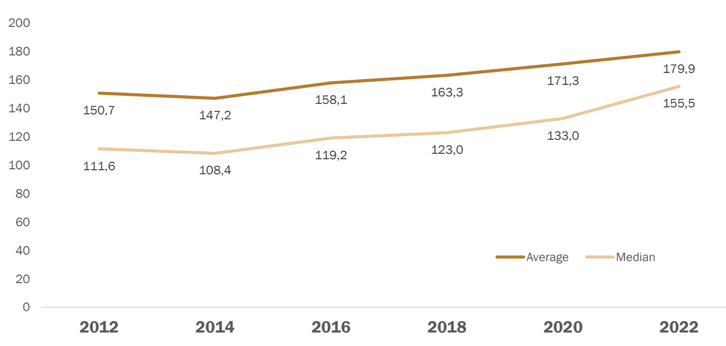
In 2022, the average number of lawyers per 100 000 inhabitants is 180, with a median of 156. However, it varies greatly from one country to another, from a minimum of 23 in **Azerbaijan** to a maximum of 505 in **Cyprus** and 807 in one observer State (**Israel**). 28% of member States and entities have fewer than 100 lawyers per 100,000 inhabitants, 39% between 100 and 200 and 33% more than 200.

Map 3.51 **Number of lawyers per 100 000 inhabitants in 2022 (Q1, Q146)**



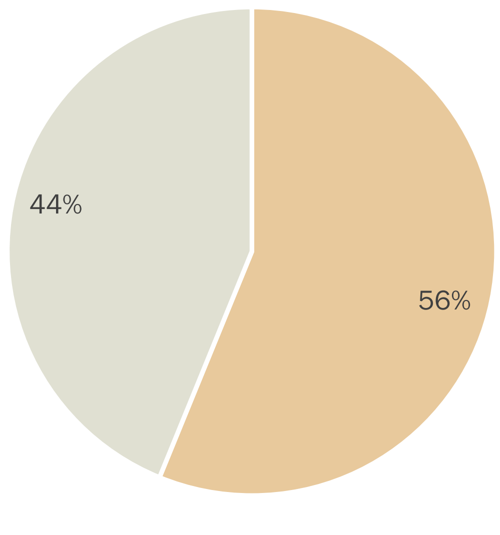
How has the number of lawyers evolved?

Figure 3.52 **Average and median number of lawyers per 100 000 inhabitants, 2012 - 2022 (Q1, Q146)**



Between 2012 and 2022, the number of lawyers per 100 000 inhabitants rose by an average of 30% in the member States and entities. Only in **Albania**, **Iceland**, **Malta** and **Ukraine** were there significant decreases of more than 10%. With a few exceptions, the increase is therefore general, exceeding 50% in **Armenia**, **Bosnia and Herzegovina**, **Cyprus**, **Georgia**, **Hungary**, the **Republic of Moldova** and **Serbia**, and 100% in **Azerbaijan**, **Finland** and **Türkiye**. In the vast majority of countries, the increase has been gradual and constant since 2012, except in **Hungary** and **UK-England and Wales**, where it occurred during the last cycle, between 2020 and 2022 (+32% and +82% respectively).

Figure 3.53 **Average distribution of lawyers by gender in 2022 (Q146)**



The average proportion of women lawyers is 44% in 2022, compared with 43% in 2018. However, the situation varies widely, from a low of 18% in **Azerbaijan** to a high of 58% in **Cyprus**, **Greece** and **Romania**.

While the average proportion of women among judges and public prosecutors is over 50%, this is not the case among lawyers. However, there has been an increase in the proportion of women in the profession in several countries since 2018. By 2022, 12 member States have a majority of women lawyers: **Andorra**, **Bulgaria**, **Cyprus**, **Estonia**, **France**, **Greece**, **Hungary**, **Ireland**, **Malta**, **Poland**, **Portugal** and **Romania**. There were 7 in 2018 and 10 in 2020. Three other countries are close to the 50% threshold in 2022: **Georgia**, **Latvia** and **Luxembourg**, with 49% women lawyers.

Trends and conclusions

The number of professional judges per inhabitant varies significantly between member States and entities, in particular due to the diversity of European judicial organisations and legal systems. In 2022, there are on average 22 judges per 100 000 inhabitants in Europe, a slight increase in comparison with 2012. However, there are major disparities between the member States and entities, in particular due to the specific national characteristics of judicial organisations, the number of non-judge staff and the judicial reforms carried out. The number of public prosecutors per inhabitant also varies greatly from one country to another. On average, it has increased slightly since 2012, to stand at around 12 prosecutors per 100 000 inhabitants in 2022. In Europe, a prosecutor can rely on a team of one to two staff on average.

The increase in the proportion of women among professional judges and public prosecutors, which has been almost continuous since 2012, has continued in 2022. On average in Europe, women constitute the majority among judges at first and second instance and among prosecutors at first instance, although there are still major disparities between European countries. Women are generally less represented among prosecutors. On the other hand, the glass ceiling, i.e., the under-representation of women in the highest positions, is still present, although it seems to have begun to crack. In 2022, the proportion of women at the Supreme Courts level and among the court presidents increased again.

Part-time work is possible for judges and public prosecutors in a majority of member States and entities. However, the proportion of part-time work decreases from instance to instance and tends towards zero at the Supreme Court level, for both judges and prosecutors.

Institutions or bodies issuing opinions on ethical questions relating to the conduct of judges and public prosecutors are widely established in Europe but fulfil very different missions. These opinions are most often accessible to the public, usually on the Internet.

Initial training for judges and public prosecutors is compulsory in the vast majority of member States and entities, whereas continuing training is usually optional, although it is generally offered on a regular basis. In 2022, there are on average 2 training courses per professional judge and per public prosecutor.

In all member States and entities, both judges and public prosecutors receive at least the average salary in their country at the beginning of their career. In almost all countries, their gross salary at the Supreme Court level is at most three times that at the beginning of their career. However, the gross salary of judges is almost systematically higher than or equal to that of prosecutors, both at the beginning and at the end of their careers. The ratios of the gross salaries of both judges and prosecutors to the average gross salary have risen slightly on average in Europe between 2012 and 2022. However, these averages conceal considerable disparities. In a number of member States, these ratios decreased.

The number of lawyers per inhabitant varies greatly from one country to another. On average, it has increased by 30% in all member States and entities. Unlike judges and prosecutors, the majority of European lawyers are still men, although the proportion of women has increased in a number of countries since 2018.

Access to Justice

Quality justice must be accessible to its users. Accordingly, for the first time in its evaluation cycles, the CEPEJ has considered access to justice as a separate sphere of analysis. This chapter therefore examines four key pillars in terms of accessibility:

- **Access to information** – Information about rights, responsibilities and the functioning of justice are fundamental to individuals knowing for "what" and "how" they can access justice.
- **Financial accessibility** – Crucial to individuals being able to pursue legal action is the ability to pay the associated costs, or the availability of free of charge state-based assistance and advice.
- **Physical access** – Physical, including remote access to court, and other dispute resolution mechanisms are essential for individuals' legal issues to be considered.
- **Access to a fair hearing** – Litigants must be provided with the opportunity to be heard fairly and appropriate favourable arrangements must be applied.

Who should be able to access justice?

Article 6 of the European Convention on Human Rights (ECHR) guarantees access to justice for everyone. Additionally, Article 13 of the ECHR requires the availability of effective remedies for those whose Convention rights have been violated. In addition, pursuant to Article 6 of the ECHR, member States must also ensure "equality of arms", namely each party should be given "a reasonable opportunity to present his/her case under conditions that do not place him/her at a substantial disadvantage vis-à-vis his/her opponent[1]" . Providing access to information, courts or alternative dispute resolution mechanisms, and their attendant processes are crucial for the effective implementation of these guarantees and more fundamentally, to maintaining and promoting trust, confidence and respect in justice and the rule of law.

To understand and adapt to the specific needs and particular situation of each litigant, promoting access to justice requires a user-centric approach. This entails:

- States and entities proactively reaching out to citizens to understand their needs and to ensure they understand their rights, responsibilities and how to navigate the legal/judicial process.
- Justice being affordable, including the provision of state-funded assistance for those who would otherwise be denied a fair hearing.[2]
- Individuals being able to access courts physically or remotely/digitally.
- Courts ensuring equitable access to their processes and judicial decisions including specific expertise and procedures and adapted support, particularly to assist society's most vulnerable.

Are courts aware of citizens' needs?

Courts can only be responsive to citizens' needs if they understand them. The conduct of periodic satisfaction surveys with different categories of justice users has proven a valuable tool to gather this information and measure the efficiency of justice accessibility-related policies and strategies[3].

Acknowledging the importance of court users' perception and experiences, in 2022, 34 member States and entities and one observer State have conduct at either national or court level, annual, regular or ad hoc surveys. Some states are also in the process of evaluating, piloting, expanding or developing surveys (**Albania**, **Bulgaria**, **Latvia**, **Republic of Moldova** and **Israel**). Other states and entities are exploring particular dimensions of justice including the experience of victims reporting hate crimes (**Spain**); the treatment of victims of sexual and violent crime during criminal proceedings (**Israel**); perceptions of prosecutorial services (**Latvia**, **Bosnia and Herzegovina**, **UK-Northern Ireland**); how criminal, civil, social, economic, prison and reintegrative justice can be simplified (**France**); and courtesy, respect, competence, comprehensibility, fairness and trust (**Sweden**).

1. Kress v. France, [GC], n° 39594/98, § 72, 7 June 2001
2. Article 6(3)(c) of the European Convention on Human Rights. See Airey v. Ireland, n° 6289/73, §§ 24-28, 9 0ctober 1979, for the standard applied by the European Court of Human Rights in civil cases; and Stanford v. the United Kingdom, n° 16757/90, §§26-28, 23 February 1994, for the standard applied in criminal cases
3. The CEPEJ has adopted a model survey for court users and lawyers and an accompanying methodological guide: CEPEJ Handbook for conducting satisfaction surveys aimed at court users in Council of Europe member States – CEPEJ (2016)15, available at: rm.coe.int/168074816f

ACCESS TO INFORMATION

Access by individuals to information about their rights, responsibilities and the legal process are fundamental to knowing and understanding "what" and "how" they can access justice. Information must be accurate, comprehensive and up to date and it must also be provided through channels and via means that are readily accessible to all people. Accessibility also means comprehensibility, implying that the legal jargon should be used with caution and the need to take into consideration the range of abilities and capacities among the audience the information is intended for.

What information do justice users need and how is it made available?

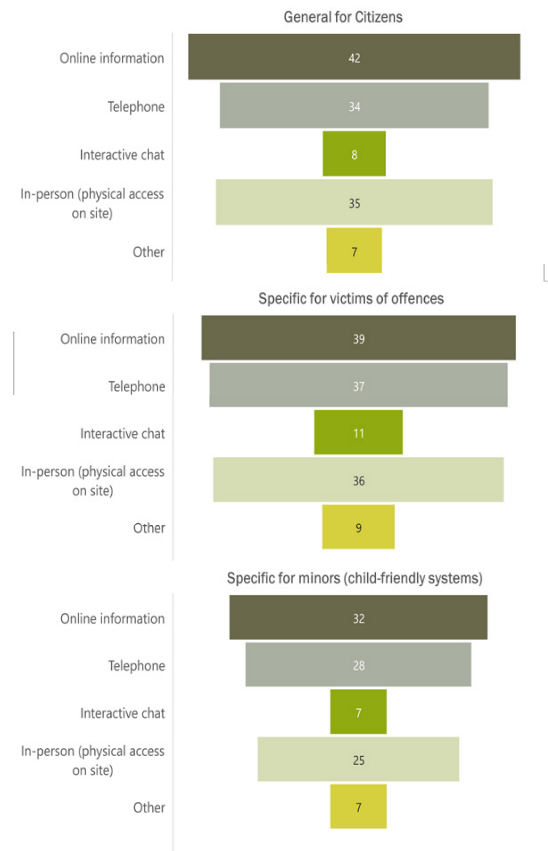
Comprehensive and current information about legal rights and responsibilities along with how to navigate the legal and judicial process must be made widely available and easy to understand. All 44 responding states and entities provide, through their court websites, free online access to legal texts, higher court jurisprudence, information about the judicial system along with a range of other documents such as procedural guides and forms. In **Lithuania** for example, courts publish details about their functioning, judges' work and how to submit an application. There are also document templates, information about fees and contacts along with details about how to access legal aid and mediation, advice for victims and witnesses and information about court volunteers, psychologists and other support services. Several states and entities also provide specialist websites including Poland's "Stop Child Abduction" website that provides comprehensive information about cross-border parental abduction, international maintenance obligations and cross-border custody cases in Polish, English and German. In **Slovenia**, available from court and online, are brochures designed for children. Explaining the court proceedings in child-friendly language, they include drawings and games.

While there exists a web-based resources across Europe, states and entities are also providing information through other ways, namely in person, by telephone, or interactive chat. As shown in the table below, many states and entities are using a variety and combination of methods to maximise their outreach to citizens with information.

In addition to general information, a growing number of states and entities are providing specific information for certain categories of vulnerable individuals.

Among the growing examples of multi-channel approaches taken by states and entities, **Georgia** operates hotlines where people can access information about their pending case or their rights; or seek guidance in matters concerning children. In **Montenegro** and **Poland** there is also a 24-hour hotline specifically available for and about children. **Israel** operates a computerised telephone system providing information and guidance to victims of offences and **Latvia**'s "Helpdesk for Victims of Crime" offers emotional and psychological support along with information about procedural rights and the contact details of other relevant organisations and information. **Israel** facilitates access to information with its *"Praklitut Mekuvenet"*, or "Justice Online" mobile application that provides real-time information about an individual's case.

Figure 4.1 **Public and free-of-charge information system for providing information and facilitating access to justice (Q30)**



FINANCIAL ACCESSIBILITY

Crucial to individuals being able to pursue legal action is the ability to pay associated costs, or the availability of legal assistance and advice. This section of the Chapter discusses the European philosophies behind and investment in legal aid. It also analyses the range of costs involved in pursuing or defending legal action to consider whether there may be a "gap" between the scope of legal aid, payable costs and what people can reasonably afford to pay.

Is accessibility connected to affordability?

Crucial to enabling citizens' right to a fair trial as enshrined in Article 6 of the ECHR is affordability of the process. Affordability is an integral component of accessibility as, if the costs of justice are beyond the means of those who use it, justice becomes inaccessible.

The analyses of affordability are focused on:

- The availability and scope of State-provided legal aid.
- The obligation to be represented by a lawyer before courts and the costs inherent to this representation.
- The obligation to pay court fees/taxes and their amount.
- The person who pays the other costs.

What is the philosophy behind legal aid in Europe?

Legal aid is the provision of state-funded legal assistance to specific categories of applicants. In compliance with the European Court of Human Rights[4] case law, legal aid is available in all 46 member States and entities and the two observer States for criminal and other types of cases. Most member States and entities (38) and **Israel** may however refuse an application for legal aid for lack of merit (such as the action being unwarranted or when there is no chance of success).

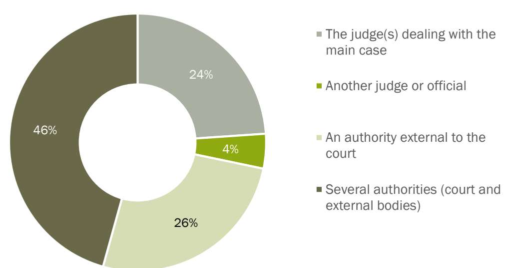
Beyond cases deemed of sufficient merit to pursue, the prevailing philosophy among most states and entities is to evaluate applicants' income and assets, therefore providing legal aid to the most indigent of applicants. However, not all states assess income and assets. In **Armenia**, **Azerbaijan**, **Cyprus**, **Malta** (in criminal proceedings only) and **Romania** there is no such income and assets evaluation. In **Malta** for example, the provision of legal aid to defendants and victims in criminal cases is guaranteed by law. In **Cyprus**, generally, the court examines the economic and social situation of the applicant based on the report prepared by the social welfare office and decides whether legal aid should be granted, but there is not a specific amount above which legal aid is refused. **Armenia** applies also a case-by-case approach, having a long list defined by law for automatic granting of legal aid, including accused persons and victims in criminal proceedings.

Some states and entities automatically grant legal aid to specific categories of individuals such as victims of domestic or sexual violence (**Ireland**, **Malta**, **North Macedonia**, **UK-Scotland** and **Israel**), immigrants (the **Netherlands**), or asylum seekers (**Serbia**).

In all 46 responding member States and entities and the two observer States an accused in criminal proceedings will, if necessary, be freely assisted by a lawyer. The same principle applies to victims, except in **Cyprus, UK-England and Wales, UK-Northern Ireland.**

4. Article 6 § 3(c) of the European Convention on Human Rights guarantees the right to free legal aid in criminal proceedings subject to certain conditions. Article 6 §1 makes no such reference to legal aid. However, in Airey v Ireland in 1979 (§26) the European Court of Human Rights found that Article 6 §1 may in certain circumstances compel the State to provide for the assistance of a lawyer when such assistance proves indispensable for an effective access to court. The right is not however absolute. It is permissible for states to impose conditions on the grant of legal aid, based in particular on the financial situation of the litigant and his/her prospects of success in the proceedings.

Figure 4.2 **Body/authority taking the decision to grant or refuse legal aid in 2022 (Q25)**



The decision to grant legal aid is taken by the judge dealing with the main case in 11 member States and entities, by another judge or official in only 2 member States and by external entities in 12 member States and entities and **Israel**. In 21 member States and entities and **Morocco** however, the decision can be made by several authorities – court and external bodies. It can be the judge dealing with the case in conjunction with the Ministry of Justice or an entity under its purview, including bodies assigned to determine legal aid applications and bar associations. In **Italy,** for example, the decision to grant or refuse legal aid in other than criminal cases is typically taken by the *"Consiglio dell'Ordine degli Avvocati"* (Bar Association Council). If an applicant disagrees with its decision, it can be reviewed by a judge. In criminal cases, the application is submitted to the office of the judge handling the case. Within 10 days, the judge will either declare the application inadmissible, accept it, or reject it. If accepted, the applicant can choose a lawyer from a list. If the request for legal aid is rejected, the applicant can file an appeal.

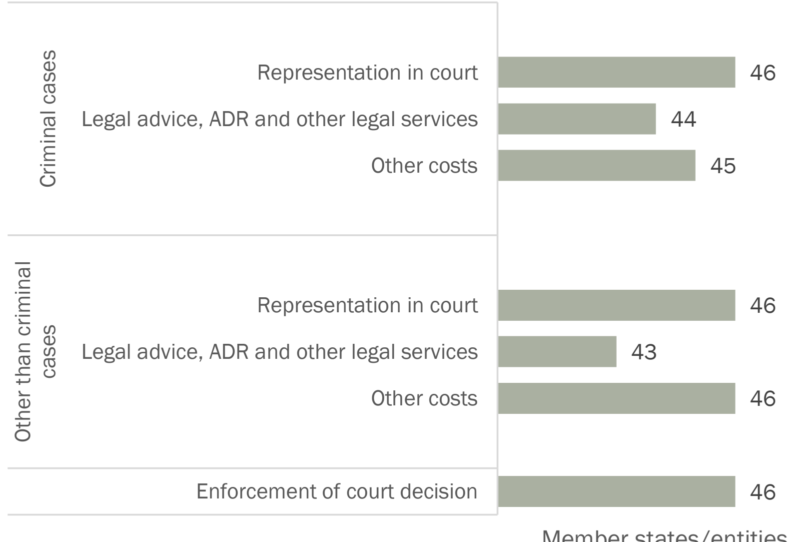
How much do states invest in legal aid?

Each year states and entities allocate a portion of the justice system budget to legal aid. Among the 41 responding states and entities, the implemented legal aid budget has increased in 31 states and entities and decreased in 10 since 2020. Generally, states and entities are contributing more to legal aid as a percentage of GDP *(please see chapter 2)*.

With regard to the legal aid budget allocated per case, data are available from only 41% of states and entities and therefore do not represent an accurate picture of the situation in Europe. As for the previous evaluation cycles, it is possible to distinguish between states and entities granting a higher amount of legal aid to fewer cases, and those granting a lower amount of legal aid to more cases. Since 2018, the average number of cases receiving legal aid per 100 inhabitants has decreased by 6%. The median however, shows a slight increase of 1%.

What does legal aid cover and how long does it take to receive it?

Figure 4.3 **Scope of legal aid (Q16, Q18 and Q19)**



In addition to advice, representation in court and other legal services, the "other costs" covered by states and entities variously provide for travel expenses to attend proceedings; technical experts' fees; interpreters/translators; along with other legal professionals such as notaries (to prepare and file documents). In **Denmark** the court decides which expenses are to be covered by legal aid. Under special circumstances fees for technical advisors or experts are covered in criminal cases and in **France**, when full (as opposed to partial) legal aid is granted, it covers all associated legal costs, including notaries, enforcement agents, mediators and experts' fees. In **Italy**, it is possible for legal aid to even cover costs related to private detectives.

The European Court of Human Rights has for many years required that it is essential for the court to handle a request for legal aid "with diligence"[5]. In terms then of the time taken for a decision to be made about whether to grant or refuse legal aid, among the 21 member States and entities reporting on time limits prescribed in law, the average is 16 days. In practice, all member States and entities render their decision in less time than is required, but for **Iceland** and **Portugal**. A new multi-agency system is being developed in **Portugal** to simplify attendant processes and expedite the response rates.

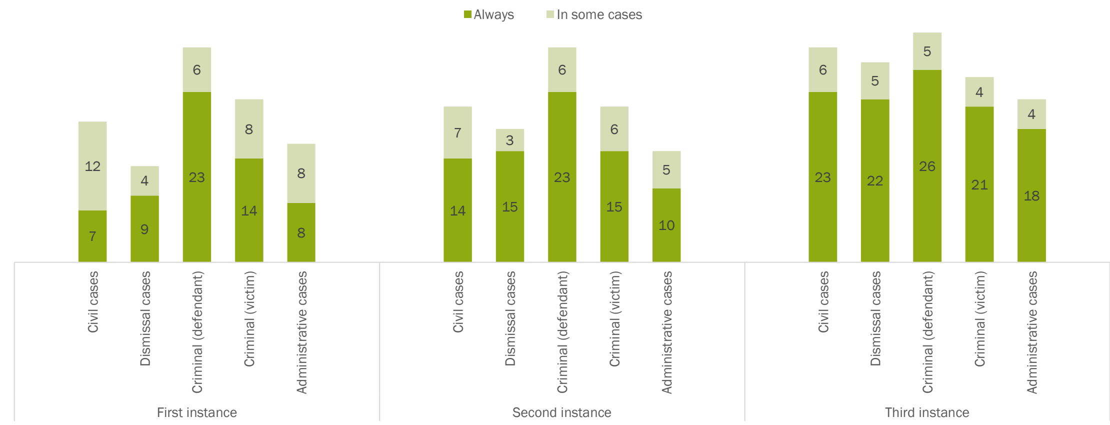
Among the states and entities where timely decisions are rendered, this is not of itself an indicator of accessibility. The total time taken for a case to be processed – from the time an application for legal aid is made, until the final judicial decision – is taken into consideration by the European Court of Human Rights to adjudicate whether a case has been heard within a "reasonable time". Case disposition times are discussed in chapter 5 of this report (Efficiency).

Do requirements for legal representation support or impede access?

The intricacies and requirements of legal and judicial process are largely unfamiliar to all but the legally qualified. Thus, lawyers are often crucial to individual's being able to navigate the process and to be heard. States and entities have translated this need into a set of requirements for a lawyer to represent parties in various instances and case types. Whilst intended to protect and support individuals, if legal fees are unaffordable, justice will remain inaccessible to them.

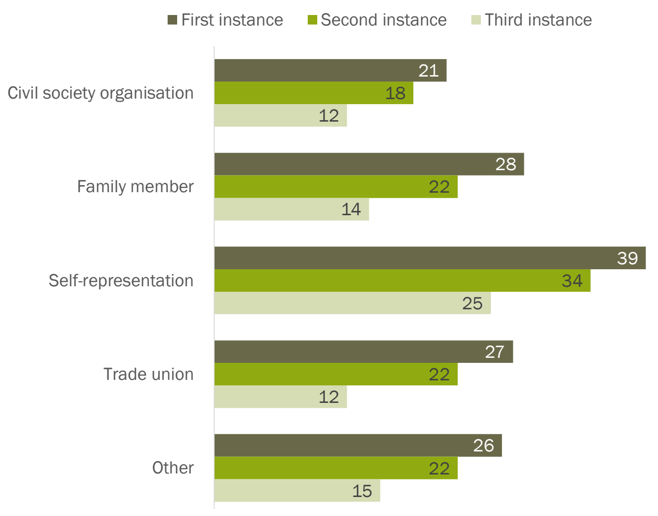
The requirement for mandatory representation by lawyers concerns above all the highest court/s in each state and entity. The reason is the significance and legal complexity of the types of cases that reach this level of jurisdiction. Besides, given the often-serious consequences of criminal proceedings on individuals' fundamental rights, it is required in many states and entities that litigants are represented by a lawyer from first to highest instance courts. Legal representation requirements have remained largely similar since the 2022 evaluation cycle (based on 2020 data).

Figure 4.4 **Summary of the monopoly of legal representation in 2022 (Q149)**



5. Tabor v. Poland, n° 12825/02, §§ 45-46, 27 September 2006; Saoud v. France, n° 9375/02, §§ 133-136, 9 January 2008.

Figure 4.5 **Possible other representations (other than lawyers) of a client before courts in 2022 (Q149-0)**



For individuals involved in certain types of cases at specific instances of justice, the requirement for legal representation may become a barrier to accessing justice. The barrier would arise for those who can neither afford the cost of legal fees, nor secure legal aid, free or subsidised assistance.

While it is possible for parties to proceedings to represent themselves at first instance in 39 member States and entities, and the 2 observers States, further analysis is required to understand the types of cases and instances where self-representation is permitted. Further analysis is also required to understand the extent to which self-represented litigants have effective access to a fair hearing. This requires a review of applicable special provisions that include, for example - ensuring that the process is explained to and understood by the litigant, that there is adequate support to avoid unwitting self-incrimination or procedural errors, that they understand what evidence is admissible and how to conduct themselves, including appropriate questioning of witnesses.

What court fees must be paid?

It is established in the case-law of the European Court of Human Rights that to facilitate the right to a fair trial[6], access to a court must be "practical and effective"[7]. The obligation on litigants to pay fees to the civil courts in respect of claims brought before them cannot generally be regarded as a restriction of the right of access to a court[8]. However, the Court has held that access to justice may be impaired by excessive court fees[9]. Accordingly, courts must strike a fair balance between ensuring accessibility while also protecting justice from abuse by vexatious, frivolous and unsubstantiated litigations. As such, the amount of the fees, assessed in the light of the circumstances of each case, is considered when determining whether an individual has been able to access a court. In states and entities calculating court fees as a portion of the financial value of the dispute, to comply with Article 6, the system must be sufficiently flexible to allow for the possibility of total or partial exemption from payment of court fees[10].

Except for **France**, **Luxembourg** and **Spain** who do not require the payment of court fees in either civil or criminal cases, court fees payments are otherwise a common feature of European justice systems. Accordingly, almost all member States and entities, as well as the two observer States, require court fees to be paid to institute proceedings that are not criminal in nature. Nine member States and entities require also court fees to be paid when the victim of an offence lodges a private complaint, bypassing the fact that the case has been discontinued by the public prosecutor or that the latter has failed to respond (**Croatia**, **Cyprus**, **Greece**, **Monaco**, **Montenegro**, **Poland**, **Portugal**, **Serbia** and **Switzerland**). In four of the 42 member States and entities requiring paying court fees to consider non-criminal cases, the fee is payable later in the process (**Andorra**, **Belgium**, **Bosnia and Herzegovina** and **Finland**). While of assistance to less affluent parties, the imposition of substantial court fees at the end of proceedings, has also been found by the European Court of Human Rights to constitute a restriction on the right to a court[11].

6. *Verein Klimaseniorinnen Schweiz and others v. Switzerland*, [GC], n° 53600/20, § 626, 9 April 2024; *Prince Hans-Adam II of Liechtenstein v. Germany*, [GC], n° 42527/98, §45, 12 July 2001.
7. *Zubac v. Croatia*, [GC], n° 40160/12, §§76-79, 5 April 2018.
8. *Benghezal v. France*, n° 48045/15, §§43-45, 24 June 2022.
9. *Kreuz v. Poland*, n° 28249/95, §§ 60-67, 19 June 2001, and conversely *Reuther v. Germany*, n° 74789/01, decision on the admissibility of the application, 5 June 2003.
10. *Nalbant and Others v. Türkiye*, n° 59914/16, §§39 and 40, 5 September 2022.
11. *Stankov v. Bulgaria*, n° 68490/01, §53, 12 July 2007.

Can judges promote access by deciding who pays costs?

Judges in nearly all member States and entities (41 in criminal cases and 46 in other than criminal cases), can order which party is to pay costs (such as legal fees and/or court costs), or how costs are to be distributed between the parties. This is important as the cumulative cost of legal, court and other fees can become a significant, if not insurmountable, burden. In this respect, the European Court of Human Rights has admitted that court fees borne by the losing party may have a deterrent effect on others considering legal action[12].

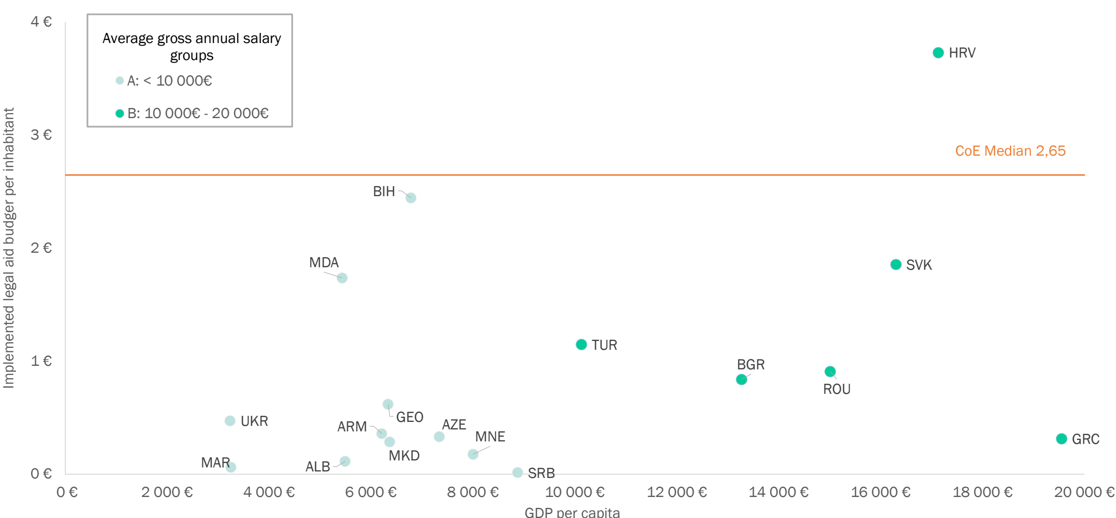
In states and entities where the general rule is that the losing party bears the cost of the proceedings, the judge is often granted discretion. In **Iceland** and **Ireland** for example, the unsuccessful party to civil proceedings will be liable to pay the costs of the successful party, save where the court for special and express reasons determines otherwise. In **Croatia**, the court can release a convicted person from the obligation to compensate in whole or in part certain costs of the proceedings and the appointed defender, where the payment would jeopardise their ability to maintain themselves or their dependants.

Conversely, in **Armenia**, if the accused is solvent, the court can recover the costs of legal assistance that had been provided. In **Romania**, the court may order a party who has received legal aid to reimburse it if the recipient is found to be pursuing unsubstantiated litigation.

Is there a connection between costs, legal aid and financial accessibility?

While many people receive legal aid, most people are ineligible to receive state support and must therefore pay the cost of legal advice; court fees and/or taxes; other professionals including notaries and experts; and logistical expenses including transport to and from court. Financial accessibility may become precarious in states and entities that allocate the least funding to legal aid where inhabitants earn the lowest incomes. As shown in the Figure below, there are 15 states and entities that sit below the European median investment in legal aid. These are countries with the lowest GDP per inhabitant. However, even in states where the GDP is higher, it is not certain that individuals have sufficient income to meet the costs of legal action. In this situation, justice could become inaccessible for anybody who can neither secure legal aid nor afford legal fees and other costs.

Figure 4.6 **Average annual gross salary and implemented legal aid budget, per inhabitant, in 2022 (GDP per capita below 20 000€)**



12. *Benghezal v. France*, op. cit., §44.

All states and entities should remain vigilant to this, identifying and addressing any "gap" between needs, legal aid and affordability. Where it is not possible to make legal aid available to more people in more cases, opportunities exist to waive fees in more cases; ensure legal fees are affordable; promote requirements for lawyers to provide *pro bono* legal advice and assistance; or adopt and expand **Croatia**'s approach where the court may release convicted persons from the obligation to pay compensation where payment would jeopardise their ability to maintain themselves or their dependants. Constant vigilance and efforts will promote each state and entity's capacity to ensure that all citizens have access to justice and a fair trial as envisaged by the ECHR.

PHYSICAL ACCESS TO COURTS

Physical access to a court and other dispute resolution mechanisms, including remote access, is also an essential step towards individuals' pursuing or defending legal action. This section of the Chapter explores changes in the number of legal entities acting as courts and their geographic locations, including general and specialised courts of first and higher instances. Considering ongoing reductions in the number of courts in Europe, the existence of alternative mechanisms to resolve disputes, as well as digital solutions will also be discussed as a mean to enhance access to justice.

Are courts accessible to everyone?

Figure 4.7 **Evolution of the number of first instance courts of general and specialised jurisdiction (legal entities) per 100 000 inhabitants, 2012 – 2022 (Q1, Q42)**

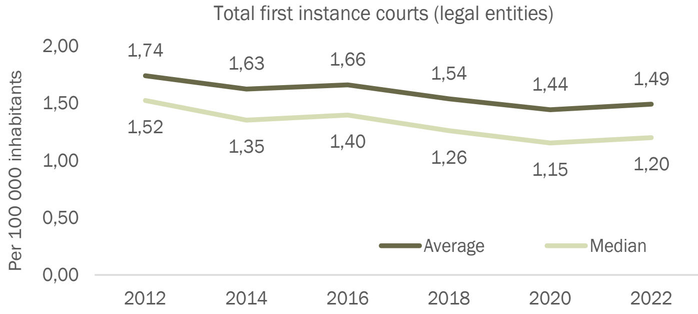
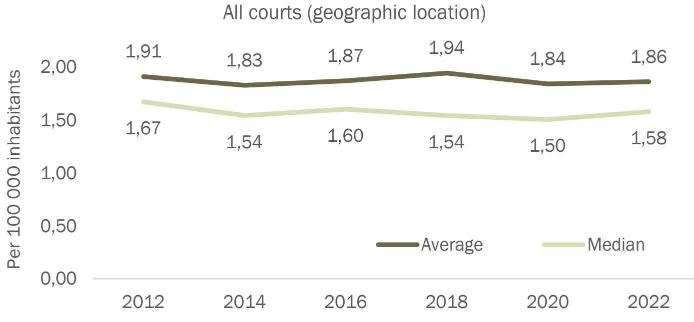


Figure 4.8 **Evolution of the number of courts (geographic locations), all instances combined, per 100 000 inhabitants, 2012 – 2022 (Q1, Q44)**



An essential element of exercising the right to a fair trial as articulated in Article 6 of the European Convention on Human Rights is sufficient and accessibly located legal entities responsible for settling disputes submitted to them. The CEPEJ, distinguishes between the number of legal entities that exist among states and entities (including courts of general and specialised jurisdiction) and the number of geographic locations (places where the various courts are physically situated).

Combining all first instance courts as legal entities – both of general and specialised jurisdiction, the median number of courts per 100 000 inhabitants is 1,20, down from 1,52 in 2012[13]. The median number of geographic locations within all instances of courts are located (per 100 000 inhabitants) is 1,58 down from 1,67 in 2012.

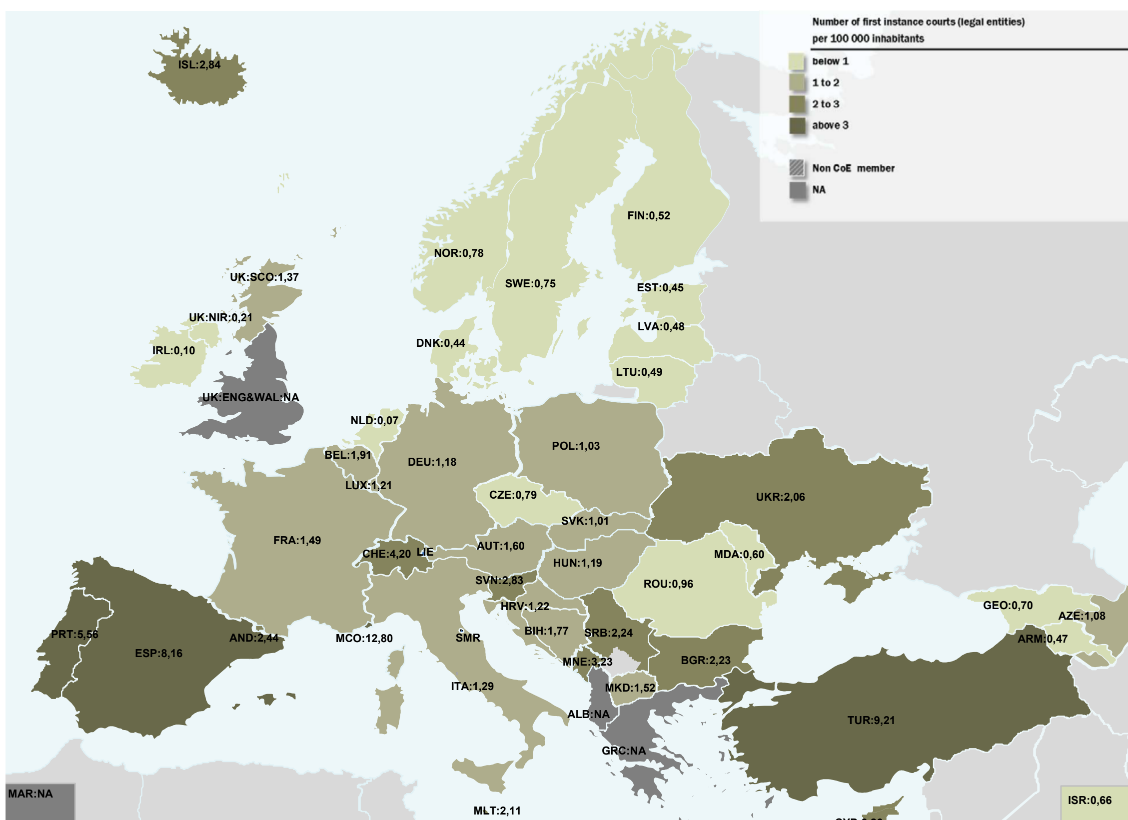
13. Monaco, Spain and Türkiye have been excluded from the calculation of the average and median of the number of courts (legal entities) because of either size of their specific methodology in counting the number of courts.

First instance courts

Since 2012, the median number of first instance courts of general jurisdiction (legal entities) per 100 000 inhabitants has reduced by 10% while the median number of first instance specialised courts (legal entities) per 100 000 inhabitants has slightly increased by 3%. Excluding small states and entities (**Andorra**, **Cyprus**, **Iceland**, **Luxembourg**, **Malta**, **Monaco**, **Montenegro**)[14], the number of first instance courts of general jurisdiction (legal entities) per 100 000 inhabitants is the lowest in **Ireland** and the **Netherlands** (both 0,06) and the highest in **Türkiye** (6,58) and **Spain** (4,87). The last two member States are however extreme outliers with different methods of counting courts compared to other member States and entities[15]. Across Europe however, the median number of first instance courts of general jurisdiction (legal entities) per 100 000 inhabitants is 0,89.

The map below shows the number of first instance courts of general and specialised jurisdictions considered as legal entities per 100 000 inhabitants.

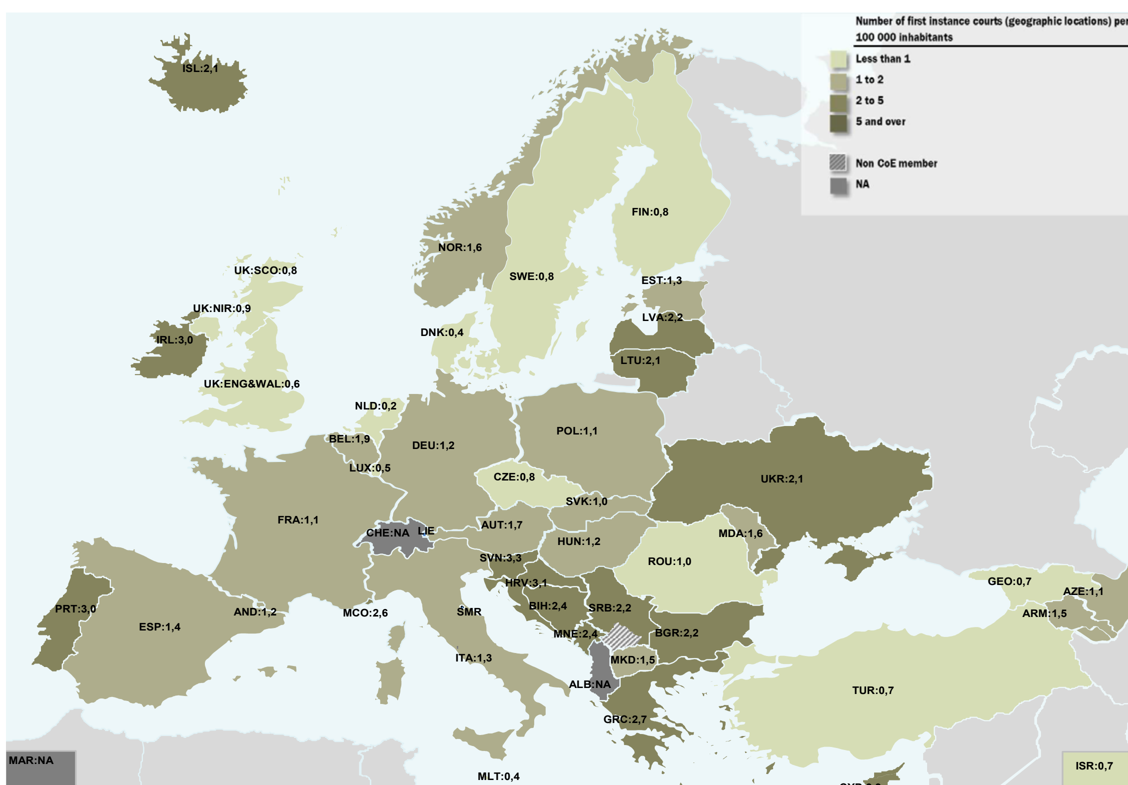
Map 4.9 **Number of first instance courts (legal entities) per 100 000 inhabitants in 2022 (Q1, Q42)**



14. Low court density does not necessarily impact access to justice in these states and entities given the short distances to reach geographically centralised courts.
15. In Spain and Türkiye the higher numbers of legal entities are explained as each judge is considered a separate legal entity "one judge – one court".

In terms of geographic locations of first instance general and specialised courts, again excluding the small states and entities (**Andorra**, **Cyprus**, **Iceland**, **Luxembourg**, **Malta**, **Monaco**, **Montenegro**), they start from less than one per 100 000 inhabitants in 11 member States and entities (the **Czech Republic**, **Denmark**, **Finland**, **Georgia**, the **Netherlands**, **Romania**, **Sweden**, **Türkiye**, all three **United Kingdom** entities and **Israel**), rising to more than 3 in **Croatia**, **Portugal** and **Slovenia**. In 2022, the median number of first instance courts as geographic locations is 1,38 per 100 000 inhabitants.

Map 4.10 **Number of first instance courts (geographic location) per 100 000 inhabitants in 2022 (Q1, Q44)**



Do specialised courts promote accessibility?

In addition to courts of general jurisdiction, there are in almost all states and entities specialised courts along with specialised divisions and chambers within general courts. These specialised courts hear a specific set of cases within a narrowly defined jurisdiction. The aim is to maximise the efficiency and effectiveness of adjudicating related disputes. The benefit of specialised courts, divisions and chambers include:

1. Judges can dedicate themselves to the acquiring and deepening of their knowledge in their field of specialisation
2. Judges and court staff being familiar and abreast of the broader context within which their case types occur
3. The adjustment of procedures to meet the needs of the parties and cases before them
4. The development of an ecosystem around the court including other relevant justice sector entities, ancillary support and referral networks.

Specialised first instance courts variously exist to hear the following case types:

- administrative (30 member States and entities),
- commercial (18),
- labour (17 and one observer State),
- military (11 and one observer State),
- juvenile (8),
- family (7),
- enforcement of criminal sanctions (8),
- insurance and social welfare (7),
- terrorism, organised crime and corruption (5),
- rent and tenancies (5),
- insolvency (4),
- Internet related disputes (2).

In addition, 22 member States and entities and **Israel** have other specialised courts. The total number of specialised first instance courts represents, on average, 29% of all courts of first instance.

If specialised courts operate at first instance in 41 states and entities, only 31 among them have such specialised courts at higher instances. Most of the time, these higher specialised courts deal with administrative matter (24).

Among the 22 member States and entities operating "other" specialised courts, are several domestic violence courts. In **Spain**, the Criminal Courts of Violence Against Women for example, have become an example in demonstrating how quickly and effectively women victims of violence can access justice. In **Sweden**, there are six Land and Environment courts, five acting at first instance and one competent at second instance. They process cases such as permits for water operations and environmentally hazardous operations, issues of health protection, nature conservation, polluted areas, environmentally related damages, and compensation issues, etc. In this same legal field, the environmental chamber of the Mons Court of Appeal in **Belgium** constitutes an inspiring example. Combining civil and criminal judges, the chamber rules on all environmental issues, whether the action involves a breach of civil or criminal law. For its innovative approach, the chamber was distinguished and awarded a special prize of the jury by the CEPEJ Crystal Scales of Justice Prize, 2023.

In addition to the data on specialised courts, many states and entities operate specialised:

- Divisions under general courts – such as the Family Courts in **Malta** and **UK-England and Wales** being a division of their respective civil courts.
- Chambers (or panels) within general courts.

Learning more about these specialised divisions and chambers within courts of general jurisdiction will enable analysis of the extent to which specialised courts, divisions and chambers separately and combined promote access to justice.

Second and highest instance courts

As many disputes are dealt with at the first instance without any appeal, it is logical that fewer second and higher instance courts are required to provide the same levels of accessibility. The median number of second and highest instances courts per 100 000 inhabitants is 0,15 and 0,02 respectively. These figures remain stable from the 2020 evaluation cycle.

Regarding the highest instance courts, most states and entities have one superior court of general jurisdiction. Variations emanate largely from different judicial structures related to the form of state organisation (unitary, federal, regional). For instance, **Bosnia and Herzegovina** has 3 Supreme Courts as well as **Spain,** while **Germany** has 25 Supreme Courts.

Can alternative dispute resolution promote access to justice?

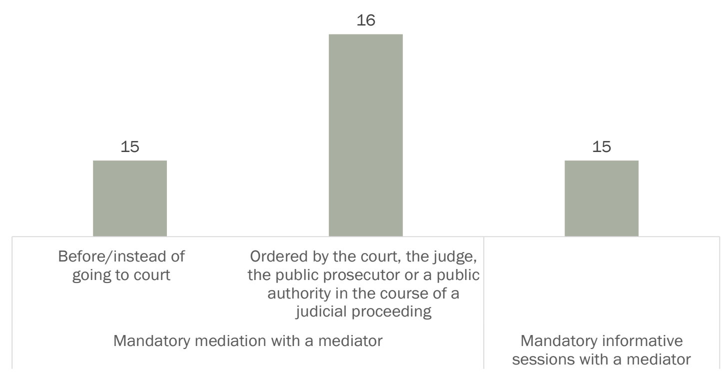
To avoid the time, cost and stress of litigation, litigants could prefer to resolve their disputes through alternative mechanisms. Traditional forms of dispute resolution pre-date the establishment of formal justice systems in many countries. Those aligned with fundamental principles of justice have, in many jurisdictions, become legally entrenched, forming an increasingly important part of the Europe's legal framework. A wide range of alternative dispute resolution mechanisms is available in states and entities, each allowing distinct levels of party-autonomy over the process. The broader the variety of mechanisms available, the more choices individuals have to find the most appropriate mechanism for them and their legal issues.

Court-related mediation exists in all member States and entities and **Israel**. Conciliation, another form of alternative dispute resolution, is a process where generally, the conciliator can intervene more actively than mediators on matters of process and merit. Conciliation is available in 74% of member States and entities. Most closely aligned with the judicial process is arbitration. Arbitration is available in **Israel** and all member States and entities but for **Azerbaijan**.

In 21 member States and entities there exist additional processes to resolve disputes. In **Croatia**, **Lithuania** and **Poland** for example, structured negotiations may take place, particularly when provided for in a pre-existing agreement between the parties. In **Montenegro** and **UK-England and Wales**, Early Neutral Assessment/Evaluation are voluntary processes whereby a judge provides a preliminary evaluation of the facts and legal issues in dispute. Evaluations are not binding, but often assist parties to clarify and streamline the issues in dispute and provide an independent view on the chances of each party to win. This can save both time and costs for all parties.

Can mediation be mandatory?

Figure 4.11 **Types of mandatory mediation in 2022 (Q163-1, Q163-2)**



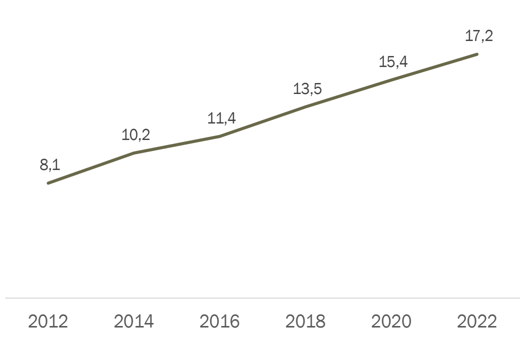
Whilst submission to arbitration is often included in contracts between disputing parties, in mediation and conciliation procedures, voluntary submission to the procedure is important for its chances of success, since it is up to the parties to reach a consensus. This is reflected in only half of the member States and entities making it mandatory for parties to submit to court-related mediation. While there are numerous reasons to make all or part of a mediation process mandatory, mainly it is the desire to expedite proceedings for parties; discharge the courts and promoting a process clearly more suited to the needs of the parties. Within those states and entities, the fields of law within which mediation is mandatory largely focus on family law disputes – such as separation/divorce and child custody, small claims, labour and inheritance disputes. In 15 member States and entities and **Israel**, the only mandatory requirement is for parties to attend an information session with a mediator. Should parties choose not to proceed with mediation thereafter, the case will return to the court proceedings. In the other states and entities with mandatory mediation requirements, as can be seen in the table below, they variously comprise requirements to participate in mediation prior to, or instead of going to court, or by order of the court.

To promote recourse to alternative dispute resolution processes, in most responding states and entities (40) it is possible to secure legal aid to cover the associated costs.

Who are the mediators?

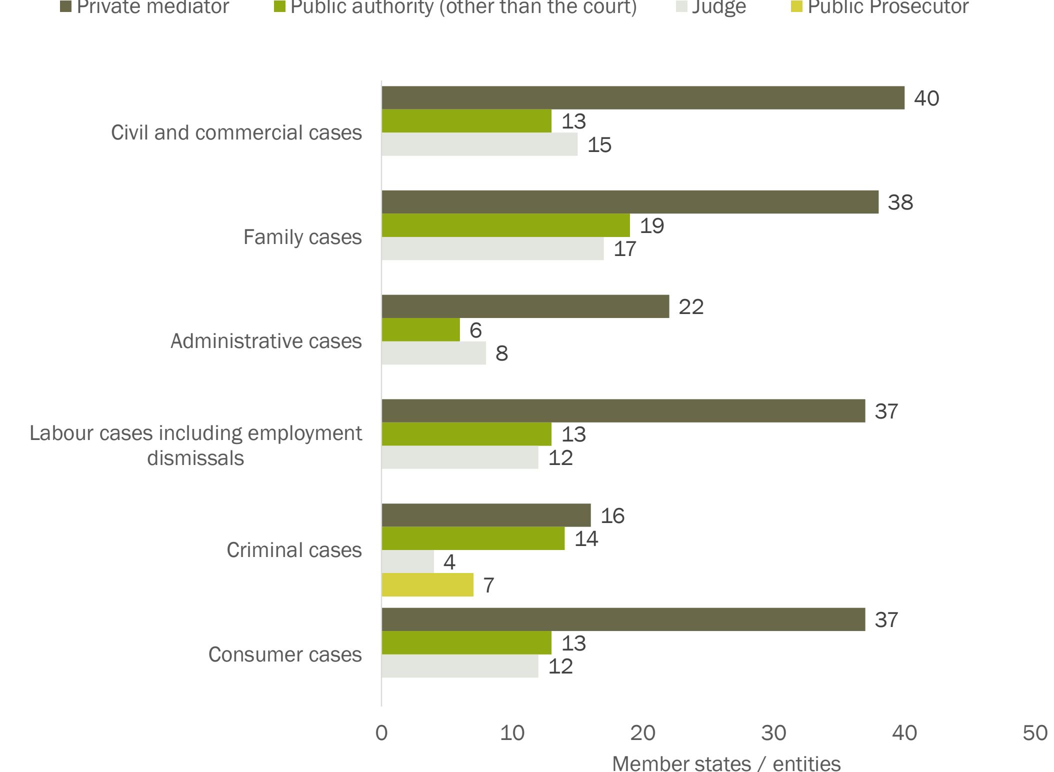
Mediators are drawn from various branches of the legal profession (judges, prosecutors, private lawyers) and beyond (natural persons, public officers). Since 2012, the average number of accredited mediators has more than doubled in Europe.

Figure 4.12 **Average number of accredited mediators per 100 000 inhabitants, 2012-2022 (Q1, Q166)**



Requirements related to mediators vary significantly across states and entities. While in **Iceland**, mediations can only be conducted by judges (but for family matters where a public authority representative may also be a mediator), in **Poland**, judges cannot be mediators. Mediations in one or more field of law may be conducted by judges in 17 member States and entities. In **Finland**, while not mandated by law, judges routinely undertake mediation training. The training assists judges to alter their approach and to move from their role of "decision-maker" to a role of "decision-facilitator". In **Cyprus** (civil cases), **UK-Northern Ireland** and **UK-Scotland**, mediators must be lawyers. In all other states and entities, mediators are drawn from a broader range of professions.

Figure 4.13 **Providers of court-related mediation services by case type in 2022 (Q164)**



Most of the diverse accreditation requirements concern higher education, successful completion of training for mediators and several years of experience in their technical field. **Estonia**, **Finland**, **Germany**, **Iceland**, **Ireland** and the **UK-England and Wales** do not have state accreditation bodies. In these member States and entities, mediators apply to a self-regulating professional body such as the Family Mediation Council or Civil Mediation Council who may accredit their practice. Women constitute the majority within the growing number of mediators, with a median value of 63%.

Is digital justice replacing the courthouse?

While the number of courts continues to decrease across several states and entities, many more have begun deploying digital tools that have, to some extent, the capacity to attenuate the physical barriers to courthouses. These digital tools make it possible to file a case (in over 70%) and submit relevant documents (in over 80%); communicate with the court (in over 70%); and participate in hearings (in over 75%) and other dispute resolution forums remotely (in 17%).

While the technology to conduct remote hearings has been deployed in 95-100% of courts in almost 50% of states and entities, uptake levels in many (13%) remains extremely low (1-25%). Among the 8 states and entities where online dispute resolution mechanisms are available, they remain limited in use for small claims (5), undisputed claims (3), payment orders (5), misdemeanour criminal cases (2) and enforcement of civil cases (4).

There is significant potential for states and entities to continue investing in digitalisation to take advantage of the cost, time, resource savings and geographic flexibility it offers. Given the data on the usage rate of digital tools, key to the success of any digital transformation, is not only developing systems that simultaneously and reliably meet the needs of judges, court staff and court users, but also identifying and addressing the barriers that currently prevent parties using digital functions and services.

ACCESS TO A FAIR HEARING

The final pillar of accessibility considered in this chapter concerns the effective implementation of the right to a fair hearing. For there to be a fair hearing, court proceedings must be accessible to all and reasonable straightforward. Considered through the lens of adapted procedures, specialist expertise and additional protections, this Chapter explores a range of provisions available across Europe to empower and protect some of the society's most vulnerable groups, namely minors involved in the judicial proceedings and victims of domestic and/or sexual violence. An overall review of complaints and state-based compensatory mechanisms to redress harm inflicted by individuals and the state will finally be carried out.

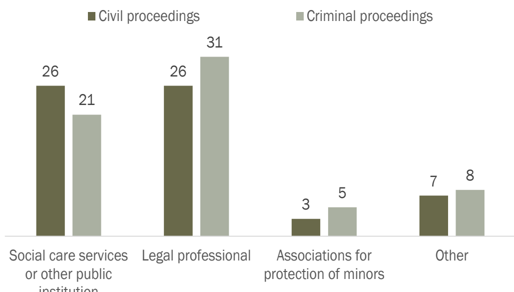
Can everyone access the court proceedings?

Beyond physical accessibility (or remote connectivity) to court, equally important is being provided with the opportunity to be heard during the court proceedings. This includes understanding the anticipated timeframe and/or duration of proceedings – as required in 19 member States and entities or collaborating with parties to plan hearings in order to minimise adjournments (**Estonia**). It also requires being assisted with your case throughout the legal process (usually by being legally represented) and the availability of special provisions to support and protect vulnerable people particularly children; victims of crimes including sexual and domestic violence; ethnic minorities; and people with a disability.

Can minors participate in court proceedings?

Minors can participate in proceedings under specific conditions. A primary criterion for initiating a case in one's own name relates to age, with 18 being the applicable threshold in general. There are however several exceptions to this general rule, with capacity to initiate proceedings in some specific legal fields and/or circumstances at 13 in **Poland** (civil) and **Greece** (criminal) and at 14 in **Austria** and **Lithuania** (civil). In **Czech Republic**, while a person must be 18 years old to have full procedural capacity to initiate a case, an application by a minor is not dismissed, but a decision about whether to hear him/her is taken by assessment of whether it is in the child's best interests.

Figure 4.14 **Possibility for another representative (instead of a parent/legal guardian) to represent a minor in judicial proceedings (Q31-2)**



Where children cannot act in court proceedings in their own name, they may be represented by their parents/guardians, social care services (or other public institution), legal professionals, associations for the protection of children.

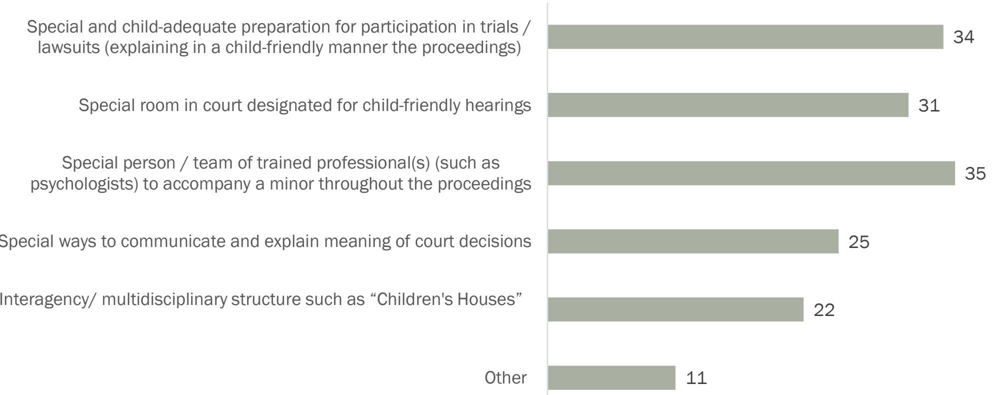
To participate as a witness, states and entities predominantly consider a minor's capacity to discern the subject and seriousness of proceedings and the search for the truth. If capacity for discernment probably increases with age and development, in **Austria**, **Croatia**, **Finland**, **Latvia** (criminal cases) and **Malta**, the fact that a witness is very young does not exclude their ability to testify. In each case, in addition to a capacity to discern, the judge will consider whether the questioning or presence of parties and/or their representatives might jeopardise the minor's wellbeing. If decided in the affirmative, the minor will either not be questioned or will be questioned remotely. To protect minor witnesses in the **Czech Republic** for example, children usually give their evidence once, prior to the hearing. In child custody/contact hearings in **Germany**, the court must always[16] hear the minor in person, irrespective of his or her age, and usually without the presence of legal representatives. In proceedings in **Estonia**, minors under the age of 14 will be heard, if necessary, in the presence of a child protection worker, psychologist, parent or guardian.

16. But for strictly limited exceptional cases articulated in Section 159(1) and (2) of the Family Procedure Act

How are minors protected in court?

Article 4 of the UN Convention on the Rights of the Child expressly requires States Parties to undertake "all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention". The Committee on the Rights of the Child has confirmed that this must include both legal and non-legal measures[17]. Provisions about the minimum age for initiating or participating in proceedings, along with assessments of capacity for discernment and provisions for eligible representatives are all designed to protect children in the court proceedings. Beyond these fundamental protections however, all states and entities offer various other and additional special protections.

Figure 4.15 **Special arrangements for minors employed to protect them when they participate in judicial proceedings in 2022 (Q31-0)**



77% of states and entities offer "child-friendly" explanations of proceedings and 80% provide specially trained professionals to accompany minors through the process. Nearly all states and entities provide a special room or separate facilities for minors to give evidence. **Germany** and **UK-Northern Ireland** provide all six types of protections enumerated in Figure 4.15. Like all significant initiatives to promote justice, including accessibility, these initiatives require considerable financial and resource investment, therefore constituting a priority of the justice field policies. The relatively important investment in juveniles in less affluent states and entities, including **Estonia**, **Greece**, **Hungary**, **Poland** and **Türkiye** demonstrates significant commitment to the protection of minors in the judicial process.

In 22 member States and entities and **Israel**, the response includes interagency and multidisciplinary structures such as the Barnahus (Children's Houses) where various services are coordinated and provided under "one roof". Established in **Iceland** in 1998 it was identified as a "promising practice" in 2015 by the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee).

Following several other states and entities, under its 2021 Human Rights Action Plan, **Türkiye** is developing a new model of courthouse to provide a "one-stop-shop" in family cases and cases involving minors. It will include juvenile police, lawyers, forensic and other experts, social workers, and psychologists to support children and juveniles in purpose-build interview rooms, support centres and courts.

Interesting example

The winner of the CEPEJ's 2023 Crystal Scales of Justice Award was a psychoeducation tool for children who will be involved in court proceedings. Developed by the "Hope for Children" CRC Policy Center in **Cyprus** and brought to life in partnership with the Judicial Training School, the project consists of four different games designed to prepare children psychologically and emotionally to testify in court as witnesses. The Games aims at explaining, in a manner that a child can understand, his or her rights, the procedure that will follow, who the main actors will be, the way that they speak, the waiting time that sometimes is involved or the delays that might occur.

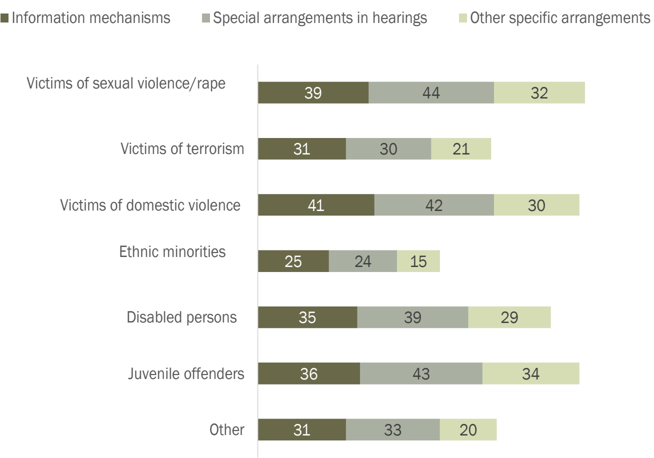
17. Committee on the Rights of the Child, General Comment No 5, General Measures of Implementation of the Convention on the Rights of the Child CRC/GC/2003/5, 2003à

In parallel with these special provisions is the need for specialist legal expertise to support children through the legal process. In 11 member States and entities and one observer state, training of judges on "child-friendly justice" is compulsory, while it is optional in 36 member States and entities and the two observer Sates. In **Israel**, juvenile court judges and judges dealing with criminal cases involving children regularly undergo this type of training throughout their tenure. Additionally, in 13 member States and entities and **Israel** training of public prosecutors on "child-friendly justice" is compulsory, while it is optional in 32 member States and entities and the two observer States. The existence of specialist prosecutors for children involved in domestic violence and sexual violence cases however, remains relatively low – 13 and 15 member States and entities respectively. Among those states and entities interesting practices include the Prosecutor General's Office and Regional Prosecutor's Offices in **Lithuania** that have prosecutors specialising in crimes of sexual violence and crimes against child and family. Within the Public Ministry of **Romania**, a network of prosecutors, established in 2018, specialise in cases involving children and juveniles as offenders and victims. The prosecutors also conduct training. Whilst voluntary, specialist training on "crimes against children" is provided to all prosecutors in **Denmark**, annually. Notwithstanding, progress is necessary to effectively deliver on Article 36 § 1 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, that requires training to be available to all those involved in proceedings, particularly judges, prosecutors and lawyers.

What special procedural arrangements exist to protect other vulnerable groups?

In addition to minors, there are large numbers of other individuals within society who require additional and specifically tailored support to ensure they have equitable access to justice. In response, states and entities have established many types of special arrangements during hearings for victims of sexual violence (43 member States and entities), juvenile offenders (42 member States and entities), victims of domestic violence (41 member States and entities), disabled persons (38 member States and entities), victims of terrorism (29 member States and entities) and ethnic minorities (23 member States and entities). These figures have not markedly increased from data provided since 2018.

Figure 4.16 **Favourable arrangements during judicial proceedings for certain categories of vulnerable persons in 2022 (Q31)**



Related to the protection of victims of sexual and domestic violence, many provisions exist to ensure a safe environment for victims to participate in the court proceedings including direct phone lines to police and security, physical protection from defendants, revictimisation, intimidation or reprisals. The most sophisticated examples of such environmental support appear to exist in **Germany**, **Greece**, **Poland**, **UK-England and Wales**, **Israel** and **Morocco** where provisions include "safe houses", physical security and psycho-social support throughout

the court process. **Poland** has, for example, also expedited and reduced the formalism of procedures for hearing these cases through its "one-time hearing rule". In **Latvia**, victims of human trafficking, (including those trafficked for the purpose of sexual exploitation) are also released from liability for the commission of administrative offences committee while being trafficked as they are considered to have been compelled to commit the offence.

During the court proceedings itself, if the victim physically attends court, they may give evidence without the accused in the courtroom (**Germany**, **Poland**), or while unable to see them (**UK-Northern Ireland**). Using the digital capabilities that exist for remote proceedings in 75% of states and entities, several offer victims the opportunity to give evidence and/or participate in proceedings remotely - most notably in **Germany**, **Poland**, **UK-England and Wales**, **UK-Northern Ireland** and **UK-Scotland**.

The ability to give evidence remotely is also available to assist people with a disability, or those for reasons of age or illness (**Croatia**, **Hungary**, **Poland**). Language-based assistance in the forms of interpreters and translators, including for sign language, is also available in some states and entities for use by people with such disabilities or for parties who do not speak the language of the court (including **Hungary**, **Latvia**, **Malta**, **UK-Northern Ireland** and **Morocco**).

In terms of specialist expertise to prosecute domestic violence and sexual violence cases, 37 member States and entities and **Israel** provide specialist training. In **Austria**, **Georgia**, **Türkiye**, **UK-Scotland** the training is integrated into induction or continuous development training. Within several prosecutorial offices, there are specialist units. These include the **Czech Republic**, **Finland**, **Ireland** and **Portugal**, with a similar unit in the process of being established in **Ukraine**.

Facility Dogs Europe - FYDO

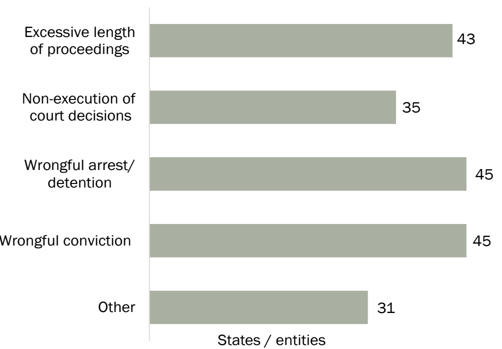
An initiative designed to support victims of crime through the legal process is "*Facility Dogs Europe - FYDO*". A trilateral partnership between **Belgium**, **Italy** and **France**, FYDO was distinguished for its innovation and awarded a special prize of the jury at the CEPEJ 2023 Crystal Scales of Justice award.

The dog Orphee has for example so far supported 70 victims of crime, with his canine colleagues supporting many more. The number of states resorting to this approach and the number of trained dogs continue to increase.

Do compensation and complaints mechanisms provide accessible remedies?

In addition to the remedies prescribed by law for those who suffer harm or loss resulting from another's act or omission, parties may also seek and secure compensation from the state for harm done to them by others or by an organ of the state itself.

Figure 4.17 **Existence of a system for compensating courts users by reason (Q37)**



In relation to compensation for harm or loss by others, 44 member States and entities and the two observer States provide compensation for victims of offences – in 2 member States and entities when the offender is unknown; in 12 member States and entities when compensation cannot be obtained from the offender; and in 30 member States and entities and the two observer States in both situations. In 11 member States and entities and **Morocco** compensation is available for all offences. In 32 member States and entities and **Israel** compensation is available for some types of offences. In **Bulgaria** and **Germany** for example, compensation is available in cases including those related to terrorism; premeditated and attempted murder; intentional grievous bodily harm; fornication and rape; human trafficking. In **Bulgaria**, the state is responsible to compensate damage caused to citizens by illegal acts, actions or inactions of its constituent bodies and officials and for damage caused by laws annulled or declared illegal by the court. In **Greece**, compensation can be claimed for damage caused by an erroneous judicial decision.

Additional grounds for compensation are available for individuals who have been involved in extremely long proceedings - as protected against by Article 6 of the European Convention on Human Rights. Compensation is also available when court decisions have not been enforced and if an individual is wrongly arrested, detained[18] or convicted[19]. The number of states and entities enabling requests for compensation on these bases remains unchanged from 2020.

Data on the number of requests for compensation and the number of successful requests is only available from 33% of states and entities, thereby preventing trend assessments at the European level. Of the data available however, most complaints in 2022 related to the excessive length of proceedings - with some member States registering between 13 000 (**Poland**, **Serbia**) to almost 17 000 such complaints (**Italy**). Among the 15 reporting member States and entities, 21 825 complaints about delay were awarded a total of €43 million in compensation in 2022. A total of almost €51 million was paid in compensation by these member States and entities for all types of complaints, demonstrating that delay is a significant and costly concern.

When all domestic remedies have been exhausted, parties may apply to the European Court of Human Rights seeking a recognition that the state has violated Article 6 § 1. Moreover, in most member States and entities there is a mechanism to monitor the Court's jurisprudence for violations related to civil proceedings (36 member States with regard to non-enforcement and 38 with regard to timeframes) and criminal proceedings (38 member States in respect of timeframes). Finally, there exists the possibility to review a case after a finding of a violation of the European Convention on Human Rights by the European Court of Human Rights in 33 member States and entities for civil cases, 37 for criminal cases and 30 for administrative cases.

18. Article 5(5) of the European Convention on Human Rights
19. Article 3 of the 7th protocol of the European Convention on Human Rights.

Trends and conclusion

The multiplicity of reforms and practices promoting access to information, legal aid, court and a fair hearing demonstrates encouraging progress across Europe. As a result of these and ongoing initiatives, more people in more states and entities can receive information in different ways about their rights and how to pursue them. They can also be supported and heard by growing specialisation among judges, court staff, prosecutors and lawyers. The multidisciplinary approach of expert support services offered by some domestic violence shelters and Barnahus (and similar entities) for example, is manifestly efficient and effective in assisting individuals more than where services and support are isolated and fragmented. These models offer good practices that can be instituted in all other states and entities and will complement and fortify the growing repertoire of adapted measures implemented in many courts to protect those who have suffered and address their needs.

Despite the increasing digitalisation of our society, the usage rate of digital tools in the justice field remains far lower than the rate of their availability. As such, there remains significant opportunity for states and entities to better exploit digital potential to promote accessibility to justice. The parallel expansion and promotion of alternative dispute resolution mechanisms would allow granting individuals greater autonomy over where, when and how they pursue justice.

The ongoing deployment and expansion of satisfaction surveys with different categories of justice users is also positive, particularly the exploration of many facets of justice and the process. People, their circumstances and needs are not static. They are fluid and dynamic. Checking and building understanding of and responses to the range of diverse and changing needs among the public they serve is therefore assisting with the adaptation and refinement of approaches. In addition, a fundamental shift in perceptive from "what the state can do" to "what individual's need" is emerging through "people-centred justice" policy in several states and entities. While it is deeply challenging and resource-intensive to respond appropriately and adequately to the vast range of individual needs, the approach promotes both human and systemic needs for empathy and equity.

Each of the four pillars discussed in this chapter must be firmly and simultaneously deep-rooted in the judicial system if access to justice for all is to be ensured in compliance with the spirit of the European Convention on Human Rights. The significant commitment among all states and entities is both demonstrable and ongoing, and it is also achieving positive results that can be shared and built on. The more progress a State makes towards making justice accessible, the more confidence individuals have in the legal and judicial process, and the stronger the rule of law becomes at national and European level.

Efficiency and quality

Efficient courts and public prosecution services constitute an essential guarantee of upholding the rule of law and ensuring fair trials, as mandated by Article 6 of the European Convention on Human Rights. "Justice delayed is justice denied", says the legal maxim, providing a very direct explanation of the consequences of inefficiency in judicial systems. Conversely, a judicial system that is efficient supports citizens and businesses in enjoying their fundamental rights and freedoms, thus creating an environment of legal certainty suitable for further growth and development of society.

The previous evaluation cycle, in which 2020 data were analysed, was immensely influenced by the COVID-19 pandemic and the various constraints it imposed on European judicial systems, particularly during the first year of the pandemic. The pandemic affected judicial systems differently, depending on their specific circumstances. This cycle, in which 2022 data are analysed, is the first post-pandemic evaluation cycle in which the consequences of the pandemic may be analysed to some extent. The effects of the pandemic have not only affected the previous evaluation cycle and, given the complexity of judicial systems, some consequences are still visible in this cycle.

This chapter explores the main trends and tendencies regarding the efficiency of courts and public prosecution services in member States/entities and observer States. While presenting facts and figures on their performance, it aims to provide comparability without intending to rank them or promote any specific type of judicial system.

The CEPEJ methodology, as defined in the Explanatory Note, aims to harmonise different practices among states and entities by defining a court case as a request (issue or problem), submitted to court, to be resolved by the court within its competence (jurisdiction). However, what is considered a case may in practice vary and these variations may affect the data reported by the national correspondents. For this chapter, states and entities have provided information on criminal cases (disaggregated by severe criminal offences, misdemeanour offences, and other criminal cases) and other than criminal cases (disaggregated by civil and commercial litigious and non-litigious cases, administrative cases and other cases). For these categories, they reported the number of pending cases at the beginning of the year (1 January 2022), the number of incoming and resolved cases in 2022, the number of pending cases at the end of the year (31 December 2022) and pending cases older than two years. The provided data pertain to cases at the first, second, and highest (Supreme Courts) instance courts.

Although the CEPEJ collects a larger set of data, this chapter primarily focuses on civil and commercial litigious cases, administrative cases and criminal cases. By concentrating on these case types, the analysis aims to reconcile differences that exist among different systems and ensure comparability among them to the extent possible. Other case types are also analysed depending on the context and their availability. Furthermore, the entire set of collected data is available in the CEPEJ-STAT dynamic database.

CLEARANCE RATE (CR)

The Clearance Rate (CR) is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It directly provides information on how an individual court/public prosecution service, or the judicial system is handling incoming cases and allows for comparisons between systems, regardless of their specificities and differences.

CR > 100%

Court is able to resolve more cases than it received

► backlog is decreasing

Incoming cases | Resolved cases

CR < 100%

Court is able to resolve fewer cases than it received

► backlog is increasing

Incoming cases | Resolved cases

DISPOSITION TIME (DT)

Disposition Time (DT) reveals the theoretical time needed for a pending case to be resolved, considering the current pace of work. It is reached by dividing the number of pending cases at the end of a particular period by the number of resolved cases within that period, and then multiplying the result by 365 to express it in days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

The result of calculating the DT indicator does not necessarily equate to the average duration, which can vary significantly. However, it serves as a useful guide in situations where the actual average time needed for case resolution is unavailable due to the lack of necessary data derived from judicial case management systems. Since this remains unfeasible in most states and entities, this indicator provides valuable and comparable information on the estimated duration of proceedings and serves as a principal performance indicator in the following analysis.

EFFICIENCY CATEGORIES

In order to provide a comprehensive insight into the efficiency of judicial systems, the CEPEJ designed six efficiency categories by combining the two performance indicators examined in this chapter, CR and DT. The results for the different types of cases are analysed in this chapter and should be interpreted as the capacity of states and entities to handle their caseloads while ensuring timeliness of proceedings and reducing backlogs.

The efficiency categories used in this chapter for analysing the maps and the Efficiency dashboard on CEPEJ STAT are based on combined values of CR and DT. This combined indicator gives a more complete picture of the efficiency of judicial systems. The definition of these categories includes six combinations listed in the table below. States and entities for which data are not available are depicted in grey.

Efficiency categories	Clearance rate (CR)	Disposition time (DT)
Very High DT	all	DT>=4XMedian
Very High CR	CR>200%	all
Warning	CR<100%	4XMedian>DT>2XMedian
Reducing backlog	CR>=100%	4XMedian>DT>2XMedian
Creating backlog	CR<95%	DT<2XMedian
Standard	CR>=95%	DT<2XMedian
NA	NA	NA

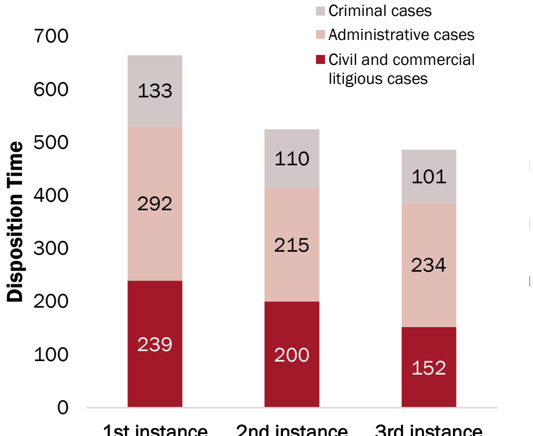
OVERALL EFFICIENCY OF EUROPEAN JURISDICTIONS

What is the most efficient level of instance in Europe?

The third (highest) instance courts remained the most efficient level of instance in Europe, followed closely by second instance courts with just slightly higher total DT. Concurrently, first instance courts continued to be the least efficient instance. Despite the improvements reported in 2022, European courts have still not managed to return to pre-pandemic efficiency levels, as expressed by the median DT value.

The median CR values expressed per instance and case types remained close to 100% across all three analysed instances and case types. The variations observed were not substantial, particularly for CR values below 100%.

Figure 5.1 **European median Disposition Time by instance in 2022**



Specifically, the first instance courts did not achieve a 100% CR in either case type, although they came close, with only one or two percentage points missing. In second instance courts, only in administrative cases did the CR exceed 100%, by three percentage points. Meanwhile, the third (highest) instance courts were the only ones to meet or exceed a 100% CR in all three case types, with the highest being 105% in civil and commercial litigious cases.

Compared to the previous evaluation cycle, most of the time, the three case types displayed very little or no variation in the different instances (up to two percentage points), with slightly higher deviations noted in two specific situations. On the one hand, in first instance courts, the CR for criminal cases improved by four percentage points, reaching 99 percent in 2022. On the other hand, the CR for civil litigious and commercial cases in second instance courts decreased by five percentage points, to 99 percent.

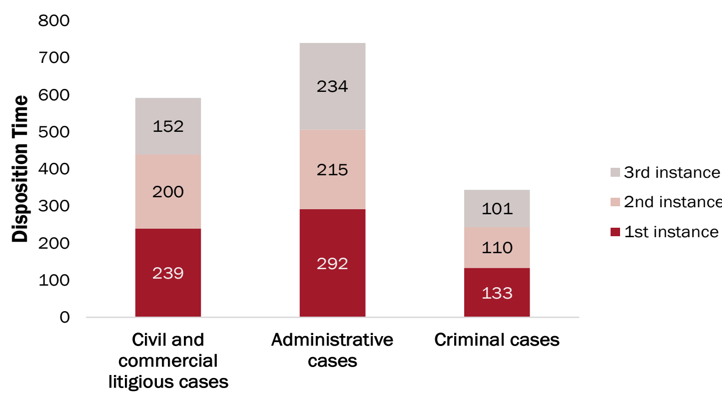
As the median CR of European jurisdictions remained largely favourable across the observed court and case categories, this analysis delves deeper into exploring the DT indicator, as demonstrated by Figures 5.1 and 5.2. First instance courts remained the least efficient, with the highest combined DT for the different case types calculated at 239 days in civil and commercial litigious cases, 292 days in administrative matters, and 133 days in criminal cases. In the second instance, the DT for civil and commercial litigious cases was 200 days, for administrative cases 215 days, and for criminal cases 110 days. In the third (highest) instance, the DT for civil and commercial litigious cases amounted to 152 days, 234 days for administrative cases, and 101 days for criminal cases.

It is worth noting that increases in DT over the 2022 (2020 data) cycle were established in first and second instance civil and commercial litigious cases, by 2 and 23 days respectively (see Figures 5.2 and 5.2b below). The third (highest) instance was the only one in which in all three case types a reduction in DT was noted. Third (highest) instance courts were also more efficient in 2022 compared to the pre-pandemic period in civil and commercial litigious cases, for which the DT dropped by 51 days, and in criminal cases where the DT decreased by 6 days. This is primarily due to the decline in the number of received cases over the same period. In all other instances and case types, courts did not manage to return to 2018 values in DTs.

Interestingly, in civil and commercial litigious cases and criminal cases, each subsequent instance produced a DT lower than the previous one. However, in administrative cases, the median DT was higher in the third instance than in the second one.

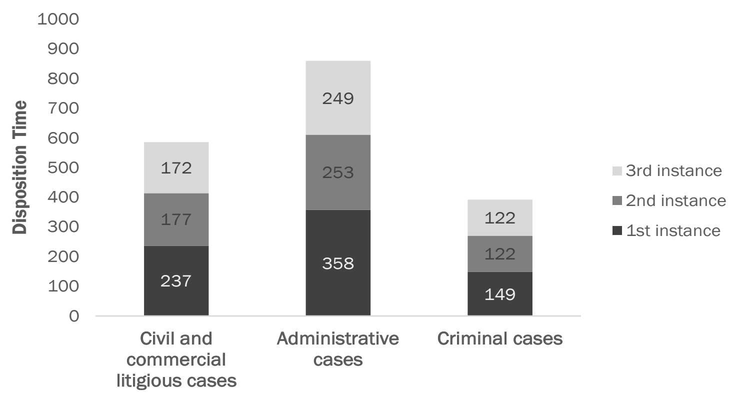
In which area of law are courts most efficient?

Figure 5.2 **European median Disposition Time by area of law in 2022**



For the third evaluation cycle in a row, the presentation of the efficiency by area of law remains unchanged, although each cycle brought changes to observed DTs of case types by instances. As in previous cycles, criminal justice remained the area of law in which courts are most efficient, while the courts continued to be least efficient in administrative matters. The data collected in this evaluation cycle suggest once again that criminal procedures with more streamlined processes and stricter time limits are likely to result in lower DTs. These factors could also possibly be reasons for judiciaries to allocate more manpower to criminal proceedings.

Figure 5.2b **European median Disposition Time by area of law in 2020**



The lowest combined DT for all three instances is 344 days in criminal cases, representing a decrease of 12 % compared to the previous cycle. In civil and commercial litigious cases, the total combined DT increased somewhat from 2020, to 591 days, however with some differences among instances – first and second instance DT's increased by 2 and 23 days respectively, while in third instance the DT dropped by 20 days. In administrative matters, this indicator decreased by 14%, to 741 days. Individually, the highest DT of 292 days is found in first instance administrative cases, while the lowest one of 101 days was reported for third instance criminal cases which is in both case types an improvement, by 66 and 21 days, respectively.

The overall trend towads improved DTs is attributed to fluctuations in incoming and resolved cases between 2020 and 2022, as explained in the following section.

What are the COVID-19 effects on courts' efficiency

As mentioned several times in this chapter, even now, when analysing the 2022 data, one needs to take into consideration that some of the pandemic effects may spill over even further, to the future ensuing evaluation cycles.

On a general note, European judicial systems have shown significant improvement in 2022, compared to the 2020 data, indicating that they were able to take on more work once the pandemic measures subsided. This, in turn, reflected through lower DTs and rather stable or improving CRs in civil and commercial litigious cases, administrative matters, and criminal cases analysed in this chapter.

In the first instance, European courts have certainly faced a greater number of incoming cases but, at the same time, their resolved cases grew even more, leading to more favourable DTs. For example, the European median for incoming civil and commercial litigious cases grew by 15% from 2020 to 2022, yet resolved cases increased by 31%. In criminal cases, the 7% growth in incoming cases was followed by a 13% increase in resolved cases. Similarly, in administrative cases, there was a 6% increase in cases received and a 26% increase in cases resolved.

States and entities individually reported on the effects of the pandemic on this evaluation cycle. Among others, **Azerbaijan**, **Malta**, the **Republic of Moldova**, **Spain**, and the **UK-Scotland** reported increased activity within the court system once COVID-19 restrictions were lifted. **Switzerland** provided an explanation for the rise in the number of new administrative cases as a result of increased post-pandemic administrative procedures. In **Denmark**, the increase in the number of pending cases was explained by the prosecution filing new cases in courts that could not be dealt with during the pandemic restrictions.

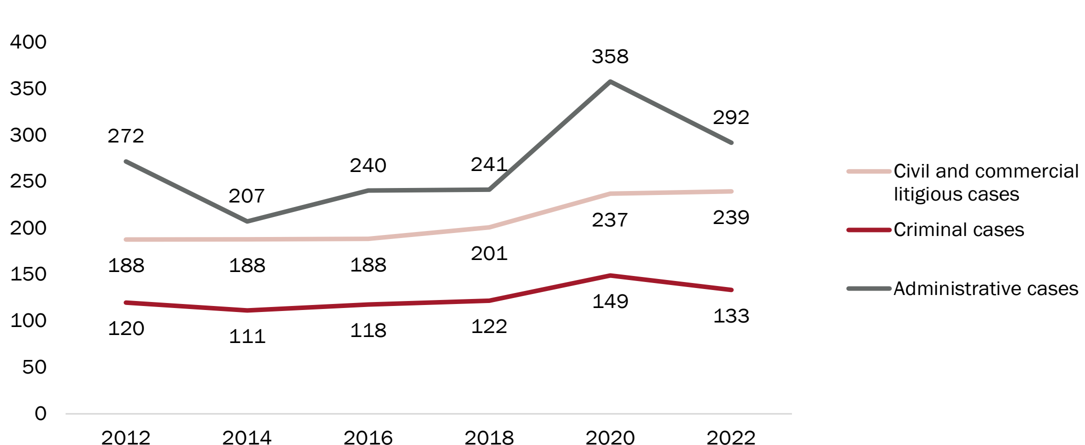
In 2022, several states and entities have even returned to pre-pandemic efficiency levels. Among them, **Monaco** and **Spain** have done so in civil and commercial litigious matters, **Switzerland** and **Morocco** in administrative matters, and **Italy** and **Portugal** in criminal cases. However, not all states and entities managed to do so.

FIRST INSTANCE COURTS

How efficient are first instance courts?

In administrative matters, the DT improved by 66 days or 18% over the previous cycle, while in criminal cases, the improvement was 16 days or 11%. Nevertheless, it would be more accurate to perceive these improvements as a return to pre-pandemic levels. Conversely, the constant upward trend noted in civil and commercial litigious matters continued. In this domain, there was an increase of two days.

Figure 5.3 **European Disposition Time of first instance courts by case type (Q91 and Q94)**



In 2022, the median DT for first instance criminal cases demonstrated an improvement, attributed to a 13% rise in the resolved cases (median value), despite a 7% increase in received cases. In 2022, the most significant decrease in DT in absolute value is once again noticed with regard to administrative cases, but this DT remained considerably above the prepandemic value (2018). Indeed, a 6% increase in the incoming cases between 2020 and 2022 was accompanied by a 26% increase in resolved cases. In the field of criminal law which appears less susceptible to substantial fluctuations and hence more resilient to change, the DT improved to a lesser extent in absolute value, compared to administrative cases, but it got closer to the prepandemic results.

In civil and commercial litigious cases, the DT increased slightly, despite a 15% increase in incoming and a 31% increase in resolved cases. However, this should be interpreted in the context of the significant impact this legal domain experienced during the COVID-19 crisis, when resolved cases decreased significantly more than incoming cases. This is likely due to the nature of litigious proceedings, which heavily depend on hearings and the presence of parties and other participants in court.

Concerning the CR, first instance courts were the only instance in 2022 with rates below 100% in all three case types: 99% in civil and commercial litigious cases, 98% in administrative cases, and 99% in criminal matters. These figures suggest that rather than decreasing, the pending stock is slightly increasing, though not at a concerning rate. However, compared to 2020, the CRs have improved by one percentage point in civil and commercial litigious cases and administrative cases, and four percentage points in the criminal domain.

The impact of war on court efficiency in Ukraine

The war in **Ukraine** has significantly disrupted the functioning of its judicial system. Ongoing reforms have either been halted or considerably slowed down, and adjustments have been made to the territorial jurisdiction of courts in efforts to provide efficient delivery of justice to the extent possible.

Despite these challenges, Ukrainian courts managed to maintain favorable CRs and DTs in 2022 as the first year of war. **Ukraine** maintained a “standard” efficiency rating across all three case types examined in the first instance in this report. Specifically, the DT for first instance civil and commercial litigious cases comprised 168 days, 108 days for administrative cases, and 66 days for criminal matters.

In terms of incoming cases, **Ukraine** experienced a decrease in demand for civil and commercial litigious cases in 2022 compared to both 2018 and 2020. Conversely, there was an increase in incoming administrative and criminal cases over the same period. In 2022, 1,17 civil and commercial litigious cases was received per 100 inhabitants (1,99 in 2020, 1,67 in 2018), 0,94 administrative cases (0,61 in 2020, 0,35 in 2018), and 1,56 criminal cases (0,61 in 2020, 0,31 in 2018). These fluctuations are likely caused by the newly arisen circumstances.

However, since the war is still ongoing, its effects on the Ukrainian judicial system are expected to become more pronounced and visible in the upcoming evaluation cycle. The war is likely to further impact court operations, case volumes, and overall judicial efficiency, highlighting the evolving challenges faced by the judiciary in navigating these complex circumstances.

First instance civil and commercial litigious cases

As noted in the introduction, this chapter primarily analyses civil and commercial litigious cases as the content of non-litigious cases varies significantly among states and entities, with some systems including land or business registry cases, making comparisons challenging. An additional aspect is that litigious cases, being more complex, offer a more accurate portrayal of judges' work. The part of non-litigious cases within the total of "other than criminal cases" is higher than 50% in half of the states and enities. However, variations are substantial when directly comparing litigious and non litigious cases, ranging from 2% of non litigious cases in **Romania** to 98% in **Denmark** and **Finland**.

Although there was a strong increase in both received and resolved civil and commercial litigious cases in 2022 over 2020, with the median of 2 received cases and 2 resolved cases per 100 inhabitants, figures have still not reached pre-pandemic values. For example, in 2016, there were 2,3 cases received per 100 inhabitants and 2,2 cases resolved, and in 2018, there were 2,2 cases received per 100 inhabitants and 2,1 cases resolved. However, not all of the variations are pandemic-related as particular states and entities report on various reforms and other social developments that influenced the quantity of cases received and resolved within courts.

Looking at the change in the number of incoming cases between 2020 and 2022, Figure 5.4 is depicting more precisely the tendency. In average the increase in the number of incoming cases is 5%, but the tendency is more evident looking at the number of states/entities that have increased the number of incoming cases and the average of this increase. In 21 states and entities the number of incoming cases increased in average for a big 22%, while in 18 states and entities this number decreased in average for 15%. With regard to resolved cases, between 2020 and 2022, the situation is similar and even more positive in terms of efficiency. Indeed, 22 states and entities experienced an average increase of 27% in the number of resolved cases, while in 14 others this number decreased by an average of 12%, and in 4 states/entities there was almost no change.

Reforms and other factors impacting the caseloads of courts

In **Azerbaijan**, the post-pandemic increase in the number of resolved cases was supported by the ongoing process of computerisation, the expansion in the number of judges, and amendments to the Civil Procedure Code, introducing a one-month timeframe (and even ten days in certain specific cases) for submitting expert opinions, thereby expediting case resolution. **Greece** focused on enhancing its data collection system by providing training to staff and developing manuals, resulting in some differences in reported figures compared to the previous evaluation cycle. In **Croatia**, the numbers of incoming and resolved civil and commercial litigious cases were affected by the receipt of 60 000 labour cases in 2020, which were subsequently resolved in 2022. In **Lithuania**, the increase in received and resolved administrative cases stemmed from waste system providers facing a higher number of debtors.

Figure 5.4 **Variation of 1st instance civil and commercial litigious cases between 2020 and 2022 (Q91)**

Incoming cases, between 2020 and 2022

Average 5%

Median 3%

Variations since 2020:

- In 21 countries, there is an increase of more than 1%.
  Average increase 22%
- In 18 countries, there is a decrease of more than 1%.
  Average decrease -15%

Resolved cases, between 2020 and 2022

Average 10%

Median 7%

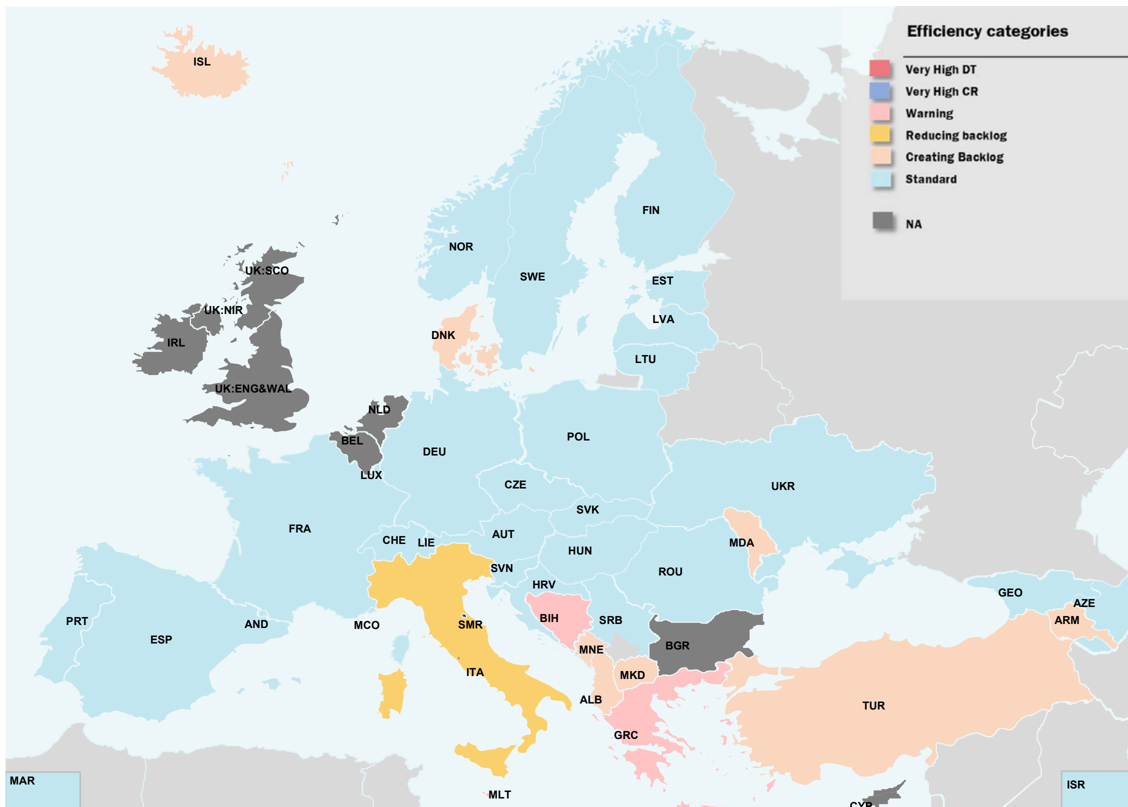
Variations since 2020:

- In 22 countries, there is an increase of more than 1%.
  Average increase 27%
- In 14 countries, there is a decrease of more than 1%.
  Average decrease -12%
- In 4 countries, there is almost no change.

Performance indicators in first instance civil and commercial litigious cases

As mentioned in the introduction of this chapter, the CEPEJ designed six efficiency categories by combining the two performance indicators examined in this chapter, CR and DT. The results are illustrated in Map 5.5 and should be interpreted as the capacity of states and entities to handle their caseloads while ensuring timeliness and reducing backlogs.

Map 5.5 **Clearance Rate and Disposition Time for civil and commercial litigious cases at first instance in 2022 (Q91)**



Almost three quarters of states and entities for which data are available fall into the "standard" efficiency category displayed in light blue. These are states and entities with CRs equal or higher than 95% and their DT was up to twice the CoE median value.

Out of these 28 states and entities, ten have a CR that was below 100%. However, variations are minor and all ten states and entities had a DT that did not exceed one year. **Croatia** and **Monaco** were the only two states with "standard" efficiency that reported a DT exceeding one year, with 410 days and 375 days, respectively. Additionally, **Croatia** reported a very high CR of 145%, indicating a rather substantial positive impact on the backlog reduction as a result of a decrease in received cases and a surge in resolved ones, primarily stemming from collective labour disputes initiated by public sector workers. In **Monaco**, the backlog was also reduced, but to a lesser extent, with a CR of 106% due to the fact that the increase in resolved cases was more important than the one in incoming cases.

In 2022, nine states improved their overall efficiency in civil and commercial litigious cases, transitioning from the "creating backlog" and "warning" categories to the optimal "standard" efficiency category. **Finland**, **Lithuania**, **Luxembourg**, **Serbia**, **Spain**, and **Morocco** were previously categorized as "creating backlog" in 2020, while **Croatia** and **France** improved their efficiency from the "warning" category to "standard" efficiency over the same period. Among this group of states, **Serbia** witnessed a significant decrease in incoming cases (from 5,59 in 2020 to 3,39 in 2022), and an increase in resolved ones (from 3,96 in 2020 to 6,04 in 2022), primarily due to a large number of specific type of cases related to the costs of bank loans initiated in earlier years. Variations of incoming and resolved cases in other states were noticeable, but not as substantial.

Albania, **Armenia**, **Denmark**, **Iceland**, the **Republic of Moldova**, **Montenegro**, **North Macedonia**, and **Türkiye** are the eight member States that fell into the "creating backlog" category. This indicates that their CR is lower than 95%, but their DTs remain within the acceptable range, up to two times the CoE median value. While **Albania** and **North Macedonia** fell into the same category in the last evaluation cycle, and **Türkiye** improved from a "warning" to "creating backlog", other states from this group entered this category from the "standard" efficiency reached in 2020. The three member States from this category that reached CRs under 90% are **Albania** with 89%, **North Macedonia** with 85%, and **Montenegro** with 86%. In **Albania** and **North Macedonia**, both received and resolved cases increased over 2020, while in **Montenegro**, received cases increased and resolved cases decreased.

Italy is the only state that reduced its backlog in civil and commercial litigious cases with a CR of 104%, but still with a substantial DT of 540 days, with both incoming and resolved cases increasing. Meanwhile, **Bosnia and Herzegovina**, **Greece** and **Malta** are the three member States occupying the "warning" category, with CRs of 98%, 93% and 87%, and DTs of 518, 746 and 491 days, respectively. While in 2020, **Bosnia and Herzegovina** belonged to the category "reducing backlog", **Malta** was already in the "warning" category, indicating a more longstanding and systematic problem with efficiency in first instance civil and commercial litigious cases. Moreover, the problem has worsened as the number of incoming cases has increased more significantly than the number of resolved cases. **Greece** did not provide data for the previous evaluation cycle (2020 data).

Does court-related mediation enhance court efficiency in Europe?

The availability of data for court-related mediation in civil and commercial, family, administrative, labour, criminal and consumer cases remains unchanged over the evaluation cycles, as approximately only one quarter of states and entities provide data. The impact of such mediations remains low in the majority of states and entities, as suggested by the reported figures, even though they improved slightly after 2020 and COVID-19 related restrictions.

Nonetheless, there are some notable examples, such as **Israel**, where an increase in mediation in civil and commercial cases occurred due to a reform in the civil procedure as of 2021. This reform reduced the threshold for referral to mediation from 75 000 NIS to 40 000 NIS, leading to a nine-fold increase in the number of cases reaching mediation, from 1 212 in 2020 to 9 500 in 2022.

Efforts in promoting mediation and other alternative dispute resolution methods

Noteworthy efforts have been made in various states and entities to enhance mediation and alternative dispute resolution (ADR) methods through legislative reforms and institutional developments.

Armenia implemented comprehensive reforms under the Law on mediation in 2022, including mandatory mediation procedures for select family cases, online mediation provisions, and the establishment of a new electronic platform by 2023. Reforms also included explicit guidelines for self-regulating organisations of mediators and improvements to mediator training and accountability mechanisms. A new Arbitration and Mediation Center was established.

In **Italy**, significant changes to ADR procedures, particularly in mediation, have been introduced. This includes mandatory mediation in various areas and the facilitation of digital mediation, along with fiscal incentives and tax benefits to promote ADR. The **Netherlands** plans to introduce mediation in criminal cases in the new Dutch Code of Criminal Procedure, allowing judges to end cases after mediation. It is foreseen to further develop out-of-court mediation standards and accountability mechanisms.

Ukraine adopted the Law on mediation in 2021, establishing legal frameworks for mediation for certain types of disputes. The law defines mediation procedures, principles, and mediator qualifications, promoting mediation as an alternative to court proceedings. **UK-England and Wales** introduced an integrated mediation for claims in county courts up to £10 000. This requires parties in defined cases within the small claims track to attend a free, one-hour mediation appointment facilitated by a court-employed mediator through the Small Claims Mediation Service.

Evolution of Clearance Rate and Disposition Time in first instance civil and commercial litigious cases

Figure 5.6 **Evolution of Clearance Rate and Disposition Time in first instance civil and commercial litigious cases at first instance in 2022 (Q91)**

	2012	2014	2016	2018	2020	2022	2012	2014	2016	2018	2020	2022
ALB	97%	100%	99%	98%	85%	89%	192	171	159	172	366	377
AND	95%	103%	NA	NA	NA	117%	264	460	NA	NA	NA	212
ARM	103%	75%	94%	101%	125%	94%	168	230	188	194	142	187
AUT	101%	103%	102%	101%	100%	101%	135	130	133	138	156	142
AZE	100%	99%	98%	99%	96%	99%	52	33	25	51	88	58
BEL	NA	98%	102%	112%	99%	102%	NA	NA	NA	NA	NA	NA
BIH	116%	114%	115%	126%	103%	98%	656	603	574	483	639	518
BGR	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
HRV	95%	113%	118%	112%	85%	145%	457	380	364	374	655	410
CYP	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
CZE	99%	105%	110%	102%	98%	102%	174	163	153	149	165	134
DNK	109%	102%	101%	95%	111%	93%	165	177	176	207	190	268
EST	112%	104%	98%	101%	100%	99%	167	125	139	143	135	158
FIN	103%	105%	125%	102%	94%	100%	325	289	252	273	300	327
FRA	99%	94%	99%	96%	93%	103%	311	348	353	420	637	333
GEO	102%	93%	77%	91%	87%	102%	62	100	242	274	433	257
DEU	100%	100%	103%	97%	98%	104%	183	198	196	220	237	241
GRC	58%	113%	99%	86%	NA	93%	469	330	610	559	NA	746
HUN	105%	104%	98%	116%	100%	104%	97	144	159	151	165	134
ISL	NA	NA	NA	102%	99%	94%	NA	NA	NA	NA	63	115
IRL	NA	56%	59%	63%	51%	71%	NA	NA	NA	NA	NA	NA
ITA	131%	119%	113%	103%	104%	104%	590	532	514	527	674	540
LVA	118%	98%	107%	103%	96%	99%	241	255	217	236	239	209
LTU	101%	97%	98%	104%	94%	99%	88	97	88	84	117	116
LUX	173%	97%	100%	93%	93%	98%	73	103	91	123	161	182
MLT	114%	101%	107%	93%	91%	87%	685	536	432	440	550	491
MDA	100%	97%	97%	104%	97%	95%	106	127	140	143	171	171
MCO	117%	109%	99%	93%	90%	106%	433	347	372	372	514	375
MNE	102%	84%	98%	105%	107%	86%	254	298	267	229	280	417
NLD	NA	99%	101%	101%	100%	NA	NA	132	121	110	127	NA
MKD	131%	117%	95%	101%	90%	85%	175	132	223	179	294	312
NOR	100%	97%	102%	101%	100%	101%	160	176	161	176	183	176
POL	89%	99%	99%	92%	105%	98%	195	203	225	273	317	362
PRT	98%	NA	112%	109%	98%	103%	369	NA	289	229	280	238
ROU	99%	109%	102%	103%	100%	96%	193	146	153	157	168	160
RUS	99%	98%	102%	100%			40	37	42	50		
SRB	116%	92%	94%	110%	71%	178%	242	359	315	225	472	299
SVK	82%	92%	132%	131%	100%	108%	437	524	130	157	204	168
SVN	101%	109%	106%	110%	101%	102%	318	270	280	283	350	337
ESP	100%	98%	103%	87%	86%	98%	264	318	282	362	468	359
SWE	99%	104%	99%	97%	103%	102%	179	157	164	166	161	152
CHE	100%	101%	101%	100%	100%	98%	127	116	107	111	126	141
TUR	115%	96%	86%	98%	90%	90%	134	227	399	307	513	397
UKR	106%	102%	97%	97%	98%	112%	70	68	96	129	122	168
UK:ENG&WAL	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
UK:NIR	NA	NA	0%	NA	NA	NA	NA	NA	0	NA	NA	NA
UK:SCO	85%	85%	79%	81%	85%	86%	NA	NA	NA	NA	NA	NA
ISR	101%	102%	97%	100%	97%	97%	340	334	333	315	339	308
KAZ				98%	101%	NA					48	
MAR			103%	101%	94%	100%			86	75	117	69
Average	104%	100%	98%	100%	96%	101%	243	238	226	234	294	273
Median	101%	100%	100%	101%	98%	99%	188	188	188	201	237	239

The progress in the CR and DT indicators from 2012 to 2022 is depicted in Figure 5.6. However, data were not available for all consecutive cycles for all participating states and entities.

This first evaluation cycle following the COVID-19 pandemic in 2020 demonstrates a general trend of improvement among states and entities, characterized by increased CRs and decreased DTs as displayed by Figure 5.6.

As previously warned by the CEPEJ, while performance indicators calculated for a specific year are important, analysing year-over-year results and trends spanning several years, in this instance from 2012 to 2022, provides even greater insights into judicial efficiency. In light of this, just as the 2020 data should be interpreted with COVID-19 circumstances in mind—taking into account precautionary measures and restrictions that have impacted judiciaries—the 2022 data reflect the recovery period following the health crisis.

The period from 2012 to 2022 showed fewer improvements compared to the data from the past two evaluation cycles. However, identifying specific reasons for reported fluctuations over a ten-year period is often challenging and requires a comprehensive analysis, given the multitude of contributing factors. Notably, **Croatia** exhibited significant improvements in both CR and DT, with a 50% higher CR and a reduction of 47 days in DT. Similarly, the **Slovak Republic** saw an increase in CR by 26% and a reduction of 269 days in DT. Substantial decreases in DT were also reported in **Malta** and **Portugal**, with 194 and 131 fewer days, respectively. However, **Malta** experienced a 27-percentage point drop in CR, whereas **Portugal** saw an improvement of five percentage points.

The comparison of data from 2020 to 2022 offers a more optimistic view of judicial efficiency in Europe. Among the 36 states and entities that provided data on both CR and DT for both years, half (19) showed improvement in both indicators, while one-quarter (10) showed improvement in one of them, and another quarter (9) displayed declining results.

The most substantial drop in DT was reported in **Croatia** (-245 days) and **France** (-304 days) due to a strong increase in resolved cases. An additional six states reduced their DTs by over 100 days: **Georgia** (-176 days), **Italy** (-134 days), **Monaco** (-139 days), **Serbia** (-173 days), **Spain** (-108 days), and **Türkiye** (-115 days) for the same reason. Moreover, except for **Italy** and **Türkiye**, all of these states exceeded the resolved civil and commercial litigious cases figures from pre-pandemic 2018. Concurrently, **Serbia** and **Croatia** showed the most significant increases in CR, by 60 and 107 percentage points, respectively primarily as a result of resolved collective and massive claims submitted in earlier years.

On the other hand, the analysis of performance indicators shows a more worrying situation as in **Montenegro**, where the DT increased by 136 days—an almost 50% increase—alongside a 21% drop in CR. Concurrently, Montenegrin courts reported a drop in resolved cases alongside an increase in cases unresolved at the end of 2022. This marks the first time in the past six evaluation cycles that the DT in **Montenegro** has exceeded 300 days in civil and commercial litigious cases.

How are European jurisdictions dealing with litigious divorces, employment dismissals and insolvency cases after COVID-19 crisis?

To reconcile differences among European jurisdictions, the CEPEJ delves deeper into specific case categories of civil and commercial litigious cases - litigious divorces, employment dismissals, and insolvency cases. Performance indicators improved in 2022 for both litigious divorces and employment dismissals compared to the previous evaluation cycle. The median values of CRs and DTs recovered in 2022, supporting the previous general conclusions of recovery in civil and commercial litigious cases after 2020. In litigious divorces, the CR increased from 96% to 100% from 2020 to 2022, while the DT decreased from 210 to 196 days. Over the same period, the CR of employment dismissals increased from 91% to 110%, while the DT decreased from 358 to 294 days. However, in insolvency cases, the CR decreased by 3 percentage points, reaching 104%, while the DT increased from 301 to 309 days.

In 2022, the lowest DT for litigious divorces was 21 days reported by **Lithuania** which is also kept one of the lowest DTs in this case type over the past ten examined years. Conversely, the highest DT in litigious divorces was reported in **Monaco** at 1 292, a value that has been increasing almost consistently since 2012. Similarly, **Azerbaijan** consistently maintained low DTs in employment dismissal cases, with the minimum reported in 2022 being 50 days, while **Cyprus** had the highest DT at 1 501 days.

Expectedly, the variations are much more pronounced in insolvency cases, where **Switzerland** reported a DT of 40 days in 2022, compared with a maximum of 10 768 days in **Malta** and 1 502 days in the **Czech Republic**. In **Malta**, the DT in insolvency cases tripled compared to 2020 and increased tenfold compared to 2018. However, the absolute number of insolvency cases in **Malta** is very low compared to other jurisdictions, with only 118 cases pending at the end of 2022.

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

At the end of the year, cases pending are those that remain unresolved for the upcoming period. This is a normal phenomenon, as not all cases can be resolved in the same year they were received. Some cases are received near the year's end and others are simply too complex to resolve quickly. The size of the pending stock does not necessarily indicate problems with courts' productivity, efficiency or timeliness, especially if cases are turned over quickly. However, what is concerning are cases unresolved for an extended period. Although the definition of "old" or backlogged cases may vary among states and entities, according to the CEPEJ questionnaire, backlog refers to the pending cases older than two years from the date the case came to the first instance court. In total 21 member States and one observer State provided data on this question.

In terms of pending cases, regardless of their age, a 25% increase was reported in civil and commercial litigious cases in 2022 compared to 2020 at a European level (median value). Furthermore, with 1,50 pending cases per 100 inhabitants, this was the highest figure since 2012. The lowest one was 1,04 pending cases per 100 inhabitants in 2016.

In contrast to the previously described improvements in performance indicators in first instance courts for civil and commercial litigious cases, the trend is less satisfactory regarding pending cases older than two years. Half of the states and entities that provided data reported increasing backlogs, with the largest increases seen in **Georgia** (17 percentage points) and **Serbia** (15 percentage points) despite its backlog reduction programme running from 2014 under the Supreme Court supervision. On the other hand, **Latvia** and **Türkiye** reduced their backlog by 6 percentage points, **Bosnia and Herzegovina** by 5 percentage points, while the **Republic of Moldova** reduced it by 4 percentage points. The remaining seven states and entities showed insignificant or no variation in the size of the backlog, while **Greece** provided data for the first time in this evaluation cycle, reporting 1% of civil and commercial litigious cases older than two years.

Figure 5.7 **Pending first instance civil and commercial litigious cases older than two years (Q91)**

States / entities	% of cases older than 2 years in all pending cases
ALB	7%
AZE	2%
BIH	37%
HRV	29%
EST	9%
GEO	42%
GRC	1%
LVA	4%
LTU	4%
MLT	39%
MDA	4%
MCO	33%
MNE	19%
PRT	20%
ROU	4%
SRB	31%
SVK	31%
SVN	34%
SWE	2%
CHE	11%
TUR	18%
ISR	21%

The distribution of the backlog varies among these states and entities. Despite a significant decrease in cases older than two years, **Georgia** maintains the highest share of backlogged cases at 42%, followed by **Malta** (39%), **Bosnia and Herzegovina** (37%), **Slovenia** (34%), **Monaco** (33%), and both the **Slovak Republic** and **Serbia** (31% each). **Croatia**, **Portugal**, and the observer State **Israel** had over 20% of backlogged civil and commercial litigious cases, while other states and entities reported lower shares, as shown in Figure 5.7.

Available data provide valuable guidance, but they reveal little about the reasons behind the size of the backlog or the noted variations in particular judicial systems. A comprehensive analysis within each national system should be conducted to gain a deeper understanding. States and entities may demonstrate efficiency and effectiveness in handling new cases while simultaneously maintaining or accumulating a stock of "old" ones that are seldom resolved and remain held up in the system. Moreover, there are states with favorable CRs that experience growing backlogs, as seen in **Georgia** and **Serbia**, with CRs of 102% and 178% in 2022, respectively. On the other hand, states that have reduced their backlogs, such as the aforementioned **Latvia**, the **Republic of Moldova** and **Türkiye** have not necessarily reached or exceeded a 100% CR in 2022 or in some of the earlier evaluation cycles, but have effectively tackled the pool of older cases. Additionally, the influence of COVID-19 may have been a decisive factor in accumulating backlog from 2020 to 2022, as the majority of courts halted their usual operations. However, these cases should be carefully monitored to prevent further aging wherever possible. Although high shares of 'old' cases are undesirable, not all cases falling into this category necessarily entail a violation of the right to a fair trial as guaranteed by Article 6 of the ECHR. Each case must be evaluated individually, as there is no strict definition of what constitutes a "reasonable time." In more complex cases, the case law of the ECtHR has affirmed that a resolution period longer than two years may be tolerable.

Raising and maintaining a favourable level of efficiency within the judicial system does not necessarily address the problem of backlogged cases. To tackle this issue, judiciaries often employ targeted backlog reduction strategies and action plans. To aid states and entities in addressing backlog, the CEPEJ created a Backlog reduction tool described in more detail below.

Backlog reduction tool

In response to frequent issues with backlogs and their adverse impact on upholding the right to a fair trial enshrined in Article 6 of the ECHR, the CEPEJ adopted a new tool in 2023 designed to help countries reduce backlogs in court cases. In this context, "backlog" refers to pending cases that have not been resolved within an established timeframe, as defined in each national judicial system.

This tool offers general guidance on identifying the problem and provides examples that could inspire actions aimed at resolving backlogs and preventing delays. It comprises a four-step methodology:

1. Identification of the causes of backlogs through quantitative and qualitative analysis.

2. Development of a concrete and goal-oriented strategy, while defining targets at different levels (judge, court, national).

3. Establishment of regular monitoring mechanisms to track the fulfilment of targets.

4. Ensuring sustainability to avoid recurrence of backlogs in the future.

For the complete Backlog reduction tool document, visit the CEPEJ webpage https://rm.coe.int/cepej-2023-9final-backlog-reduction-tool-en-adopted/1680acf8ee.

First instance administrative cases

What distinguishes administrative cases among non-criminal cases is that one party involved in the dispute is a public authority. Across numerous states and entities, administrative matters are addressed separately through specialised administrative law tribunals or units within general jurisdiction courts.

However, there are exceptions to this rule as some of the member States and entities either keep specific administrative law systems or they are unable to report data on administrative cases separately. In **Denmark**, administrative courts do not exist as such. Administrative cases are initially handled outside of courts by court-like bodies (boards, committees, or councils), and the number of administrative law cases that proceed to courts is included in the count of civil and commercial litigious cases. Similarly, **Iceland**, **Monaco** and **Norway** also do not recognise a separate case category for administrative law.

As with other case types explored in this chapter, the number of both received and resolved administrative cases increased in 2022 compared to the previously examined 2020. With a median of 0,33 incoming cases per 100 inhabitants and 0,33 disposed cases per 100 inhabitants, the pre-pandemic trend of consistent growth in administrative caseloads and dispositions persisted.

The evolution between 2020 and 2022 illustrated in Figure 5.8, is showing stronger increase compared to civil and commercial litigious cases. On average, the increase in the number of incoming cases is 21% (with the median being somewhat lower at 9%). This tendency is even more evident when looking at the number of states/entities that have experienced an increase in the number of incoming cases and the average of this increase. In 28 states and entities, the number of incoming cases increased by an average of 37%, while in 11 states and entities, it decreased by an average of 17%. The situation is similar for resolved cases. Between 2020 and 2022, the number of resolved cases increased by an average of 38% in 25 states and entities, while it decreased by an average of 13% in 14 states and entities. There is no state or entity where the change was less than 1%.

Figure 5.8 **Variation of 1st instance administrative cases between 2020 and 2022 (Q91)**

Incoming cases, between 2020 and 2022

Average	21%
Median	9%

Variations since 2020:

- In 28 countries, there is an increase of more than 1%.
  Average increase 37%
- In 11 countries, there is a decrease of more than 1%.
  Average decrease -17%

Resolved cases, between 2020 and 2022

Average	20%
Median	6%

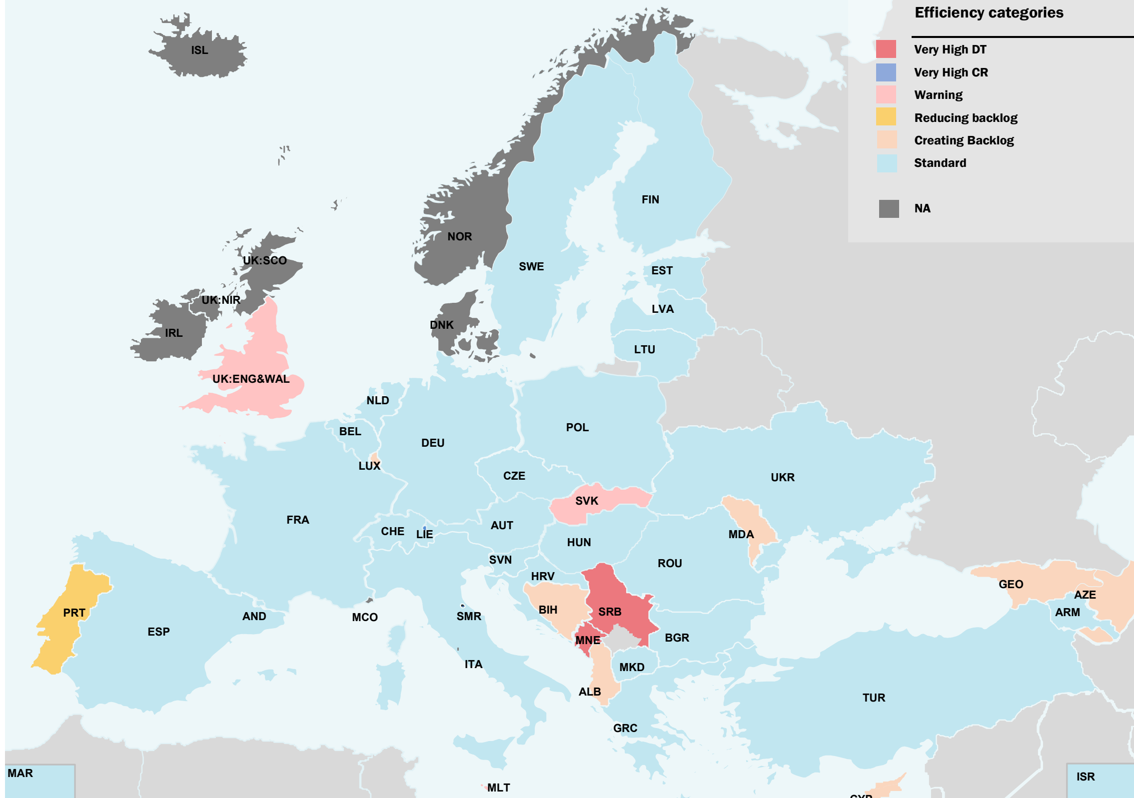
Variations since 2020:

- In 25 countries, there is an increase of more than 1%.
  Average increase 38%
- In 14 countries, there is a decrease of more than 1%.
  Average decrease -13%

Performance indicators in first instance administrative cases

As mentioned in the introduction of this chapter, the CEPEJ designed six efficiency categories by merging the two performance indicators examined in this chapter, CR and DT. Altogether, data from 40 states and entities were provided, allowing for the assessment of both, CR and DT, in 2022. By combining these performance indicators, as depicted in Map 5.9, it becomes feasible to gauge the ability of states and entities to deal with administrative cases within a reasonable time. States and entities lacking data, or where administrative cases are not categorised separately but included within civil cases, are highlighted in grey.

Map 5.9 **Clearance Rate and Disposition Time for first instance administrative cases in 2022 (Q91)**



The rise in the number of states and entities categorised under «standard» efficiency, signals a noteworthy improvement across Europe. While nearly 25% of the responding states and entities showed «standard» efficiency in 2020, this figure increased to 68% in 2022, encompassing 29 of them. This implies that these states and entities demonstrated a CR ranging from 95% to 200%, with a DT not exceeding twice the European median values.

Nonetheless, significant variations in DTs were observed among these countries – ranging from as low as 77 days in the observer State **Morocco** and 79 days in **Lithuania**, due to high number of resolved cases against pending cases, to as high as 574 days in **Italy** and 540 days in **Slovenia**, where the number of pending cases is significantly higher than the number of resolved cases in 2022. High DT in **Slovenia** is caused by the increase in incoming cases and new competences of the Administrative court, as well as other issues that impeded its efficient operations. Similarly, another three states have a DT exceeding one year in this efficiency category: **Germany** (408 days), **Greece** (464 days), and **Spain** (369 days).

Nearly half of the states and entities that achieved "standard" efficiency had a CR exceeding 100% and a DT well under one year, thereby joining the most favourable efficiency category. In other proportions, these states and entities constitute one-third of all those that provided the necessary data in this cycle.

Approximately one-third of the states and entities fell into other efficiency categories. **Albania**, **Azerbaijan**, **Bosnia and Herzegovina**, **Cyprus**, **Georgia**, **Luxembourg**, and the **Republic of Moldova** were creating backlogs: **Azerbaijan** due to a rise in certain categories stemming from legislative changes (e.g., cases related to real estate and social benefits), **Cyprus** due to a high influx of asylum seeker cases filled at the Administrative court of international protection. **Malta**, the **Slovak Republic**, and the **UK - England and Wales** fell into the "warning" category, while **Serbia** fell into the category of "very high DT" with 1 528 days and a CR of only 39%. This result is reportedly caused by persisting problems in the operations of the Administrative Court, which has been facing vast incoming caseloads for several years. These caseloads are predominantly related to issues concerning the national pension fund and the silence of administration, and electoral cases. Alongside **Serbia**, **Montenegro** reported the most concerning situation with a CR of 40%, and a DT of 1 180 days, falling also into the "very high DT" category. **Portugal** was the only member State that managed to reduce the backlog, with a CR of 112% and a DT of 747 days.

Figure 5.10 **Evolution of Clearance Rate and Disposition Time of first instance administrative cases (Q91)**

	2012	2014	2016	2018	2020	2022	2012	2014	2016	2018	2020	2022
ALB	91%	88%	98%	99%	94%	93%	287	74	115	90	199	179
AND	93%	90%	NA	NA	82%	142%	429	517	NA	NA	550	258
ARM	94%	155%	109%	118%	87%	100%	294	128	242	119	237	292
AUT	NAP	NAP	91%	90%	126%	112%	NAP	NAP	380	449	388	285
AZE	96%	102%	91%	98%	91%	86%	103	75	105	76	180	197
BEL	NA	88%	121%	119%	108%	97%	NA	625	429	370	399	288
BIH	105%	90%	118%	94%	98%	88%	326	379	339	393	424	389
BGR	92%	101%	104%	100%	100%	101%	150	124	108	112	124	129
HRV	41%	86%	109%	116%	107%	107%	523	426	319	197	179	143
CYP	74%	103%	113%	219%	84%	88%	1 270	1 775	1 582	487	863	461
CZE	NAP	91%	80%	88%	113%	126%	NAP	415	421	412	317	225
DNK	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
EST	106%	90%	106%	100%	92%	99%	108	141	108	119	142	166
FIN	101%	97%	79%	112%	99%	104%	248	280	279	235	274	281
FRA	107%	96%	99%	98%	95%	96%	302	305	314	285	333	314
GEO	113%	102%	108%	94%	75%	80%	213	130	101	185	440	529
DEU	102%	100%	92%	97%	110%	114%	354	367	375	435	426	408
GRC	143%	NA	148%	164%	163%	127%	1 520	NA	1 086	601	551	464
HUN	108%	92%	100%	102%	89%	98%	147	148	109	109	110	125
ISL	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
IRL	NAP	NAP	NAP	NAP	NA	NA	NAP	NAP	NAP	NAP	NA	NA
ITA	280%	156%	153%	136%	136%	134%	886	984	925	889	862	574
LVA	130%	144%	95%	105%	107%	107%	300	155	228	248	220	200
LTU	98%	89%	144%	88%	97%	98%	144	310	72	129	112	79
LUX	70%	94%	98%	86%	87%	92%	NA	NA	NA	NA	513	528
MLT	40%	149%	114%	91%	106%	95%	1 457	1 408	1 464	1 057	924	1 081
MDA	105%	104%	104%	106%	95%	76%	126	186	155	205	358	477
MCO	NA	NAP	NA	NAP	NAP	NAP	NA	NAP	NA	NAP	NAP	NAP
MNE	87%	91%	88%	104%	129%	40%	210	202	240	401	441	1 180
NLD	98%	99%	95%	95%	86%	99%	163	171	178	200	304	257
MKD	112%	113%	94%	114%	110%	104%	317	347	370	281	228	303
NOR	NAP	NAP	NA	NA	NA	NA	NAP	NAP	NA	NA	NA	NA
POL	100%	97%	103%	105%	95%	99%	112	139	143	118	150	163
PRT	NA	NA	112%	111%	126%	112%	NA	NA	911	928	847	747
ROU	78%	161%	92%	118%	48%	97%	272	179	170	117	690	321
RUS	100%	100%	100%	100%			11	7	6	13		
SRB	81%	104%	89%	73%	72%	39%	497	440	539	745	754	1 528
SVK	47%	125%	112%	96%	87%	93%	733	397	203	401	585	648
SVN	110%	103%	87%	91%	107%	98%	130	112	282	406	443	540
ESP	124%	113%	112%	100%	99%	97%	427	361	312	331	406	369
SWE	105%	103%	94%	97%	102%	103%	126	114	115	146	107	107
CHE	107%	100%	101%	101%	104%	96%	217	225	180	203	240	202
TUR	127%	97%	98%	98%	95%	100%	132	212	150	177	230	167
UKR	130%	99%	87%	101%	81%	115%	33	51	138	122	204	108
UK:ENG&WAL	85%	192%	90%	89%	90%	87%	446	169	383	497	730	728
UK:NIR	NA	NA	0%	NA	NA	NA	NA	NA	0	NA	NA	NA
UK:SCO	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
ISR	100%	101%	100%	98%	101%	102%	117	99	101	107	120	128
KAZ				100%	100%	NA				1	2	NA
MAR	0%	0%	100%	98%	104%	101%	0	0	89	80	154	77
Average	102%	108%	101%	105%	99%	98%	372	336	348	323	397	396
Median	101%	100%	99%	100%	97%	98%	272	207	240	241	358	292

Evolution of Clearance Rate and Disposition Time in first instance administrative cases

The evolution of CR and DT indicators for administrative cases from 2012 to 2022 across states and entities is depicted in Figure 5.10. This depiction offers the opportunity to understand how states and entities have managed their caseloads over time, indicating whether trends and choosen approaches have been favourable.

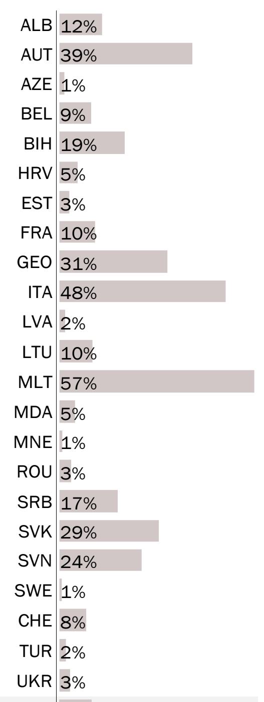
European judicial systems showed some improvement in first instance administrative matters in 2022, following the year 2020, which was heavily affected by COVID-19. Between 2020 and 2022, 28% of states and entities showed improvement in both their CR and DT indicators, while 15% exhibited deterioration in both indicators. In 58% of cases, one indicator improved while the other deteriorated. Over the period from 2012 to 2022, 25% of states and entities reported improvement in both indicators, 33% reported deterioration, while 42% displayed mixed results.

In 2022, the most substantial improvement over 2020 was noted in **Romania**, which doubled the number of resolved cases after the drop reported during the pandemic, increased its CR by 48 percentage points and reduced its DT by 369 days. However, even with these results, this state has still not yet returned to pre-pandemic figures. **Cyprus** also saw improvement, with its CR increasing by 4 percentage points and its DT reduced by 402 days as a result of a surge in incoming and resolved asylum seeker cases. Conversely, **Italy** experienced a 289-day drop in DT as a result of the volume incline in both incoming and resolved administrative cases, and consequently a reduced pending stock by one-fifth.

Conversely, **Montenegro** reported the most substantial drop in CR, by 89 percentage points, accompanied by an increase in DT of 739 days due to a substantial increase in incoming cases in the Administrative Court, related to the application of the Law on Free Access to Information, as well as other cases. In **Serbia**, the CR dropped by 32 percentage points, with the DT jumping by 774 days. While the Serbian Administrative Court continues to face serious efficiency challenges that have worsened over four consecutive evaluation cycles, the issue escalated in **Montenegro** in 2022.

Pending first instance administrative cases older than two years

Figure 5.11 **Pending first instance administrative cases older than two years at first instance (Q91)**



In administrative matters, the number of pending cases at the end of 2022 increased by 0,01 compared to the previous cycle, reaching 0,25 cases per 100 inhabitants as a European median.

While it is normal and expected to have pending administrative cases, a significant portion of "old" cases can raise concerns regarding the right to a fair trial within a reasonable time. As defined by the CEPEJ Explanatory note, cases older than two years from the start of first instance proceedings are considered "old." However, not all cases falling into this category necessarily violate this right, as mentioned earlier. In this evaluation cycle, 23 member States and entities, along with one observer State, provided data on pending first-instance administrative cases older than two years.

Malta and **Italy** continue to be the states with the highest share of administrative cases older than two years, with 57% and 48%, respectively. Both managed to reduce their shares of such cases by 3 and 11 percentage points, respectively. In **Italy**, the reduction came as a result of improved court results, while the high shares in **Malta** are relatively small in terms of absolute numbers. In 2020, 206 first instance administrative cases were deemed as old against 347 pending cases, and in 2022, there were 225 cases older than two years, against 397 pending cases. Additionally, four other states reported shares of "old" cases higher than one-fifth of the pending cases – **Austria**, **Georgia**, the **Slovak Republic**, and **Slovenia**.

At the same time, **Georgia** and **Slovenia** reported the highest year-over-year increase, with 27 and 14 percentage points respectively. In **Georgia**, the increase in pending cases was followed by a ten-fold increase in "old" cases, from 479 in 2020 to 4970 in 2022. In **Slovenia**, the increase in this case category is explained by an overall decline in the Administrative court efficiency, as explained earlier. The most significant decrease, apart from **Italy**, was observed in the **Republic of Moldova**, with a decrease of 7 percentage points where despite the increase in pending cases, the backlogged cases more than halved (from 452 cases in 2020 to 200 cases in 2022). Additionally, **Croatia** reported 5% of backlogged cases in the administrative domain, marking its first occurrence in this cycle. Remarkably, despite facing significant efficiency challenges in administrative matters, **Serbia** managed to decrease its share of backlogged cases by 4%.

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

Over the years, Europe has experienced significant migration flows which prompted the CEPEJ to measure and analyse the impact of migration cases, specifically cases relating to asylum seekers and cases relating to the right of entry and stay for aliens, on first instance courts.

The performance of first instance courts remained stable in 2022 with a CR of 106% in asylum seeker cases and 99% in the right of entry and stay for aliens cases. Concurrently, the DTs comprised 183 and 187 days, respectively. Compared to the previous evaluation cycle the variations are negligible, other than in asylum seeker cases where the CR increased by eight percentage points and thus exceeded 100%.

The European median value of incoming cases for both case types amounted to 0,01 per 100 inhabitants, but the averages were significantly higher, with 0,05 in asylum seeker cases and 0,03 in cases related to the right of entry and stay for aliens. The differences between the median and average values are caused by higher values reported in specific states and entities most affected by these cases. For example, in **Cyprus**, 0,98 asylum seeker cases were received per 100 inhabitants (8,997 cases), representing an increase of 484%.

In absolute terms, **Austria**, **Belgium**, **France**, **Germany**, **Italy**, **Spain**, and **Sweden** received the majority of both types of cases among European countries. Except for **Germany**, all of these member States reported an increase in received cases, with **France** even experiencing a 40% increase. The trend observed over the past two evaluation cycles consists in a reduction in the median value of incoming asylum seeker cases by 36% and an increase in incoming cases related to the right of entry and stay for aliens by 86%. Several states and entities have indicated that some of the figures in these case types might have been lower in 2020 due to the outbreak of the pandemic.

First instance criminal cases

As defined by the CEPEJ, criminal cases are considered to be all cases in which a judge can impose a sanction, even if this sanction is foreseen in an administrative code. In such cases, they will only be counted once as criminal cases. Offences sanctioned directly by the police, or an administrative authority are not counted as criminal cases.

As other case types, criminal cases were also severely impacted by the COVID-19 pandemic and the restrictions it brought, which had an adverse impact on the public prosecution services' and courts' efficiency. This cycle is the first one in which their performance is examined post-pandemic.

The CEPEJ classifies criminal cases of European judicial systems as severe criminal cases (severe offences), misdemeanour and/or minor criminal cases (minor offences), and other criminal cases. Minor criminal cases are those where it is not possible to pronounce a sentence involving deprivation of liberty, while severe criminal cases are those punishable by deprivation of liberty (arrest and detention, imprisonment). Typical examples of serious criminal cases comprise murder, rape, organised crime, fraud, and drug trafficking, whereas minor offences encompass specific categories such as driving violations and breaches of public order, among others. Other criminal cases comprise procedures related to court cases that are also, in some states and entities, in the jurisdiction of courts. These could be criminal investigation cases, some cases of enforcement of criminal sanctions regardless of whether the main case is already reported as a severe or minor offence, or even registers of various requests.

The category of "other criminal cases" introduced in the 2020 evaluation cycle (2018 data) is distinct, as its occurrence varies significantly among states and entities. In other words, out of the 49 states and entities that participated in this evaluation cycle, 12 member States and one observer State reported having criminal cases in this category, with shares ranging from 1% to 81%. Meanwhile, data were unavailable for 14 states and entities, and for 22 of them, this category was deemed inapplicable. To ensure comparability among states and entities, certain calculations for criminal cases in this chapter therefore exclude the "other criminal cases" (see also the dedicated box below). They focus on severe and minor offences. However, it is worth noting that for indicators which include "other criminal cases", the results may appear better for states and entities having a significant share of this type of cases which may be easier to handle.

While least affected by the COVID-19 pandemic, criminal cases also experienced increases in incoming and resolved cases in 2022, with a median of 1,6 received cases per 100 inhabitants and 1,7 resolved cases. Variations among individual states and entities were wide, from 0,18 cases received per 100 inhabitants in **Azerbaijan** and 0,22 cases in **Armenia**, to 8,88 cases in **Cyprus** and 12,10 cases in **Montenegro**. Expectedly, similar distribution may be found in resolved cases. These figures represent the highest values observed from 2012 to 2020, except for 2014 when 1,7 cases were received and 1,9 resolved per 100 inhabitants in Europe.

Figure 5.12 **Variation of 1st instance criminal cases between 2020 and 2022 (Q94)**

Incoming cases, between 2020 and 2022

Average 28%

Median 6%

Variations since 2020:

- In 27 countries, there is an increase of more than 1%.
  Average increase 51%
- In 13 countries, there is a decrease of more than 1%.
  Average decrease -13%
- In 3 countries, there is almost no change.

Resolved cases, between 2020 and 2022

Average 39%

Median 7%

Variations since 2020:

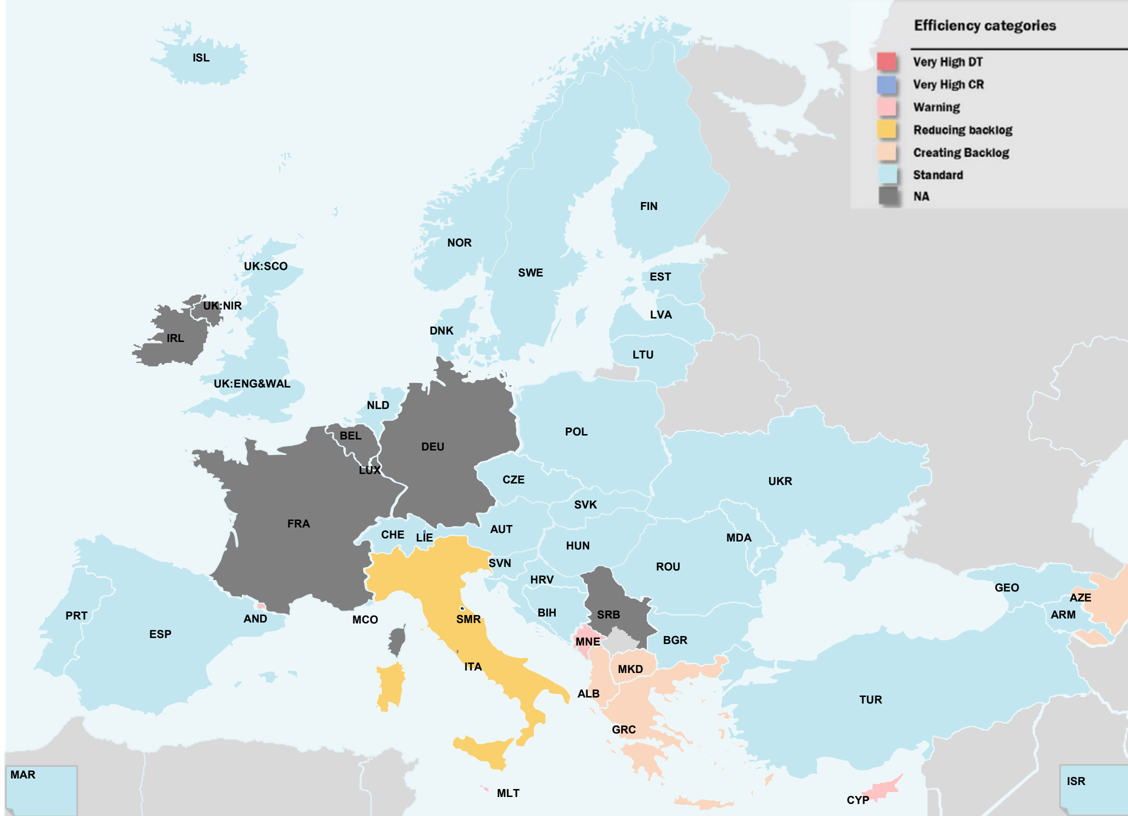
- In 32 countries, there is an increase of more than 1%.
  Average increase 55%
- In 9 countries, there is a decrease of more than 1%.
  Average decrease -9%
- In 2 countries, there is almost no change.

The evolution between 2020 and 2022 shown in Figure 5.12 is also showing stronger increase compared to civil and commercial litigious cases. On average, the number of incoming cases rose by 28% (the median being somewhat lower, at 6%) but the tendency is even further highlighted by the number of states/entities that have experienced an increase in the number of incoming cases and the average rate of this increase. Specifically, 27 states or entities experienced an average increase of 51% in their incoming cases, while 13 states/entities saw an average decrease of 13%. A similar situation is observed for resolved cases between 2020 and 2022: 32 states/entities experienced an average increase of 55% in resolved cases, while only 9 state/entities reported an average decrease of 9%. Only few countries show a change of less than 1%.

Performance indicators in first instance criminal cases

As mentioned in the introduction, the CEPEJ designed six efficiency categories by combining the two performance indicators examined in this chapter, CR and DT. States and entities are categorized into these efficiency groups, as displayed in Map 5.13. These categories reveal their capacity to handle their caseloads efficiently and timely.

Map 5.13 **Clearance Rate and Disposition Time for criminal cases at first instance in 2022 (Q94)**



Out of 42 responding states and entities, three-quarters fall into the "standard" efficiency category meaning their CR is ranging from 95% to 200%, while their DT does not exceed twice the median value of 133 days. The majority of them achieve a CR exceeding 100%, and all report a DT well below one year. Furthermore, almost half of the states and entities in this group reporte a DT of up to 100 days.

Compared to the 2020 data, there is a noticeable improvement in the efficiency of first instance courts in criminal cases in 2022. More states and entities entered the optimal standard efficiency zone, most likely due to the mitigation of disruptions caused by COVID-19. These include **Finland**, **Georgia**, **Iceland**, **Latvia**, the **Republic of Moldova**, **Switzerland**, **Ukraine**, **UK-England and Wales** and **UK-Scotland**. However, situations differ among these states and entities. **Finland**, **Georgia**, **Iceland**, and **Ukraine** noted increases in received, resolved, and pending cases by the end of the year. Conversely, **Latvia** and the **Republic of Moldova** improved their efficiency, with all three measured case factors declining over the previous evaluation cycles, while in the other three states and entities, the results are mixed.

Italy moved from the "warning" category to the "reducing backlog" category, as both the incoming and the resolved cases increased in 2022. Meanwhile, **Croatia** transitioned from the "creating backlog" category to the "reducing backlog" category, as the pressure of the incoming cases decreased. Additionally, four more states were creating backlog – **Albania**, **Azerbaijan**, **Greece** and **North Macedonia**. With the exception of **Greece**, the other three states experienced increases in incoming cases that were not matched by resolved cases, as compared to both 2018 and 2020. **Cyprus** and **Montenegro** were placed in the "warning" category due to high increases in incoming cases unaccompanied by increases in resolutions, while **Malta** reported a very high DT of 527 days as its pending stock continued to outweigh the resolved cases significantly.

Georgia and **Albania** reported the highest increase in incoming cases among these states, roughly three times higher than in 2018 and 2020, most probably due to a new type of cases included in the reporting for the first time. However, further information could not be retrieved from the available data.

Impact of "other criminal cases" on criminal caseloads, workloads, and performance

The CEPEJ introduced a separate category of criminal cases in 2018, called "other criminal cases". The intention was to facilitate states and entities in properly submitting data on criminal cases from their national jurisdictions, which by definition, would not fit under the categories of severe and minor/misdemeanour criminal cases. However, this practice, that derived from different case registrations across Europe, impeded the comparability of data to some extent as only some states and entities report on "other criminal cases".

In terms of CRs, the impact of "other criminal cases" varied. Five states and entities displayed increased CRs when this case category was excluded from the calculation, with 6 percentage points in **Albania** being the maximum. Three showed up to 3 percentage points lower CRs without "other criminal cases," while in five states and entities, the exclusion made no impact on the CR.

However, as expected, the exclusion of "other criminal cases" from DT calculations had a different impact. Only in **Montenegro** did the DT decrease by 35 days, once these cases were excluded. In all other states and entities, the DTs increased, ranging from a minimum of 4 days in **Greece** to a maximum of 74 days in **Slovenia** and 115 days in **Serbia**, which is an outlier, with by far the highest share of reported "other criminal cases" (81%).

States / entities	Severe	Misdemeanor	Other
ALB	17,9%	4,7%	77,3%
AND	0,8%	75,0%	24,2%
BIH	4,5%	27,6%	67,9%
HRV	11,0%	70,5%	18,6%
EST	22,2%	29,2%	48,6%
FRA	56,1%	43,9%	1,7%
DEU	53,0%	33,1%	13,9%
GRC	0,5%	98,1%	1,4%
LVA	51,0%	26,9%	22,1%
MNE	4,7%	70,3%	24,9%
POL	18,3%	18,6%	63,1%
PRT	78,9%	10,1%	11,0%
SVN	11,9%	36,2%	51,9%
ISR	NA	NA	54,7%
MAR	89,6%	10,4%	NAP

The described impact of "other criminal cases" on performance indicators should not be surprising considering the nature of these cases. They typically involve simpler procedural and administrative matters that are resolved relatively quickly. This can be attributed to their simplicity, requiring only a brief examination, or to procedural rules mandating prompt resolution. In turn, including this case type in calculations would typically result in slightly positive, or no impact on the CRs, while driving up the DTs, particularly in states and entities with higher shares of "other criminal cases", like aforementioned **Serbia** and **Slovenia**.

Evolution of Clearance Rate and Disposition Time in first instance criminal cases

As displayed by Figure 5.14, the performance indicators in first instance criminal cases continue to be more stable over time compared to other case types analysed in this chapter, with CRs approaching 100% and DTs notably reduced.

Figure 5.14 **Evolution of Clearance Rate and Disposition Time of first instance criminal cases (Q94)**

State / entity	2012	2014	2016	2018	2020	2022	2012	2014	2016	2018	2020	2022
ALB	NA	NA	100%	98%	74%	94%	NA	NA	108	81	294	93
AND	93%	101%	NA	NA	111%	92%	271	88	NA	NA	265	284
ARM	100%	91%	91%	104%	73%	107%	103	135	195	216	488	232
AUT	101%	103%	100%	101%	98%	101%	115	102	129	120	133	120
AZE	101%	100%	99%	101%	86%	94%	56	63	70	73	144	108
BEL	NA	NA	NA	100%	95%	100%	NA	NA	NA	NA	NA	NA
BIH	102%	101%	107%	102%	95%	102%	328	326	301	293	316	250
BGR	99%	101%	100%	99%	98%	102%	62	74	48	52	66	61
HRV	103%	130%	107%	100%	88%	108%	201	144	165	147	223	236
CYP	91%	112%	108%	96%	95%	81%	262	246	304	273	317	322
CZE	NA	100%	101%	101%	100%	101%	NA	64	67	65	72	56
DNK	104%	98%	101%	99%	95%	99%	37	47	38	41	64	77
EST	94%	97%	102%	98%	100%	99%	51	49	35	35	30	36
FIN	98%	100%	99%	95%	89%	100%	114	121	118	139	189	164
FRA	102%	95%	106%	100%	91%	95%	NA	NA	NA	NA	NA	NA
GEO	101%	96%	106%	101%	91%	98%	46	65	76	64	126	55
DEU	101%	100%	99%	NA	NA	NA	104	111	117	NA	NA	NA
GRC	NA	NA	NA	59%	NA	70%	NA	NA	NA	NA	NA	223
HUN	91%	104%	103%	101%	97%	102%	120	62	59	59	54	44
ISL	NA	NA	NA	93%	94%	100%	NA	NA	NA	NA	73	66
IRL	NA	75%	74%	NA	62%	81%	NA	NA	NA	NA	NA	NA
ITA	94%	94%	107%	98%	91%	105%	370	386	310	361	498	355
LVA	95%	102%	97%	102%	91%	103%	133	133	135	118	192	171
LTU	99%	102%	102%	101%	97%	101%	72	67	65	54	73	73
LUX	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
MLT	99%	99%	101%	103%	66%	93%	291	306	294	299	792	527
MDA	91%	95%	95%	98%	91%	104%	156	102	131	171	242	199
MCO	105%	110%	101%	107%	108%	103%	78	81	117	80	108	72
MNE	96%	105%	114%	97%	96%	81%	174	189	145	199	253	313
NLD	95%	101%	106%	101%	95%	96%	99	117	128	104	139	89
MKD	105%	100%	126%	101%	98%	94%	203	155	171	190	216	159
NOR	100%	101%	98%	100%	99%	101%	60	65	73	70	66	62
POL	101%	100%	105%	100%	98%	101%	88	99	95	111	82	68
PRT	105%	NA	107%	102%	93%	99%	276	NA	235	205	280	211
ROU	99%	101%	90%	100%	100%	97%	72	111	111	98	113	114
RUS	99%	100%	101%	NA			36	37	34	NA		
SRB	105%	96%	103%	104%	98%	NA	387	255	274	132	155	NA
SVK	101%	103%	106%	102%	100%	99%	145	136	63	124	125	133
SVN	114%	102%	100%	102%	96%	102%	124	123	141	142	165	146
ESP	103%	104%	106%	103%	95%	99%	136	125	163	170	247	203
SWE	101%	100%	98%	96%	96%	101%	123	128	133	151	149	138
CHE	99%	99%	100%	100%	92%	98%	137	113	96	100	125	134
TUR	108%	86%	95%	95%	93%	97%	226	330	294	298	387	264
UKR	103%	100%	89%	85%	93%	99%	79	81	166	271	298	66
UK:ENG&WAL	102%	98%	103%	101%	92%	101%	73	82	72	75	144	109
UK:NIR	NA	NA	0%	98%	91%	98%	NA	NA	0	NA	NA	NA
UK:SCO	NA	NA	NA	NA	89%	116%	NA	NA	NA	NA	71	100
ISR	107%	102%	102%	96%	97%	101%	142	115	103	114	123	106
KAZ				100%	100%	NA				9	10	
MAR	0%	0%	104%	104%	96%	99%			91	76	87	55
Average	100%	100%	99%	99%	93%	98%	146	133	135	144	199	157
Median	101%	100%	101%	100%	95%	99%	120	111	118	122	149	133

The comparison of data from 2020 to 2022 indicates significant improvements in the criminal domain at the first instance. Among the 40 states and entities that provided data, 27 or 68% showed improvements in both their CRs and DTs from 2020 to 2022, while only six experienced a deterioration in both indicators, and this deterioration was not substantial. The remaining seven states and entities displayed mixed results.

In contrast, the improvements were much more substantial. DTs decreased significantly, with reductions of 143 days in **Italy**, 265 days in **Malta**, 123 days in **Türkiye**, and 232 days in **Ukraine**, all owing to increases in resolved cases. Additionally, CRs saw the most improvement in **Malta** and **UK-Scotland**, increasing by 27 percentage points in each. Nevertheless, out of this group of states and entities only **Italy** and **UK-Scotland** avoided creating more pending stock and managed to reduce it to some extent. In the other mentioned states, more pending cases were created regardless of the noted improvements, some of which were actually returns to pre-pandemic values.

The improvements appear more modest when analysing the longer period from 2012 to 2022, as only six out of 34 states and entities showed improvement in both CRs and DTs, while 12 experienced worsening in both indicators. Nevertheless, apart from **Malta**, which increased its DT by 236 days, and **Serbia**, which decreased it by 282 days, there were no other significant deviations in the long run.

Pending first instance criminal cases older than two years

In total, 20 member States and entities, along with one observer State, provided data on first instance criminal cases older than two years in this evaluation cycle. These were mostly the same ones that managed to provide data for the last evaluation cycle. Although criminal proceedings appear to be the most efficient, the shares of "old" cases are still significant in some of the states and entities.

The stock of unresolved criminal cases at the end of the year, with 0,47 cases per 100 inhabitants, was the highest in 2022 across all five preceding cycles examined. It also grew by 1,3% from 2020 to 2022. Results corresponding to CRs in criminal matters are consistently slightly lower than 100%.

Portugal, **Serbia**, and **Slovenia** stand out with one-fifth or more of their criminal pending cases older than two years. While **Portugal** managed to reduce this backlog by 2 percentage points compared to the previous evaluation cycle, **Serbia** experienced a tenfold increase for a reason that remained unknown in this analysis. In **Slovenia**, it grew by 6 percentage points due to several factors such as increased complexity of cases, effects of the pandemic and lack of candidate-judges. **Albania** reported the lowest backlog of criminal cases at 1%, followed by **Estonia** at 2%, **Austria** and **Azerbaijan** both at 3%, and **Romania** and **Switzerland** both at 4%. In cases when the state manages to lower the number of pending cases, the percentage of older cases can still increase when predominantly newer cases are resolved.

Although there were variations in the shares of backlogged cases among states and entities from 2020 to 2022, these differences were not significant. It seems that despite improvements in judicial efficiency from 2020 to 2022, the systems could not effectively address the backlog of "old" pending cases.

Figure 5.15 **Pending first instance criminal cases older than two years (Q94)Specific categories of first instance criminal cases**

States / entities	% of cases older than 2 years in all pending cases
ALB	1,2%
AUT	3,2%
AZE	2,9%
BIH	21,7%
HRV	11,5%
CZE	7,0%
EST	2,5%
GEO	12,4%
GRC	9,1%
LVA	14,8%
LTU	8,2%
MDA	7,1%
PRT	33,2%
ROU	4,1%
SVK	11,1%
SVN	18,9%
SWE	5,2%
CHE	3,7%
TUR	15,2%
UKR	7,6%
ISR	11,4%

Specific categories of first instance criminal cases

The CEPEJ gathers specific data on intentional homicide and robbery cases. In the previous cycle, the CEPEJ also initiated the collection of data on criminal cases concerning child sexual abuse and child pornography in first instance courts, recognising these as particularly sensitive and critical case types.

In 2022, the CRs for intentional homicide and robbery reached 100%, thus eliminating the temporary efficiency problem from 2020, when the CR for intentional homicide cases dropped to 80%, and that of robbery cases to 92%. While the DT of intentional homicide cases dropped by 29 days in 2022, hence reaching 339 days, it increased in robbery cases from 212 to 288 days.

Data on criminal cases related to child sexual abuse and child pornography in first instance courts were provided by 17 member States and entities and one observer State, consistent with the previous evaluation cycle. Despite courts continuing to produce backlogs in these cases, the median CRs showed slight improvement in this evaluation cycle, reaching 90% in child sexual abuse cases and 87% in child pornography cases, while the median DTs decreased somewhat to 365 and 220 days, respectively.

Cases handled by public prosecutors – Is the volume of public prosecutions' caseload the same everywhere in Europe?

This chapter does noy only address the functioning of courts, but also the role of public prosecution services as a fundamental actor of the criminal justice system. While public prosecutors act in the public interest to ensure the application of the law, the status and organisation of prosecution services vary considerably across Europe. Apart from their role in the criminal domain, public prosecutors might also be responsible for other significant tasks in other legal fields such as civil, commercial or administrative law. Nonetheless, all prosecution services are competent of prosecuting a case in court. Still, the criminal justice system typically relies not only on courts and prosecution services, but also on the police and other related institutions.

The differences among European prosecution services often manifest in variations in case registration methodologies, a challenge that the CEPEJ is striving to address in order to achieve a comprehensive and comparable overview among European public prosecution services. Namely, what counts as a prosecutorial case differs a lot across Europe, which can affect the degree of comparability of data and requires careful analysis. Indeed, in European prosecution services, a prosecutorial case may imply an event or series of events, regardless of the number of alleged offenders, offences, or procedural stages involved. The level of collaboration between public prosecutors and police or investigation authorities can also significantly influence the statistical approach of cases dealt with by public prosecution offices. Besides, the status of cases suspended by public prosecutors and waiting to be processed differs among member States and entities: some count them as resolved, while others count them as pending, and the approach towards unknown offenders also varies among member States. These fundamental differences impede comparability and require a deeper knowledge of the national systems for a more thorough understanding and analysis of the figures collected by the CEPEJ and their variations.

The Explanatory note prepared by the CEPEJ defines that the number of cases handled by public prosecutors refers only to first instance criminal cases. Data should be presented "per case", meaning that an event or series of events that give rise to the criminal prosecution should be counted as one case, irrespective of the number of alleged offenders or offences. If the data cannot be presented in that mannerdue to the specifics of the national system, the response should still be provided, but with an explanation of the criteria.

Interesting examples

Drawing inspiration from successful implementations within court systems and prosecution services across Europe, efforts to integrate case-weighting into public prosecutors' offices were made. **Austria** and **Germany** opted to implement this system concurrently within both courts and prosecution offices.

Case-weighting is a versatile tool used to assess caseload and enhance efficiency within justice systems. It has practical applications in various areas, including human resources management. With case-weighting, management can calculate the optimal number of prosecutors and staff needed, allocate resources efficiently among different offices, and identify specialisation needs. Additionally, case-weighting helps assess the productivity of prosecutors and offices. In terms of case management, it aids in assigning cases and resources to reduce backlogs. At a broader level, case-weighting supports budget requests, informs planning for prosecution units, and assists in revising territorial jurisdiction for prosecutions.

More on case-weighting in Europe and beyond may be found in the recent CEPEJ Report on case-weighting in public prosecution services (December 2023), available at https://rm.coe.int/cepej-2023-14-en-report-case-weighting-prosecution-services/1680adcc98.

The described variances can explain some of the vast variations in received cases in Figure 5.16.

Figure 5.16 **Cases handled by public prosecutors per 100 inhabitants in 2022 (Q107)**

States / entities	Received	Processed	Discontinued	Penalty or a measure	Other reasons	Charged before the courts	Total processed as a % of received
ALB	0,92	NA	NA	NA	0,04	0,39	NA
AND	NA	NA	NA	NA	NA	NA	NA
ARM	1,96	0,83	0,49	NAP	0,49	0,15	43%
AUT	5,08	5,06	4,18	0,38	0,78	0,50	100%
AZE	0,33	0,31	0,16	NAP	0,05	0,16	96%
BEL	4,83	4,97	4,10	0,56	1,08	0,31	103%
BIH	1,20	1,06	0,76	0,00	NA	0,29	88%
BGR	1,50	2,51	2,07	NAP	0,55	0,44	167%
HRV	1,08	1,03	0,55	NAP	NAP	0,48	95%
CYP	NA	NA	NA	NA	NA	NA	NA
CZE	1,86	1,79	0,84	0,02	NA	0,53	96%
DNK	4,02	7,94	4,13	0,93	0,04	2,83	197%
EST	1,93	0,57	0,26	NA	NA	0,32	30%
FIN	1,53	1,51	0,59	0,00	0,19	0,92	99%
FRA	6,42	5,99	4,52	0,62	NAP	0,86	93%
GEO	NA	1,58	0,98	0,10	0,02	0,51	NA
DEU	6,20	6,06	3,35	0,19	0,00	1,06	98%
GRC	3,78	4,07	1,75	0,03	0,29	2,29	108%
HUN	0,83	1,50	0,25	0,04	0,02	1,22	182%
ISL	NA	NA	NA	NA	NA	NA	NA
IRL	0,22	NA	0,07	NA	0,07	NA	NA
ITA	4,57	4,42	3,04	0,01	0,00	0,77	97%
LVA	0,57	0,56	0,07	0,25	0,04	0,23	97%
LTU	1,60	1,53	0,69	NAP	0,00	0,85	96%
LUX	9,87	5,75	3,78	0,15	0,02	1,82	58%
MLT	NA	NA	NA	NAP	NA	2,37	NA
MDA	1,26	1,14	0,65	0,00	0,16	0,49	90%
MCO	3,95	3,22	1,87	0,25	NAP	1,10	82%
MNE	NA	NA	NA	NA	NA	NA	NA
NLD	1,05	1,05	0,33	0,27	0,02	0,45	100%
MKD	2,25	1,54	0,97	0,01	0,05	0,56	69%
NOR	5,55	5,54	2,84	1,70	0,02	1,00	100%
POL	2,89	3,05	2,18	0,13	1,27	0,73	105%
PRT	4,34	4,09	NA	NA	NA	0,42	94%
ROU	3,23	3,25	2,55	0,43	NA	0,26	101%
SRB	1,19	1,33	0,76	0,06	0,10	0,51	112%
SVK	1,03	NA	NA	0,11	NA	0,45	NA
SVN	2,83	2,57	2,08	0,07	NAP	0,37	91%
ESP	4,32	NAP	NA	NA	NA	NA	NAP
SWE	4,04	4,12	2,13	0,39	1,50	1,59	102%
CHE	6,04	5,51	0,94	4,40	NA	0,17	91%
TUR	5,85	5,16	NA	NAP	NA	1,56	88%
UKR	1,63	1,31	1,08	NAP	0,25	0,23	81%
UK:ENG&WAL	0,65	NA	0,08	NA	NA	0,67	NA
UK:NIR	2,34	2,58	0,84	0,16	0,84	1,58	110%
UK:SCO	2,65	NA	0,69	0,79	0,00	NA	NA
ISR	4,26		2,43	0,05	0,00	1,61	96%
MAR	NA		NA	NA	NA	NA	NA
Average	2,93	2,99	1,57	0,43	0,29	0,81	99%
Median	2,29	2,57	0,96	0,16	0,05	0,51	96%

In 2022, the median number of cases received by public prosecutors per 100 inhabitants decreased to 2,29, compared to 2,61 in 2020. In total, 2,57 cases were processed, and 0,96 were discontinued by public prosecutors. The median value of cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor amounted to 0,16, while 0,05 cases were closed due to other reasons. Additionally, 0,51 cases were charged before the courts. The median value of the prosecution CR was 96%. Average values are higher than the stated median ones due to high variations among states and entities.

Several states and entities reported on the influence of COVID-19 on their prosecutorial caseloads. **Azerbaijan** noted an increase in incoming cases following the lifting of COVID-19 restrictions. **Belgium** reported a decrease in both received and resolved cases due to the relaxation of COVID-19 measures and the resulting reduction in related cases. **Slovenia** attributed the increase in processed cases, among other factors, to the lifting of pandemic restrictions. **Türkiye** and **UK-Scotland** reported an increase in incoming and resolved cases as a consequence of the pandemic.

Other than the pandemic, national reform efforts were reported by some of the states and entities. **Georgia** conducted a significant review of old criminal cases within prosecution services and discontinued those in which offenders could not be identified due to objective reasons, as mandated by the Prosecution Service of **Georgia** and incentivised by the prosecutorial performance appraisal system.

In general, states and entities with a high number of received cases remain the same over the years. For example, **Germany** (6,20), **Luxembourg** (9,87), **Switzerland** (6,04), and **Türkiye** (5,85) continue to report some of the highest incoming cases per 100 inhabitants over the years.

However, the number of cases brought to courts by public prosecutors has passed from 0,68 cases per 100 inhabitants in 2020 to 0,51 in 2022 (median value). The three member States with most cases brought to court in 2022 are **Denmark** (2.83), **Malta** (2.37) and **Greece** (2.29). Conversely, the lowest values were observed in **Armenia** (0.15), **Azerbaijan** (0.16), **Switzerland** (0.17), **Latvia** and **Ukraine** (0.23), and **Romania** (0.26).

Only 13 out of 34 states and entities that reported on the number of prosecutorial cases achieved CRs equal to or higher than 100%. Among these 13, **Bulgaria**, **Denmark**, and **Hungary** reported a significant number of processed cases compared to received ones. Conversely, **Estonia** and **Luxembourg** remained to be the outliers with one of the lowest ratio of processed cases against received cases in this evaluation cycle, as well as the previous one. However, these results are partially explained by the different approaches in counting incoming and processed cases. Besides, the variation noticed in **Armenia** stems from amendments to the Criminal procedure code that enterred into force in 2022. In **Slovenia**, the evolution from 46% to 91% over the past two analysed cycles must be nuanced by the fact that in 2021 the reporting changed, to include cases of discontinued criminal complaints against unknown offenders due to the expiration of the statute of limitations in the category "processed cases" (previously excluded).

The results are therefore mixed. Some states and entities showed improvement over 2020 in processed cases compared to received ones. The prosecutorial efficiency remains a challenge across Europe as suggested by the data in Figure 5.16. Specifically, the calculated percentage of processed against received cases is of concern and would warrant deeper analysis. Moreover, the persistence of the described problems with prosecutorial efficiency over time, as indicated in previous evaluation cycles, is even more worrying.

Guilty plea procedures brought to court in European jurisdictions

In 2022, the median for guilty plea procedures brought to court by the prosecutor per 100 inhabitants comprised 0,02 procedures in total, with 0,11 before the court procedure and 0,02 during the court procedure. While the number of guilty pleas before the court procedure increased by 0,02 compared to 2020, the other two values continued to decline.

Few states and entities utilise this mechanism regularly and frequently, such as **Switzerland**, with 4,40 procedures per 100 inhabitants and **Andorra** with 1,35. However, some states like the **Czech Republic** report legislative changes aimed at simplifying the guilty plea procedure and expanding its application, while **Hungary** reported on the introduction of a so-called plea agreement in its new Criminal Procedure Code.

SECOND INSTANCE COURTS

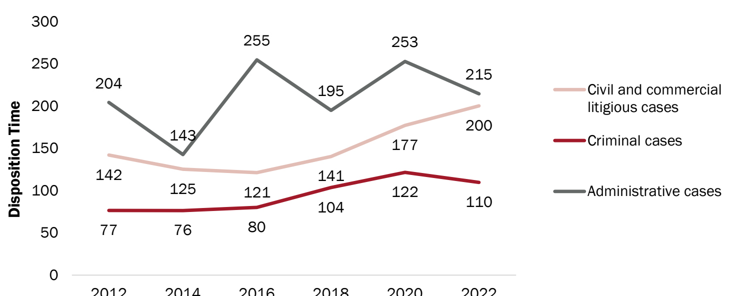
Although proceedings in second instance courts mostly do not require the physical presence of the parties or their representatives, the effects of the pandemic and the lifting of related restrictions did affect their operations and results in this evaluation cycle, as indicated in this analysis. It is also noteworthy to mention that second instance courts' caseloads naturally depend on first instance courts' performances, since the numbers of cases resolved at first instance and decisions open to appeal, in combination with appeal rates, form the second-instance incoming caseloads.

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

In contrast to first-tier courts, second instance courts exhibited mixed trends in incoming caseloads depending on case types. For civil and commercial litigious cases, there was a decline from 0,21 to 0,19 received cases per 100 inhabitants from 2020 to 2022, marking the lowest incoming stock over the last six evaluation cycles. Conversely, second instance courts received 0,15 criminal cases per 100 inhabitants in 2022, a slight increase of 0,01 compared to the previous evaluation cycle, aligning with pre-pandemic levels in 2018. Administrative cases maintained a steady inflow at 0,10 received cases per 100 inhabitants. The decline in civil and commercial litigious cases is likely due to first instance courts receiving fewer of these cases in 2020, which are typically resolved and set for appeal in a couple of years, subsequently becoming the second instance incoming stock.

Performance indicators in second instance

Figure 5.17 **European Disposition Time of second instance courts by case type (Q97 and Q98)**



The CRs of second instance courts have remained stable since 2012 across the examined case types, staying close to 100%. Compared to 2020, in 2022, the CR in civil and commercial litigious cases declined by five percentage points, reaching 99%. In administrative matters, it increased by one percentage point, reaching 103%, and remained unchanged in criminal cases at 99%.

In 2022, second instance courts saw an increase in European median DT for civil and commercial litigious cases compared to the previous cycle, while declines were noted in the other two examined case types. In civil and commercial litigious cases, the increase was 23 days, with the median DT reaching 200 days. This was also the highest DT reported in civil and commercial litigious cases over the past six evaluation cycles. For criminal cases, the DT decreased by 12 days to reach 110 days in 2022. Additionally, a notable decrease in DT was registered in administrative cases, from 253 days in 2020 to 215 days in 2022.

Expectedly, the average values are higher than the median ones due to the influence of outliers on the averages. This difference is particularly noticeable in administrative matters and to some extent in civil and commercial litigious cases where the variations are higher. In civil and commercial litigious cases, the average DT was 344 days, while in criminal cases it was 167 days, and in administrative matters, it was 652 days.

In civil and commercial litigious cases, 45% of states and entities reduced their DTs in the period from 2012 to 2022, while 39% managed to do so between 2020 and 2022. The highest reductions over both periods were reported in **Malta**, with 503 days and 275 days, respectively. In administrative matters, 63% of states and entities improved their DT over the longer examined period, while 48% improved it from 2020 to 2022. Conversely, in criminal matters, 31% of states and entities improved their DT from 2012 to 2022, while 54% did so over the last two cycles.

The variations among DTs in civil and commercial litigious cases were substantial. For instance, **Albania** reported the highest DT of 2 272 days in 2022, while the lowest was reported in **Azerbaijan** at 62 days. In **Albania**, the number of resolved cases reportedly decreased due to a reduction in the number of judges resulting from resignations, the vetting process, promotions, and other factors such as the unequal caseload distribution. Another state with a DT over 1 000 days was **Cyprus**, with 1 736 days. Out of the 36 states and entities that provided necessary data, the DT was lower than one year in 26 of them, while in seven it was under 100 days.

In **Germany**, the DT in civil and commercial litigious cases increased by 126 days, rising from 265 days in 2020 to 391 days in 2022, primarily due to a rise in pending cases and a decrease in resolved cases. These fluctuations occurred as a result of lawsuits brought against one of the automotive manufacturers in connection with the diesel emission scandal. It was reported that the Higher Regional Court of Stuttgart, where the manufacturer's headquarters are located, experienced a more than 100% increase in pending cases in 2022 compared to the previous cycle. The Court responded by devolping and putting in use a software solution, called "Oberlandesgericht Assistant OLGA", to increase effificiency in the appeal process. The software supports the decision making by automating the grouping of comparable cases, finding and extracting parameters and individualising template decisions. **Spain** reported an increase in the pace of work in 2022, as the pandemic subsided and the number of incoming civil and commercial litigious cases rose. The reduced CR and the increased DT by 116 days, from 227 days in 2020 to 343 days in 2022, can be attributed to the surge in appeals against judgments in trials related to the so-called 'floor clauses' (cláusulas suelo). These clauses are included by specific financial institutions in variable interest mortgage loan contracts and establish the minimum interest rate that customers should pay.

In administrative cases, the differences were even higher. The highest DTs were reported by **Albania** with 8 680 days, **Cyprus** with 2 310 days, and **Portugal** with 1 064 days. On the other end, **Hungary** reported 0 days (due to very low number of incoming cases on second instance), 57 days were reported by **Bulgaria**, and 77 days by **Sweden**. In criminal cases, the variations were more modest, with DTs ranging from 750 days in **Italy** to 29 days in the **Czech Republic**.

Interesting example

A new environmental chamber was established in the Court of Appeal of Mons in **Belgium** by Presidential Decree on 9 October 2021. This chamber is dedicated to handling both civil and criminal cases related to environmental issues, town planning, and agriculture. The goal was to centralise all environmental cases, broadly defined to include areas such as food safety and town planning, and to enable judges to specialize in these matters. Additionally, the chamber will continue to address non-environmental civil cases.

Pending second instance cases older than two years

The number of cases pending (European median) at the end of the year in second instance courts decreased in civil and commercial litigious cases from 0,15 cases per 100 inhabitants in 2020, to 0,13 in 2022. Over the same period, the pending stock of administrative cases increased from 0,05 to 0,06, and for criminal cases, it rose from 0,04 to 0,05 cases per 100 inhabitants – the highest values over the past six evaluation cycles.

While the quantity of unresolved cases matters, a deeper understanding of judicial systems emerges when the age of the unresolved cases is examined. In total, 27 states and entities provided information on pending cases older than two years in at least one of the case categories, as displayed in Figure 5.18 below.

Albania, **Bosnia and Herzegovina**, **Italy**, **Malta**, **Montenegro**, and **Serbia** were the states with the most substantial shares of cases older than two years in second instance courts. Moreover, in **Albania**, more than half of the pending stock was older than two years in both, civil and commercial litigious cases (52%), and administrative cases (65%). In **Albania**, the Administrative Appeal Court has reportedly been functioning with only 43% of the envisaged number of judges, which undoubtedly strongly contributed to the growth of the backlogs. In **Malta** (71%) and **Serbia** (70%), more than two-thirds of the civil and commercial litigious cases are older than two years.

The shares of old cases are much more modest in other states and entities with some accumulating to only a couple of percent or even lower, such as in **Austria**, **Latvia**, **Lithuania** and **Slovenia**.

Out of the 25 states and entities, only seven reduced their backlog from 2020 to 2022 in at least one of the three case categories. The highest reduction was noted in civil and commercial litigious cases in **Bosnia and Herzegovina**, with a reduction of 12 percentage points in civil and commercial litigious cases, 9 percentage points in criminal matters, and 10 percentage points in administrative cases, effectively leaving the country with practically no backlog in the latter two case types. This result was reportedly instigated by a consistent decrease in incoming second instance cases. **Italy** and **Latvia** follow, with a reduction of 5 percentage points in civil and commercial litigious cases. The other states were **Georgia**, **Sweden**, **Switzerland**, and **Türkiye**.

However, the increases in backlogs were more pronounced in 2022 compared to 2020. While the highest increase in 2020 compared to 2018 was 8 percentage points in civil and commercial cases in **Malta**, in 2022, the backlog increased the most in civil and commercial cases in **Serbia**, by 60 percentage points, followed by an increase of 41 percentage points in the same case category in **Albania**. Additionally, both **Serbia** and **Albania** reported significant increases in the backlog of criminal cases, with 18 and 29 percentage points, respectively. In contrast, **Italy** began reducing its substantial backlog in 2022, achieving a 5-percentage-point reduction in civil and commercial litigious cases and a 2 percentage points reduction in criminal matters. This improvement is attributed to a national reform aimed at enhancing the performance and timeliness of courts.

Although data availability is limited, the collected data indicate that judicial systems tend to exhibit more timeliness issues in second instance civil and commercial litigious cases than in the other two examined types, presumably due to the nature of the litigious procedures themselves. The second highest backlog is observed in criminal cases, although it is important to note that administrative cases, as defined by the CEPEJ, do not exist in many of the states and entities at second instance level. Moreover, the situation in states and entities with larger shares of "old" cases is likely to improve across the three case types, indicating that at least one part of the problem is system-wide and not solely connected to specific areas of law and their accompanying legislation.

Figure 5.18 **Proportion of pending second instance cases older than two years (Q97 and Q98)**

States / entities	Civil cases	Criminal cases	Administrative cases
ALB	52%	30%	65%
AND	NAP	0%	NA
AUT	1%	0%	NAP
AZE	4%	3%	1%
BIH	32%	0%	2%
HRV	NA	7%	NA
CZE	NA	1%	NAP
EST	1%	0%	0%
GEO	7%	14%	13%
GRC	13%	1%	NA
ITA	41%	45%	NAP
LVA	2%	1%	1%
LTU	1%	2%	1%
MLT	71%	NA	NA
MDA	0%	7%	1%
MCO	18%	0%	NAP
MNE	35%	NA	0%
ROU	2%	1%	NAP
SRB	70%	18%	NAP
SVK	8%	1%	5%
SVN	0%	0%	NAP
SWE	2%	1%	0%
CHE	6%	1%	9%
TUR	7%	2%	2%
UKR	2%	4%	3%
ISR	5%	1%	NAP

Interesting example

Within the framework of the National Recovery and Resilience Plan (PNRR), **Italy** has implemented a series of measures aimed at reducing both DTs and backlogs in the judiciary. The main objectives include reducing DT by 40% in the civil domain and 25% in the criminal one across all three instances by June 2026.

Specific targets have been set to address civil backlogs, aiming for a reduction of 65% in first instance courts and 55% in appeal courts by the end of 2024, and by 90% in both first instance and appeal courts by June 2026. These targets specifically apply to litigious civil cases.

A monitoring system was established that provides a detailed dashboard for tracking progress, accessible at https://webstat.giustizia.it/SitePages/Monitoraggio%20PNRR.aspx.

More information about the reform efforts can be found at https://www.italiadomani.gov.it/content/sogei-ng/it/en/Interventi/riforme/riforme-orizzontali/riforma-della-giustizia.html.

HIGHEST INSTANCE COURTS (SUPREME COURTS)

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

According to the CEPEJ methodology, courts that serve as the highest or final instance (such as the Supreme Court) are categorised as the third instance. In jurisdictions organised with only two instances, as seen in **Cyprus** and **Malta**, the highest court is then considered the second instance, which was assessed in the preceding section.

The performance of the highest instance courts was initially less affected by the COVID-19 pandemic in the previous evaluation cycle, but some of the effects undoubtedly spilled over to these courts, though with a delay. However, as demand began to rise in first instance courts in 2022, it is expected that this increase will be reflected in the highest instances, presumably in the next evaluation cycle.

Performance indicators in the highest instance courts

The highest instance courts remained the least affected by sudden and abrupt changes in caseloads, although some variations are noticeable. The European median of incoming cases was stable or declining in 2022. Specifically, in civil and commercial litigious cases, the incoming caseload continued to decline from 0,05 incoming cases per 100 inhabitants in 2018 to 0,04 in 2020, and further decreased to 0,03 in 2022. The criminal incoming caseload remained constant at 0,02 over the past six evaluation cycles, while the administrative caseload decreased by 0,01 cases in 2022, reaching 0.03 incoming cases per 100 inhabitants. The decline in civil and commercial incoming cases may be explained by the decline noted in second instance courts and generally the decline in demand noted in the previous evaluation cycle.

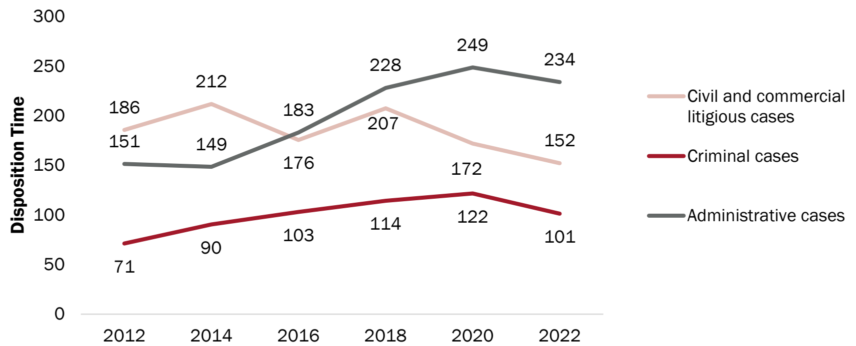
Highest instance courts were the only instance to achieve favourable CRs in all three examined case categories in 2022, with 105% in civil and commercial litigious cases, 102% in administrative cases, and 101% in criminal cases. This result is similar to the one from 2020 and to some extent reinforced by declining caseloads.

Consistent to favourable CRs and declining caseloads, the median DTs of the highest instance courts decreased from 2020 to 2022 by 21 days in civil and commercial litigious cases, 18 days in criminal cases, and 12 days in administrative matters. Despite the noted improvement in administrative cases, the general trend observed since 2012 still shows consistent increases, similar to criminal cases where the variances, however, are significantly lower.

In 2022, 79% of states and entities showed DTs of under one year in the highest instance in civil and commercial litigious cases, 74% in administrative matters and 95% in criminal cases. The variations were much more substantial in civil and commercial and administrative matters than in the criminal ones.

In **Italy**, civil and commercial litigious cases had the highest DT of 1 063 days, while **Armenia** had the lowest at 22 days. **Albania** reported the highest DT for administrative matters at 1 584 days, and **Armenia** had the lowest at 23 days. In criminal cases, **Albania** had the highest DT at 902 days, and **Montenegro** had the lowest at 12 days.

Figure 5.19 **European Disposition Time of highest instance courts by case type (Q99 and Q100)**



Croatia, **Georgia**, **Italy**, **Monaco**, **Romania** and **Spain** and the observer State **Israel**, reported improved DTs from 2020 to 2022 in all three case types. Despite some exceptions, such as the 463-day increase in DT for civil and commercial litigious cases in **Montenegro** due to a sudden substantial decrease in the number of Supreme Court judges (in 2021, the term of office of the current President and 5 judges of the Supreme Court was ended, following a decision of the Judicial Council), the reductions were more significant than the increases. **Italy** and **Israel** were the only two states that improved their DTs in all three case types, both over the shorter period from 2020 to 2022 and the longer period from 2012 to 2022.

Pending highest instance cases older than two years

The number of pending cases for more than two years at the highest instance is stable and has improved in 2022 compared to several preceding evaluation cycles. With 0,01 unresolved civil and commercial litigious cases per 100 inhabitants, the pending stock of this case type halved from 2020 to 2022. Meanwhile, in the other two case types, it remained stable at 0,005 criminal cases and 0,02 administrative cases per 100 inhabitants, as indicated by the European median.

Further insights can be gained by analysing the share of cases pending for more than two years within the total number of pending cases. In particular, it is possible to identify difficulties in complying with the reasonable time requirement in states and entities where this proportion is high. This analysis, however, is limited by the quantity of available data: specifically, only 40% of states and entities provided data on the age of cases at the highest instance.

Three member States reported particularly high shares of backlogged civil and commercial litigious cases in the highest instance – **Croatia** (42%), **Italy** (51%), and **Montenegro** (93%). Additionally, **Croatia** (31%) and **Italy** (42%) displayed high numbers of old administrative cases, along with **Albania** (94%), **Latvia** (25%) and **Türkiye** (28%). A substantial number of old criminal cases is to be noted in **Albania** (88%) and **Bosnia and Herzegovina** (23%).

However, there are states and entities with low numbers of old cases such as **Switzerland** with 1% in all three case types or **Azerbaijan**, the **Republic of Moldova** and **Sweden** with practically no cases older than two years pending at the highest instance.

On a more general note, highest instances across Europe seem to struggle with backlogs of civil and commercial litigious cases more than with criminal cases. This may also be linked to the fact that in the highest courts, there is usually a specialised criminal chamber, which is not always the case for administrative and civil cases. If the backlog is caused by operational problems such as lack of judges, the issue would equally affect these two case types. The data indicate also that the timeliness issues recede as the judicial instances progress higher, but if there is a problem, it is usually very pronounced, as seen in the abovementioned examples.

Figure 5.20 **Pending highest instance cases older than two years (Q99 and Q100)**

States / entities	Civil cases	Criminal cases	Administrative cases
ALB	NA	88%	94%
AND	NAP	NAP	NAP
AUT	0%	8%	10%
AZE	0%	0%	0%
BEL	18%	2%	19%
BIH	9%	23%	NAP
BGR	2%	2%	2%
HRV	42%	NA	31%
CYP	NAP	NAP	NAP
EST	0%	NAP	0%
FRA	NA	2%	NA
GEO	9%	1%	3%
GRC	NA	1%	NA
ITA	51%	0%	42%
LVA	1%	1%	25%
LTU	1%	0%	NAP
MLT	NAP	NAP	NAP
MDA	0%	0%	0%
MCO	0%	0%	5%
MNE	93%	0%	0%
ROU	3%	2%	5%
SRB	NA	0%	NA
SVK	NA	3%	NAP
SVN	4%	2%	13%
SWE	0%	0%	0%
CHE	1%	1%	1%
TUR	1%	7%	28%
UK:SCO	NAP	NAP	NAP
ISR	14%	2%	12%

Trends and conclusions

Following a very specific situation that judicial systems encountered during the last evaluation cycle, namely, the outbreak of the COVID-19 pandemic, the situation has normalised to some extent in 2022. States and entities reported on more activity in courts, increased incoming cases and increased resolved cases.

While all three instances witnessed a reduction in the overall DT compared to the previous cycle (2020 data), the European median still did not return to pre-pandemic values in civil and commercial litigious cases and administrative matters. Specifically, DTs even increased in first and second instance related to civil and commercial litigious cases. As in the previous evaluation cycle, the most efficient instance remains the third (highest) instance, and the most efficient area of law is the one dealing with criminal cases.

Prosecutorial efficiency remains a challenge across Europe. While some states and entities showed improvement over 2020, reflected by an increased number of cases processed by public prosecutors, the number of those with a CR exceeding 100% is fewer than in 2020, indicating a general decline in efficiency.

Asylum seeker cases and cases related to the right of entry and stay for aliens continue to burden certain states and entities in particular. The overall median value of incoming asylum seeker cases declined by 36%, while cases related to the right of entry and stay for aliens increased by 86%.

Information and Communication Technology

TECHNOLOGY AND COURTS

This chapter delves into the data collected by the CEPEJ on Information and Communication Technology (ICT) within judicial systems. Our analysis explores the development, deployment, and use of ICT in courts.

What is the role of ICT in the judiciary?

The role of ICT in the judiciary is to provide tools and resources to enhance the administration of justice, improve user access to courts, and strengthen the safeguards provided under Article 6 of the European Convention on Human Rights, including access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings, as stated by the Consultative Council of European Judges (CCJE) in its Opinion No. 14 (2011) entitled "Justice and information technologies".

ICT integration and effective use are becoming essential components of judicial systems. If properly designed, deployed, and used, they can provide benefits such as increased transparency, efficiency, access, and service quality. At the same time, the achievements of these objectives cannot be taken for granted based on the mere development or deployment of technological tools.

Confirmed by the analysis of the CEPEJ data collection exercise, we can confidently state that ICT is no longer a novelty, but a vital tool to automate tasks, reduce errors, standardise practices, improve monitoring of court proceedings, enable remote communication, enhance access to data and information and rationalise the overall efficiency and effectiveness of court operations. The digital transformation of justice over the last thirty years allows for remote hearings, presentation of electronic evidence, digitalisation of case files and court decisions, and simplifying / facilitating the search, analysis, and the drafting of the legal reasoning.

Digitised procedures have also proven indispensable during the COVID-19 pandemic, enabling judicial systems to continue operating through remote exchanges, sharing of case-related data, and remote hearings via videoconferencing.

The adoption of digital solutions has therefore become a priority. However, the direct effects of these measures have yet to be demonstrated. While data collected by the CEPEJ indicates increasing resort to digital tools, variations in implementation approaches and data collection methods among countries presented a challenge in comparing the progress. Studies reveal that achieving desired outcomes from large-scale ICT projects typically requires sustained efforts over the years in parallel of deployment, as complexities arise from interdependencies between hardware, software, procedural requirements, and judicial specificities. Therefore, successful implementation of ICT solutions necessitates careful consideration of these complexities within a network of organisations, legal frameworks, and expectations.

In today's courts, ICT plays a pivotal role in three key domains: automation, re-organisation and management, and generative capabilities. Firstly, ICT facilitates automation by streamlining repetitive tasks, such as document processing and events scheduling, thereby trying to free valuable time for judicial personnel to focus on more complex matters. Secondly, ICT enables re-organisation and management of court operations by providing tools for efficient case management, resource allocation, and performance monitoring. Courts can improve workflow, track case progress, and enhance decision-making processes through digital platforms and databases. When properly implemented, automated case allocation and case tracking can also strengthen procedural safeguards. Finally, ICT offers generative potential by fostering innovation within judicial systems. From electronic filing systems to data analytics tools, ICT empowers courts to generate new insights, improve service delivery, and adapt to evolving legal landscapes.

A growing area of interest is the potential of AI tools to support the work of judges in analysing data and supporting decision-making. This is an area in which the CEPEJ questionnaire do not explore in detail as until very recently AI solutions have been only the object of experimentation and theoretical discussion without real systematic implementation. As the landscape is rapidly changing, additional questions will have to be added to the CEPEJ questionnaire. In the meantime, the CEPEJ Resource Centre on Cyberjustice and Artificial Intelligence is already collecting data on the ongoing initiatives.

How to read the data on ICT?

The 2022 CEPEJ questionnaire brings significant revisions compared to the previous cycle: the ICT questions have been streamlined, and some have been refined to enable a more in-depth analysis of emerging topics, such as videoconferencing and remote hearing tools. The questionnaire is now also in line with the CEPEJ's recent reports, studies, and guidelines on e-justice, particularly as regards electronic archives, the digitalisation of courts and videoconferencing in judicial proceedings.

An important change is the inclusion of questions not only on the deployment, but also on the use of different technological tools. Previously, the focus was on the presence of devices, tools and services within the courts. The new questionnaire now also looks at how often these ICT systems are used in practice. This provides a clearer and more concrete picture of their practical application. These data on usage rates and their analysis should, however, be seen as a first step in exploring the capacity of court systems to collect such data, and its interpretation, particularly when compared with deployment data, is not straightforward. When examining and comparing usage rates, it is important to bear in mind, for example, that the definition of usage may vary depending on the characteristics of the technological tool. Collecting data on usage rates is essential. Without this data, it is impossible to say to what extent tools are being used, whether corrective action is required when tools are not being used, or to justify the investment of financial and human resources to strengthen the transparency and accountability of justice administration.

The CEPEJ Explanatory Note accompanying the questionnaire provides the specific definitions of deployment and usage rate for each question, for example, in the case of remote hearings the usage rate should indicate the level of use of the remote hearings across all instances and categories of cases in each matter (civil, criminal, and administrative). It is the ratio between the number of remote hearings that were organised and the total number of hearings where remote hearing was possible in the reference year.

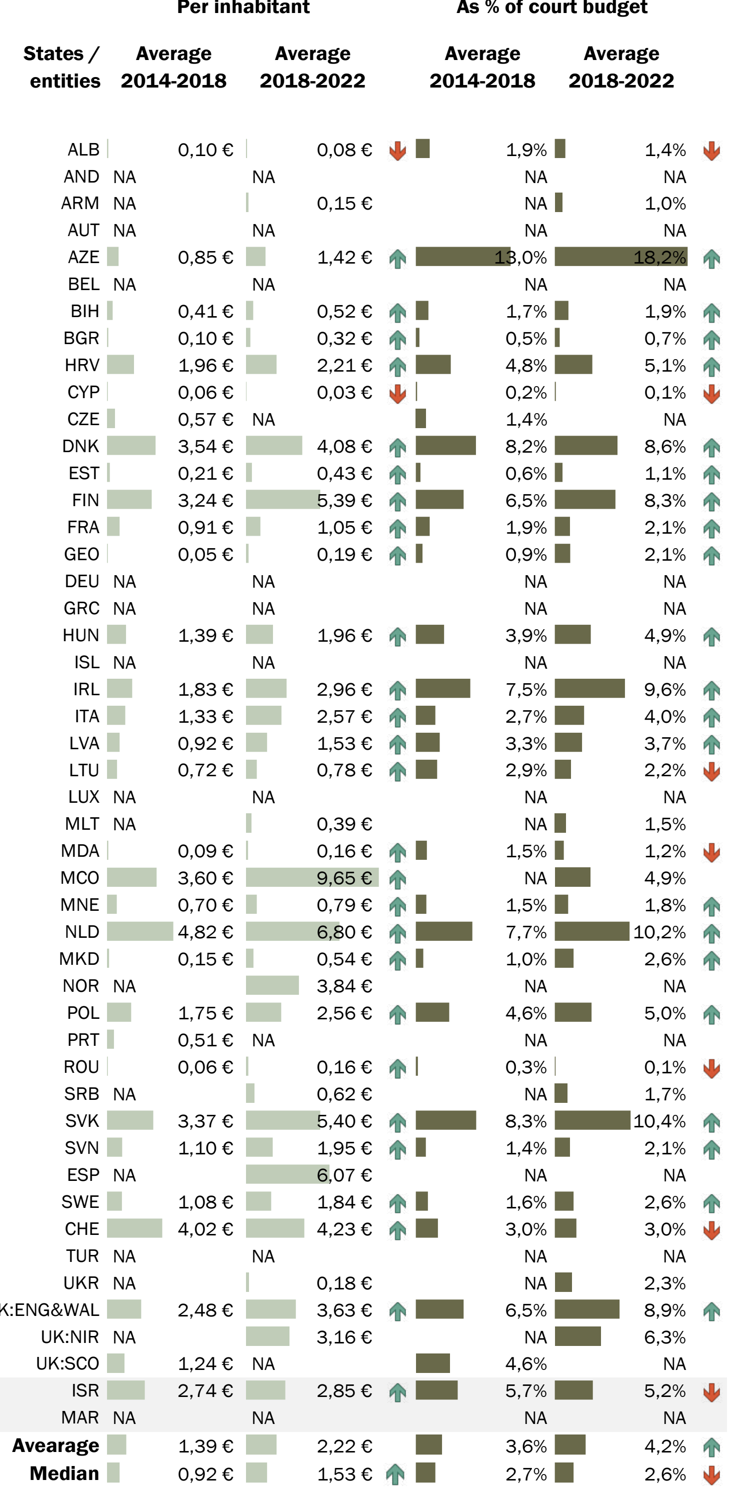
Given the broad changes in the ICT section of the questionnaire, comparing the data presented in this report with that of the previous editions is therefore a complex task, and it is essential to pay attention to the many differences that could result in erroneous interpretations if not taken into consideration. At the same time, member States or entities have revised their replies to improve the accuracy of the data, although the situations they were reporting about may not have changed. Furthermore, the calculation and the weighting of the CEPEJ ICT Index from the previous cycles have been revised to better reflect the reality.

How much does e-justice cost?

Research on the e-justice systems lifecycle has shown how ICT budgetary efforts may vary considerably depending on the different activities required to develop and sustain the technological components. The development, deployment and evolutive phases typically require significantly higher spending than maintenance. At the same time, as ICT systems age, they become more expensive to maintain and more intertwined with other systems with which they become interoperable, making an upgrade or replacement more difficult (and therefore costly) when new protocols and standards emerge. Furthermore, as more complex information systems are deployed and interconnected, it becomes increasingly difficult to distinguish simple maintenance from the upgrade and evolution of the systems.

To consider the long-term dynamics of ICT cost, this edition of the Report, similarly to the previous one, analyses and compares average expenditure recorded over three evaluation cycles rather than comparing the ICT budgetary effort between two cycles. More precisely, the average of the period 2014-2018 is compared to the average of the period 2018-2022.

Figure 6.1 **Variation of the average participation of implemented courts' budget for ICT in total budget of courts and per inhabitant (Q6 and Q1)**



States / entities	Per inhabitant: Average 2014-2018	Per inhabitant: Average 2018-2022		As % of court budget: Average 2014-2018	As % of court budget: Average 2018-2022	
ALB	0,10 €	0,08 €	↓	1,9%	1,4%	↓
AND	NA	NA		NA	NA	
ARM	NA	0,15 €		NA	1,0%	
AUT	NA	NA		NA	NA	
AZE	0,85 €	1,42 €	↑	13,0%	18,2%	↑
BEL	NA	NA		NA	NA	
BIH	0,41 €	0,52 €	↑	1,7%	1,9%	↑
BGR	0,10 €	0,32 €	↑	0,5%	0,7%	↑
HRV	1,96 €	2,21 €	↑	4,8%	5,1%	↑
CYP	0,06 €	0,03 €	↓	0,2%	0,1%	↓
CZE	0,57 €	NA		1,4%	NA	
DNK	3,54 €	4,08 €	↑	8,2%	8,6%	↑
EST	0,21 €	0,43 €	↑	0,6%	1,1%	↑
FIN	3,24 €	5,39 €	↑	6,5%	8,3%	↑
FRA	0,91 €	1,05 €	↑	1,9%	2,1%	↑
GEO	0,05 €	0,19 €	↑	0,9%	2,1%	↑
DEU	NA	NA		NA	NA	
GRC	NA	NA		NA	NA	
HUN	1,39 €	1,96 €	↑	3,9%	4,9%	↑
ISL	NA	NA		NA	NA	
IRL	1,83 €	2,96 €	↑	7,5%	9,6%	↑
ITA	1,33 €	2,57 €	↑	2,7%	4,0%	↑
LVA	0,92 €	1,53 €	↑	3,3%	3,7%	↑
LTU	0,72 €	0,78 €	↑	2,9%	2,2%	↓
LUX	NA	NA		NA	NA	
MLT	NA	0,39 €		NA	1,5%	
MDA	0,09 €	0,16 €	↑	1,5%	1,2%	↓
MCO	3,60 €	9,65 €	↑	NA	4,9%	
MNE	0,70 €	0,79 €	↑	1,5%	1,8%	↑
NLD	4,82 €	6,80 €	↑	7,7%	10,2%	↑
MKD	0,15 €	0,54 €	↑	1,0%	2,6%	↑
NOR	NA	3,84 €		NA	NA	
POL	1,75 €	2,56 €	↑	4,6%	5,0%	↑
PRT	0,51 €	NA		NA	NA	
ROU	0,06 €	0,16 €	↑	0,3%	0,1%	↓
SRB	NA	0,62 €		NA	1,7%	
SVK	3,37 €	5,40 €	↑	8,3%	10,4%	↑
SVN	1,10 €	1,95 €	↑	1,4%	2,1%	↑
ESP	NA	6,07 €		NA	NA	
SWE	1,08 €	1,84 €	↑	1,6%	2,6%	↑
CHE	4,02 €	4,23 €	↑	3,0%	3,0%	↓
TUR	NA	NA		NA	NA	
UKR	NA	0,18 €		NA	2,3%	
UK:ENG&WAL	2,48 €	3,63 €	↑	6,5%	8,9%	↑
UK:NIR	NA	3,16 €		NA	6,3%	
UK:SCO	1,24 €	NA		4,6%	NA	
ISR	2,74 €	2,85 €	↑	5,7%	5,2%	↓
MAR	NA	NA		NA	NA	
Avearage	1,39 €	2,22 €		3,6%	4,2%	↑
Median	0,92 €	1,53 €	↑	2,7%	2,6%	↓

Observing the data from this perspective, a few trends can be identified regarding the average percentage of the ICT budget on the overall budget for the years 2014-2018 and 2018-2022 and in particular:

- Several states have experienced an increase in the average percentage of their ICT budget on the overall budget from 2014-2018 to 2018-2022. For example, **Azerbaijan** saw a significant increase from 13,00% to 18,20%, **Finland** from 6,50% to 8,30%, and the **Slovak Republic** from 8,30% to 10,40%. This suggests a growing prioritisation of ICT investment within these states.
- Some states have maintained relatively stable percentages or experienced only marginal changes. For instance, **Switzerland** remained at 3.00%, while **Latvia** saw a slight increase from 3,30% to 3,70% and **Montenegro** from 1,50% to 1,80%. This indicates a consistent approach to ICT budget allocation or minor adjustments over time.
- There are also instances where states have experienced a decrease or fluctuation in their ICT budget percentages. For example, **Lithuania** saw a decrease from 2,90% to 2,20%, and the **Republic of Moldova** from 1,50% to 1,20%. These fluctuations may reflect shifts in national priorities, changes in economic conditions, or alterations in budget allocations. At the same time, it should be considered that the ICT expenditure in euros per inhabitant increased over time (**Lithuania** from 24,48 € to 30,01 €; **Republic of Moldova** from 6,13 € to 8,65 €).

When examining the broad differences in the percentage of ICT budget allocation among states, several factors come into play that contribute to these variations. States with higher levels of economic development tend to allocate a larger percentage of their budget to ICT. These states often have more resources available to invest in technology infrastructure, digital transformation initiatives, and innovation. For example, **Finland**, **Denmark**, and the **Netherlands** have relatively high ICT budget percentages and are known for their advanced economies and strong emphasis on technology. The level of existing ICT infrastructure and the need for further development influence budget allocations. Countries with outdated or insufficient infrastructure may allocate a more significant percentage of their budget to ICT to modernise and expand their technological capabilities. In contrast, countries with well-established infrastructure may allocate a smaller percentage for maintenance and incremental improvements.

Government policies, strategies, and initiatives promoting ICT adoption and digitalisation can also impact budget allocations. Countries with comprehensive digital strategies or policies to foster innovation and technology adoption may allocate a higher percentage of their budget to ICT-related activities. Furthermore, variations in ICT budget percentages may also reflect regional differences in economic development, government priorities, and infrastructure development. Countries within the same region or sharing similar socio-economic characteristics may exhibit similar patterns in ICT budget allocations.

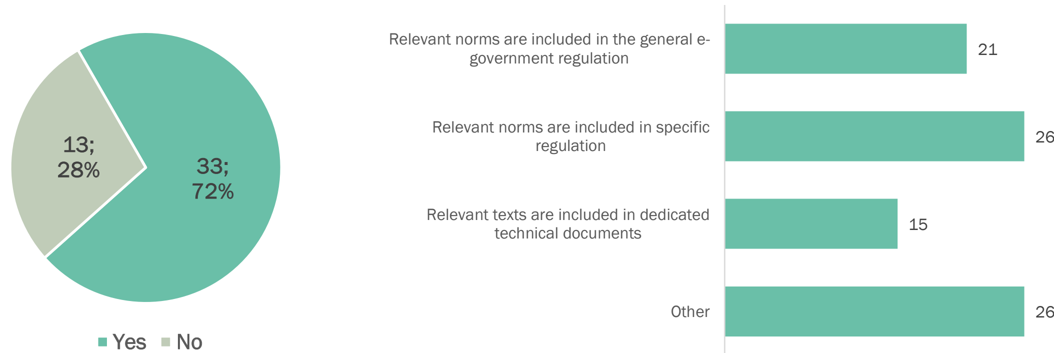
Calculating the trends for the variation of the average budget calculated as euros per Inhabitant from 2014-2018 and in 2018-2022, there seems to be an increasing trend for many states. This could be due not only to increased ICT spending but also to various external factors such as inflation, COVID-19 effects, or population changes. There are also large disparities in the budget per inhabitant among states. For instance, **Monaco** has a substantially higher budget per inhabitant compared to other countries, indicating potentially higher levels of ICT investment or different cost structure. Regional differences should also be considered, notably to put forward policy priorities across different parts of Europe.

When considering both sets of data together, it is essential to recognise the interplay between the percentage of ICT budget within the overall budget and the budget calculated as euros per inhabitant. While some states may allocate a relatively high percentage of their budget to ICT, the actual budget per inhabitant can vary significantly depending on factors such as population size and economic capacity. For example, **Azerbaijan** in 2018-2022 spent 7,23 € per inhabitant that represent 18,2% of the court budget on ICT, while **Slovak Republic** spent a higher amount of 48,16 € per inhabitant but a much lower percentage of 10,4% of the court budget on ICT.

How is ICT regulated in the judiciary?

33 states report having national legislation or regulations regarding ICT in the judicial system. The regulation of the digitalisation of the judicial system can firstly be governed by laws that apply generally to ICT in the public sector (21 out of 33). There can also be laws dedicated to regulating the use of ICT (26 out of 33), specifically adapted to the needs and functions of the judicial system. Finally, there are cases where the use of ICT in the judicial system is not explicitly governed by law but is described in technical documents or specifications that define their technical functionalities (15 out of 33). These documents serve as guides for the implementation and operation of ICT systems in the judicial context, ensuring their alignment with technical standards and requirements while guaranteeing compliance with legal norms, where technological advancements can improve judicial processes.

Figure 6.2 **Existence and structure of national legislation/regulation of ICT (Q62-03 and 62-04)**



By categorizing states based on the depth and specificity of their regulatory efforts, we can discern distinct groupings that reflect varying approaches to ICT regulation within judicial systems:

- **Comprehensive Regulation**: Countries in this group, such as **Austria**, **Denmark**, **France**, **Germany**, **Lithuania**, and **Ukraine** boast comprehensive regulatory frameworks covering general principles, specific judicial system requirements and detailed technical specifications. These countries demonstrate a holistic approach to ICT regulation, ensuring a well-rounded governance framework for ICT usage within the legal domain.

- **General Regulation Only**: Countries like **Cyprus** and **Estonia** fall into this category, having regulations that provide general guidelines for ICT in judicial systems. These countries prioritise overarching principles, but they may lack specific requirements or technical specifications, thus focusing more on broad policy objectives.

- **Specific Judicial System Regulation**: **Armenia**, **Bosnia and Herzegovina**, **Latvia**, **Malta**, **North Macedonia** and Poland belong to this group, emphasizing targeted regulations tailored to the unique needs of their judicial systems. These countries prioritise addressing specific challenges and requirements within the legal domain, potentially enhancing the efficiency of judicial processes.

- **Technical Specifications**: **Montenegro** represents this category, defining detailed technical requirements for ICT deployment in judicial contexts. These countries prioritise precision and specificity in their regulatory approach but may lack a broader e-justice legal framework required for advanced e-justice systems.

- **Other Considerations**: **UK-Scotland** for example, exhibits additional regulatory arrangements beyond general, specific, or technical regulations. This may navigate different regulatory frameworks, reflecting a nuanced approach to ICT governance within judicial systems.

By understanding these categories, policymakers and stakeholders can gain valuable lessons and best practices to inform future regulatory initiatives and enhance the efficacy of ICT governance in legal domains.

How is ICT governance set up and why is it increasingly important?

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

The European landscape shows different choices about the national structure in charge of ICT strategic policymaking and governance in the judicial systems. These structures should take into consideration two elements: the (de-)centralisation of ICT, strategies and governance, and the composition of the teams responsible (technical or/and judicial personnel) as well as coordination of these structures. The ICT governance should always ensure a correct dialogue which "is absolutely necessary between those developing technology and those responsible for the judicial process" (CCJE's Opinion No. 14 (2011), § 36).

Figure 6.3 **Existence of ICT strategy (Q62-01 and 62-02)**

As ICT development, deployment and implementation is a complex task which requires the coordination of multiple actors and the consideration of the inputs of multiple stakeholders over an extended period of time, the majority of the justice systems (73%) periodically adopt an ICT strategy. Such a strategy is an effective plan for future development in ICT in the judiciary in a written and binding form. It is usually accompanied by an action plan. Planned actions can include the development and/or evolution of the Case Management System (CMS), digitalisation of new branches (e.g. digitalisation of administrative procedures), or development and implementation of new software/tools for specific litigation.

Figure 6.3 shows the key actors involved in the drafting process of the ICT strategy. As ICT plays a larger role involving of various stakeholders in justice service provision, it is not just Ministries of Justice, Judicial and Prosecutorial Councils that are engaged, but also a range of other groups such as bar associations, notaries associations, enforcement agents' associations, and court administration services. This underscores the importance of considering not only the technical aspects managed by ICT departments in shaping ICT strategy but also drawing upon the expertise of a broader network of legal professionals. This is because only these actors possess the necessary professional skills to support the creation of ICT systems that are not only technically feasible but also legally and organisationally effective, while upholding fundamental justice values, the rule of law, and principles of fair trial.

CEPEJ ICT INDEX

What is the level of deployment of ICT tools?

The ICT Deployment Index combines the weighted values of member States and entities data on ICT deployment. In the calculation of the index, each of the technologies selected from the questionnaire is weighted by taking into consideration three factors:

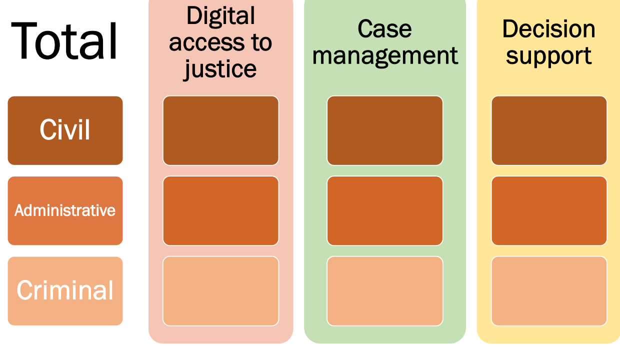
- the importance of the tool (e.g. the existence of a system that allows the submission of a case to a court electronically in civil and commercial, criminal or administrative sector),
- the functionalities that the tool supports (which may combine the capabilities of the ICT system with the normative requirements and organisational arrangements – e.g. paper submission is not possible anymore, the paper submission is still possible or paper must accompany the electronic submission),
- the level of deployment of the tool.

Depending on the characteristics of the tools adopted, the technologies considered for the calculation of the index can be deployed at the central level (for example, national databases) or at the local level (local case management systems, videoconference rooms). It should be noted for the index calculated for previous years that the data are not directly comparable, both because the questions have changed and because there has been a greater focus on advanced developments rather than basic ICT tools.

The weighted values are added to calculate the overall ICT Deployment Index and the indexes for each specific justice field (civil and commercial, criminal or administrative matter) and per categories (digital access to justice, case management and decision support). Digital access includes all the aspects of submitting, accessing and communicating the court case digitally (062-08 to 062-16); case management includes tools for organising and administering the registers of court cases (Q62-18 to 62-22. Q62-30 and Q62-31) while decision support includes all the tools that directly assist the justice professionals in their work (Q62-23 to 62-29, Q62-35 and Q62-36). Each index (see diagram 6.4) is then normalised on a 0-10 scale. Civil and commercial, criminal and administrative sector indexes are calculated with the same approach, considering just the replies that apply to each sector. Therefore, it is possible that states that are mainly developed in one matter (civil and commercial, criminal or administrative) are not achieving a high overall score as they are lagging behind in one or two of the others. While different levels of technologies' deployment can be assessed using a composite index (ICT Deployment Index), other areas such as the justice governance structure or the need for a specific legal framework to authorise ICT use do not follow the same logic. For that reason, and in line with what was done in the previous edition, the overall ICT Deployment Index does not include the legislative framework regulating the use of specific technologies in judicial proceedings or their governance.

Details of calculation of the ICT indices are provided in the Methodology of calculation of the CEPEJ ICT index.

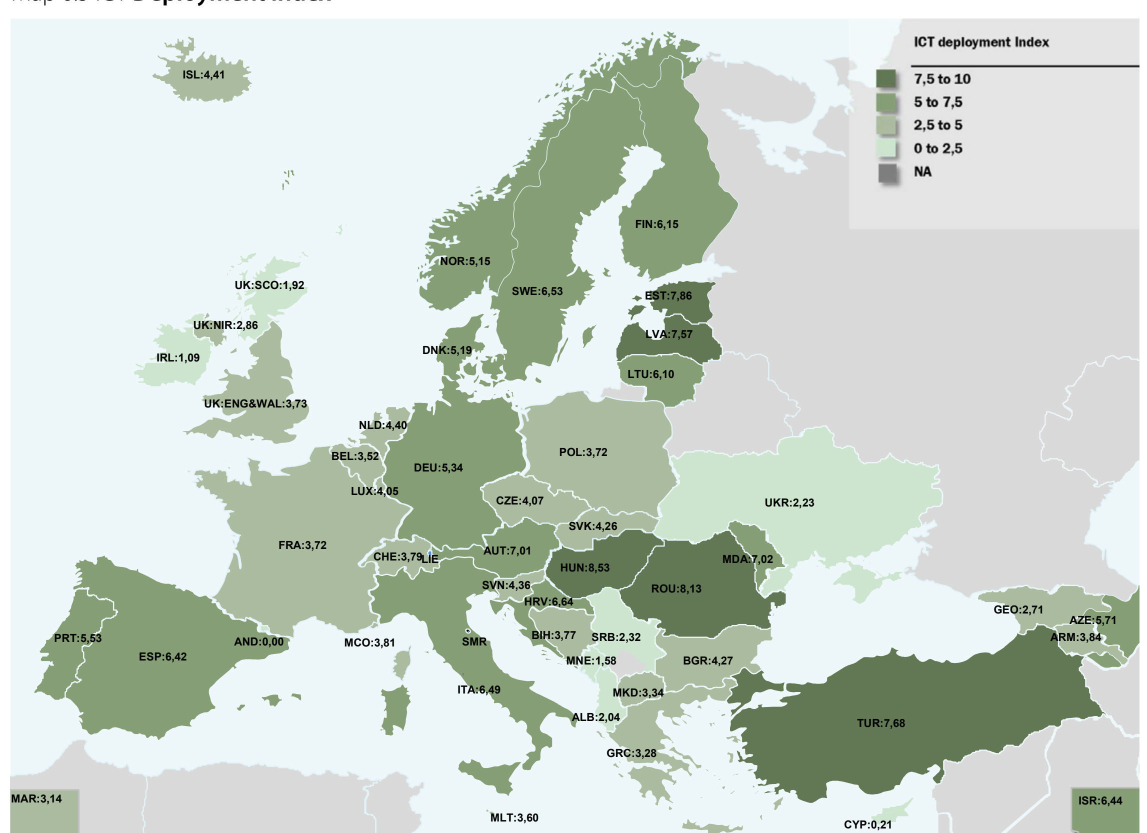
Figure 6.4 **Diagram of all ICT indices**



To identify the main trends in the ICT deployment in the justice domain across the Council of Europe member States, the data can be analysed across different dimensions and, in particular, the overall ICT deployment, looking at the total ICT deployment across all sectors to understand the general trend in each state and entity. Sector-specific trends, analysing the deployment trends in each matter (civil, administrative, criminal) to provide insights into where ICT is being deployed more prominently. The comparison of deployment index by matter can also be used to identify whether some, such as administrative or criminal justice, are seeing more ICT adoption compared to others.

Map 6.5 provides a map with the General ICT Deployment Index scores of member States and other entities. The average score on a scale that ranges between a minimum of 0 and a theoretical maximum of 10 is 4,3, with a median value of 4,0, a minimum of 0,0 (**Andorra**) and a maximum of 8,3 (**Hungary**). In more detail only, **Hungary** and **Romania** belong to the highest group while also **Estonia**, **Türkiye**, **Latvia**, **Austria**, **Republic of Moldova**, **Croatia** and **Italy** scored in the top 20%, with values above 6,2, while, on the contrary, **Andorra**, **Cyprus**, **Ireland**, **Montenegro**, **Serbia**, **UK-Scotland**, **Albania** and **Ukraine** scored in the lower 20%, with values below 2.5.

Map 6.5 ICT **Deployment Index**



The civil matter ICT Deployment Index shows a more advanced deployment compared to the other sectors, with an average of 4,5, a median of 4,2, a minimum of 0,0, and a maximum of 8,5. The top 10% includes **Hungary**, **Romania**, **Estonia**, **Türkiye**, and **Latvia** (with values above 7,5), while **Andorra**, **Cyprus**, **Ireland** and **Montenegro** scored in the lower 10%, with values below 1,6.

Figure 6.6 **ICT Deployment Index by matter**

States / entities	Civil matter	Administrative matter	Criminal matter
ALB	2,3	2,1	1,7
AND	0,0	0,0	0,0
ARM	4,3	3,9	3,3
AUT	7,6	7,1	6,3
AZE	6,2	6,2	4,7
BEL	3,8	3,9	2,8
BIH	4,2	3,9	3,2
BGR	4,8	3,8	4,3
HRV	7,0	7,0	5,9
CYP	0,2	0,2	0,2
CZE	4,0	4,1	4,1
DNK	6,3	3,5	5,8
EST	8,0	8,1	7,5
FIN	6,1	6,5	5,8
FRA	1,8	6,6	2,6
GEO	3,4	3,4	1,3
DEU	5,6	5,4	4,9
GRC	3,2	4,2	2,3
HUN	8,6	8,6	8,4
ISL	4,4	4,3	4,6
IRL	1,4	0,0	2,0
ITA	7,7	6,4	5,2
LVA	7,6	7,7	7,4
LTU	6,7	6,7	4,7
LUX	4,1	4,1	4,0
MLT	4,6	3,8	2,3
MDA	8,1	6,7	6,2
MCO	3,8	3,8	3,9
MNE	1,8	1,8	1,1
NLD	3,4	3,6	6,4
MKD	3,4	3,3	3,3
NOR	5,8	3,6	6,2
POL	3,5	5,7	1,7
PRT	5,9	6,0	4,7
ROU	8,2	8,2	8,0
SRB	2,3	2,5	2,1
SVK	4,8	4,1	3,8
SVN	4,9	4,2	3,9
ESP	6,5	6,5	6,2
SWE	6,7	6,5	6,5
CHE	4,2	2,6	4,6
TUR	8,0	7,5	7,6
UKR	2,4	2,2	2,1
UK:ENG&WAL	4,6	3,8	2,5
UK:NIR	3,3	1,3	4,0
UK:SCO	3,9	0,0	1,8
ISR	6,8	6,4	6,1
MAR	3,5	3,3	2,5
Average	4,8	4,5	4,2
Median	4,5	4,1	4,1

The administrative matter ICT Deployment index shows lower deployment values than the civil one, with an average of 4,5, a median of 4,1, a minimum of 0,0 and a maximum of 8,6. The top 10% includes **Hungary**, **Romania**, **Estonia**, **Latvia**, and **Türkiye** with values above 7,5, while **Andorra**, **Ireland**, **UK-Scotland**, and **Cyprus** scored in the lower 10%, with values below 0,2. It is important to note that the Index for administrative matters might be underestimated in some states and entities. This is because these countries do not have administrative courts and may be hesitant to replicate the civil matters ICT data for administrative even though both case categories are part of the same ICT system.

The criminal matter ICT Deployment index, with an average of 4,2 a median of 4,1, a minimum of 0.0 and a maximum of 8,4 shows some metrics below and some above the administrative one. The top 10% includes **Hungary**, **Romania**, **Türkiye**, and **Latvia** with values above 7,4, while **Andorra**, **Cyprus**, **Georgia**, **Montenegro** and **UK-Scotland** scored in the lower 10%, with values below 0,2.

Analysing the imbalances in ICT deployment within the justice domain can be carried out by examining the differences between matters (civil, administrative, criminal) for each state individually. States with significant variations between these sectors are identified. A method to gauge imbalance is by computing the standard deviation of ICT deployment scores across sectors for each state and entity. A higher standard deviation signifies increased disparity between scores, hinting at potential imbalances. The most imbalanced state, based on the highest standard deviation, is **France** with a standard deviation of 2,07, that indicates significant variation in ICT deployment across different matters. Other countries with notable imbalances include **Poland**, **UK-Scotland**, the **Netherlands**, and **Denmark**. These states also exhibit substantial differences in ICT deployment among various matter within their justice domains.

What is the level of use of ICT tools?

The reply to this question should be considered as a first attempt to gauge a new area of exploration: the use of ICT in courts. New data were collected, which was not available in previous editions.

Building on the structure of the ICT Deployment Index, the ICT Use index combines the weighted values of member States and entities' data on ICT use. In the calculation of the index, each of the technologies selected from the questionnaire is weighted by considering three factors: the importance of the tool; the functionalities that the tool supports; and the % of usage of the tool. It's important to note that the method for calculating this percentage may vary depending on the tool, as the most suitable usage indicator is selected and outlined in the Questionnaire Explanatory Note.

Map 6.7 **ICT Usage Index**

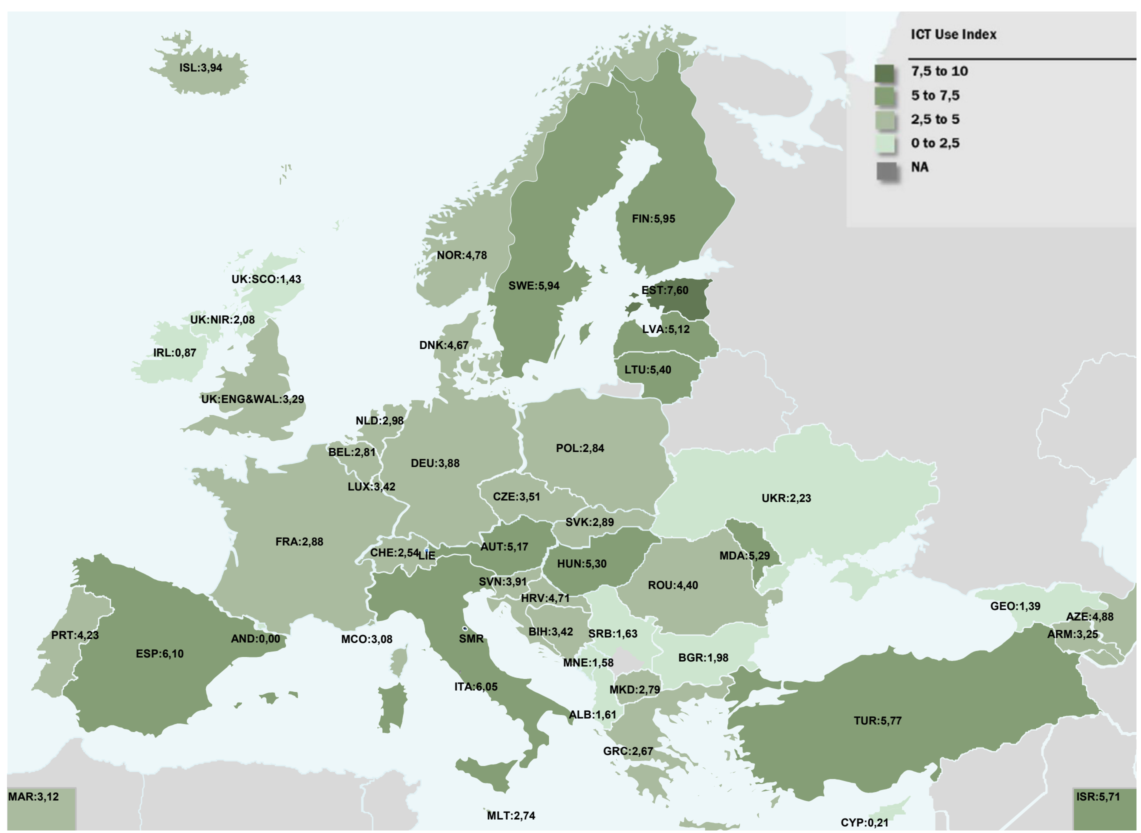


Figure 6.8 **ICT Usage Index by matter**

ICT Usage Index

States / entities	Civil matter	Administrative matter	Criminal matter
ALB	1,7	1,6	1,5
AND	0,0	0,0	0,0
ARM	3,7	3,3	2,7
AUT	6,0	5,0	4,5
AZE	5,7	4,8	4,0
BEL	3,3	2,8	2,4
BIH	3,8	3,6	2,9
BGR	2,5	1,7	1,7
HRV	5,1	5,0	3,9
CYP	0,2	0,2	0,2
CZE	3,4	3,6	3,5
DNK	6,2	3,5	4,2
EST	7,9	7,9	6,9
FIN	5,8	6,3	5,7
FRA	1,8	5,3	1,4
GEO	1,6	1,6	1,0
DEU	4,5	4,3	2,7
GRC	2,5	3,5	2,0
HUN	5,4	5,4	5,2
ISL	3,7	4,1	4,0
IRL	1,0	0,0	1,7
ITA	7,6	6,4	3,9
LVA	5,4	5,2	4,7
LTU	6,0	6,3	3,8
LUX	3,3	3,8	3,1
MLT	3,4	3,1	1,6
MDA	5,7	5,4	4,7
MCO	3,1	3,1	3,1
MNE	1,8	1,8	1,1
NLD	1,6	1,8	5,7
MKD	3,1	2,8	2,4
NOR	5,4	3,1	6,0
POL	3,1	3,7	1,6
PRT	4,7	4,8	3,0
ROU	4,5	4,6	4,0
SRB	2,0	1,3	1,6
SVK	3,4	2,7	2,6
SVN	4,4	3,9	3,3
ESP	6,2	6,2	5,8
SWE	5,9	5,8	6,1
CHE	2,6	2,3	2,8
TUR	6,1	5,8	5,5
UKR	2,4	2,2	2,1
UK:ENG&WAL	4,3	3,2	2,2
UK:NIR	2,6	0,5	3,2
UK:SCO	2,8	0,0	1,5
ISR	6,0	5,8	5,4
MAR	3,5	3,3	2,5
Average	3,9	3,6	3,2
Median	3,6	3,5	3,0

Map 6.7. provides a map with the General ICT Use Index scores of member States and other entities. The average score in a scale that ranges between a minimum of 0 and a theoretical maximum of 10 is 3,5, with a median value of 3.4, a minimum of 0,0 (**Andorra**) and a maximum of 7,6 (**Estonia**).

Analysing the usage trends in each matter (civil, administrative, criminal) shows that the use in the criminal matter is consistently lower than in the other two, while the civil matter seems to perform slightly better than the administrative.

When examining the differences between matters (civil, administrative, criminal) for each state and entity, an interesting element is shown, that is, the three countries most concerned by this diversity - **France** (civil 1,8; administrative 5,3; criminal 1,4), **Italy** (civil 7,6; administrative 6,4; criminal 3,9) and the **Netherlands** (civil 1,6; administrative 1,8; criminal 5,7) - each pointing to a different trend.

A general consideration can be made confronting the main summary statistics (e.g., average, median, minimum and maximum) for both deployment and usage data to understand the central tendency and variability. Figures 6.9 clearly shows that the ICT Usage Index scores expectedly lower than the ICT Deployment index in all such statistics.

It is also crucial to recognise that the analysis results are part of an ongoing effort to assist member States and other entities in gathering accurate data on their e-justice investments and progress, facilitating a deeper understanding of their digitalisation journey. However, it is also essential to acknowledge that this is a long-term endeavour, and usage data should not be used to compare different systems or assess individual system performance at this stage.

Figure 6.9 **ICT Statistics on Deployment and Usage Index by matter and by categories**

Deployment index				
	Total	Civil	Administrative	Criminal
Average	4,48	4,77	4,46	4,17
Median	4,16	4,47	4,06	4,09
Minimum	0,00	0,00	0,00	0,00
Maximum	8,53	8,61	8,56	8,41

Usage index				
	Total	Civil	Administrative	Criminal
Average	3,55	3,85	3,55	3,21
Median	3,35	3,55	3,55	3,03
Minimum	0,00	0,00	0,00	0,00
Maximum	7,60	7,88	7,91	6,94

Deployment index				
	Total	Digital access to justice	Case management	Decision support
Average	4,48	3,84	5,75	2,93
Median	4,16	3,38	5,66	2,64
Minimum	0,00	0,00	0,00	0,00
Maximum	8,53	8,62	9,79	7,68

Usage index				
	Total	Digital access to justice	Case management	Decision support
Average	3,55	2,08	5,65	2,50
Median	3,35	1,69	5,27	2,29
Minimum	0,00	0,00	0,00	0,00
Maximum	7,60	5,98	9,79	6,92

A more detailed analysis of the data shows that some of the states that score at the highest levels in terms of deployment seem to perform comparatively lower in terms of use. These discrepancies point out the next steps of the exploration that should be aimed at better understanding possible differences in data collection and interpretation, as well as the need to better understand the complex dynamics between technological deployment, adoption, and use.

Implementing robust mechanisms for tracking and assessing the utilisation rates of ICT tools within the justice domain, particularly in court settings, is imperative to gauge their effectiveness and optimise resource allocation for ongoing improvement. Moreover, these mechanisms are essential for ensuring transparency and accountability in allocating public funds towards the development of e-justice infrastructure, which is crucial to fostering public trust and confidence in the justice system's modernisation efforts.

Can we e-access justice?

An important aspect of digitalisation is the deployment and use of ICT to improve e-access to justice, that is, to file documents, access data, and communicate with the key actors of justice service provision in electronic format.

To analyse the relationship between the deployment and use of Digital Access Tools, we can compare the deployment rates of countries to the frequency of their use of these tools (see Figure 6.10). Based on the provided data, four groups can be identified:

- High Deployment, High Use - countries with high scores in both deployment and use of digital access tools, such as **Estonia**, Italy, and Spain, demonstrate effective implementation and utilisation of these tools. This suggests a strong correlation between deployment efforts and actual usage.
- High Deployment, Low Use — for example, Hungary, **Latvia**, and **Romania**. This could indicate potential barriers, such as a lack of digital literacy, accessibility issues, or cultural factors inhibiting the uptake of digital tools. This could be also a result of recent development as for in **Latvia** where the first stage of the E-case program was concluded only at the end of 2021, followed by a 2nd stage with a special emphasis on user involvement, training and support. The usage rate is therefore logically lower.

Figure 6.10 **ICT Deployment and Usage Index for access to justice and Total Index**

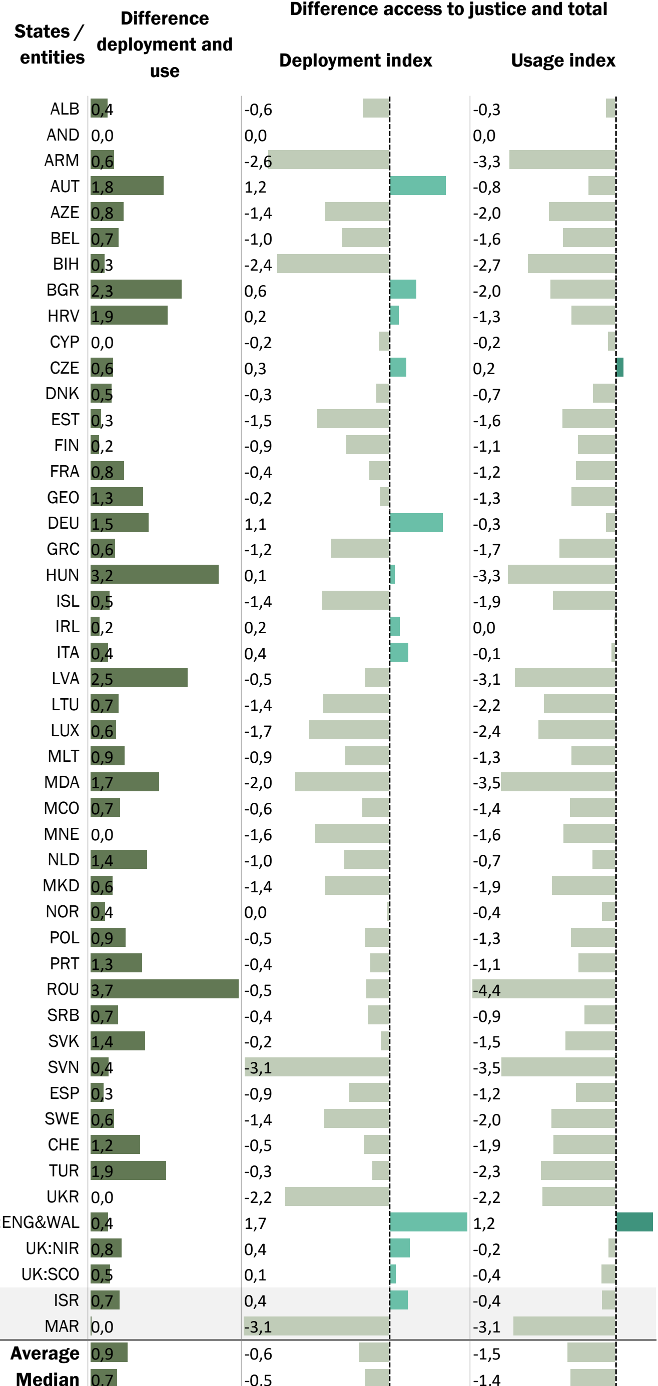
States / entities	Deployment Index: Digital access to justice	Deployment Index: Global ICT index	Usage Index: Digital access to justice	Usage Index: Global ICT index
ALB	1,5	2,0	1,3	1,6
AND	0,0	0,0	0,0	0,0
ARM	1,2	3,8	0,0	3,3
AUT	8,2	7,0	4,4	5,2
AZE	4,3	5,7	2,9	4,9
BEL	2,5	3,5	1,2	2,8
BIH	1,4	3,8	0,7	3,4
BGR	4,8	4,3	0,0	2,0
HRV	6,8	6,6	3,4	4,7
CYP	0,0	0,2	0,0	0,2
CZE	4,4	4,1	3,7	3,5
DNK	4,9	5,2	4,0	4,7
EST	6,3	7,9	6,0	7,6
FIN	5,2	6,2	4,8	6,0
FRA	3,3	3,7	1,7	2,9
GEO	2,5	2,7	0,1	1,4
DEU	6,5	5,3	3,6	3,9
GRC	2,0	3,3	1,0	2,7
HUN	8,6	8,5	2,0	5,3
ISL	3,0	4,4	2,0	3,9
IRL	1,3	1,1	0,9	0,9
ITA	6,9	6,5	6,0	6,0
LVA	7,1	7,6	2,0	5,1
LTU	4,7	6,1	3,2	5,4
LUX	2,3	4,1	1,1	3,4
MLT	2,7	3,6	1,4	2,7
MDA	5,0	7,0	1,8	5,3
MCO	3,2	3,8	1,7	3,1
MNE	0,0	1,6	0,0	1,6
NLD	3,4	4,4	2,3	3,0
MKD	2,0	3,3	0,8	2,8
NOR	5,1	5,1	4,4	4,8
POL	3,2	3,7	1,5	2,8
PRT	5,1	5,5	3,1	4,2
ROU	7,7	8,1	0,0	4,4
SRB	1,9	2,3	0,7	1,6
SVK	4,1	4,3	1,4	2,9
SVN	1,3	4,4	0,4	3,9
ESP	5,6	6,4	4,9	6,1
SWE	5,1	6,5	4,0	5,9
CHE	3,2	3,8	0,6	2,5
TUR	7,3	7,7	3,5	5,8
UKR	0,0	2,2	0,0	2,2
UK:ENG&WAL	5,4	3,7	4,5	3,3
UK:NIR	3,3	2,9	1,9	2,1
UK:SCO	2,0	1,9	1,0	1,4
ISR	6,8	6,4	5,3	5,7
MAR	0,0	3,1	0,0	3,1
Average	3,8	4,5	2,1	3,5
Median	3,4	4,2	1,7	3,4

- Low Deployment, Low Use – for example, **Andorra**, **Cyprus**, **Monaco**, and **Ireland**, indicating a general lack of emphasis or investment in digital access tools. In these cases, the low deployment likely contributes to low usage due to limited availability or awareness of digital tools.
- Low Deployment, High Use – there may be instances where countries with relatively low deployment levels still manage to achieve high usage through innovative strategies or widespread access to generic tools and digital infrastructure. Albania, with a 1,5 Deployment index compared to a 1,6 Usage Index, belongs to this category.

Overall, the relationship between digital access tools deployment and use varies across countries and is influenced by factors such as infrastructure development, policy initiatives, digital literacy, and cultural acceptance of technology. While high deployment is necessary for enabling digital access, ensuring high levels of usage requires additional efforts to address barriers and promote active engagement with digital tools and services.

Digital Access Tools Deployment vs. General ICT Deployment Index

Figure 6.11 **Difference between ICT Deployment and Usage Indices**

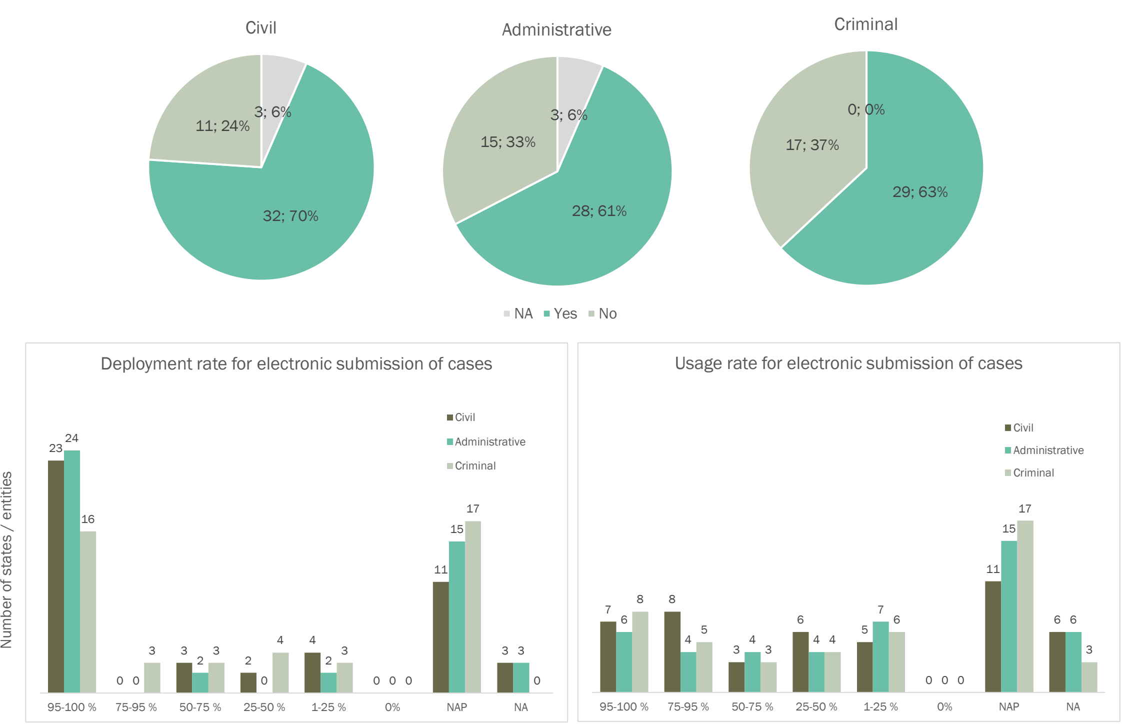


Data provided vary significantly in relation to the deployment of digital access tools and the broader deployment of ICT tools. In 34 cases the General ICT Index Deployment is higher than the Digital Access Tools Deployment Index, while in 12 cases the opposite is true. States like **Hungary**, **Estonia**, **Romania**, and **Türkiye** have relatively high scores in both digital access tools deployment and the General ICT Index Deployment, suggesting a strong overall ICT infrastructure and a high level of investment in digital access tools. Judiciaries like **Andorra**, **Cyprus**, and **UK-Scotland** have low scores in both categories, indicating a lack of investment or infrastructure in both digital access tools and broader ICT.

Digital Access Tools Use vs. Total ICT usage Index

In 43 states, the General Index of ICT Use is higher than the Digital Access Tools Use Index, while in only 3 cases, the opposite is true. Some countries show significant differences between their scores in overall ICT tools use in the justice sector and digital access tools use. For example: **Estonia** stands out with a high score of 7,6 in overall use of ICT tools in the justice sector and 6,0 in digital access to justice use. This suggests a strong emphasis on digitalisation within Estonia's justice system, with effective deployment and utilisation of digital tools, but not as high a use of digital communication systems. **Armenia** has a score of 3,3 in overall use of ICT tools in the justice sector but a score of 0,0 in digital access to justice use, while **North Macedonia** has a score of 2,8 and 0,8, and **Romania** of 4,4 and 0 respectively, indicating potential gaps in the availability or adoption of digital access tools specifically tailored for the justice sector. Conversely, Judiciaries like **Czech Republic** and **UK-England and Wales** show higher scores in use of digital access compared to their scores in the overall use of ICT tools in the justice sector. This suggests a particular focus or effectiveness in deploying digital access tools within their justice systems.

Figure 6.12 **Existence of digital submission of cases by matter (Q62-08; 062-09)**

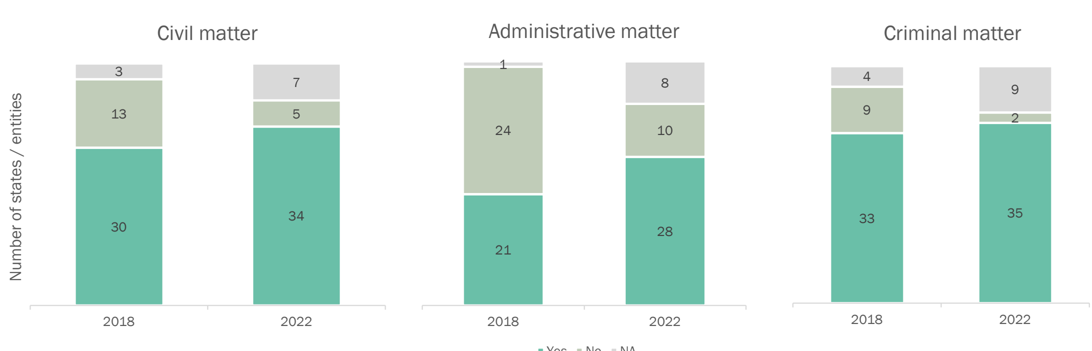


Digital submission of cases is more and more present in European judiciary. Civil matter is the most developed, where in 32 states this was already possible in 2022 and fully deployed in most of them. Utilisation remains still rather modest where only 6 to 8 states report full usage.

What is happening to remote hearings after COVID-19?

Remote hearings have emerged as a prominent facet across civil and commercial, administrative, and criminal legal proceedings. The below Figure 6.14 is a comprehensive examination of the deployment and utilisation of remote hearings. In civil and commercial litigation, remote hearings have been rendered feasible for 34 cases, while in 12 cases they are not possible (No or NA answers). Notably, in 26 of the cases where remote hearings are possible, they are also actively in use. In administrative cases, remote hearing systems have been deployed in 28 cases, while they are not possible in 18 cases. Among the cases where remote hearings are possible, 22 cases have confirmed that such systems are in use. In the criminal matter, remote hearings technologies have been deployed in 35 cases, with only 11 cases where they have not been deployed. It is encouraging to note that 27 states confirm the use of remote hearings.

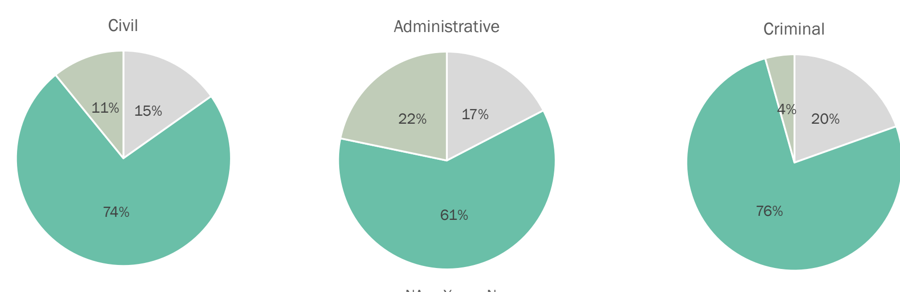
Figure 6.13 **Possibility to organise remote hearings by matter in 2020 and 2022 (Q62-16)**

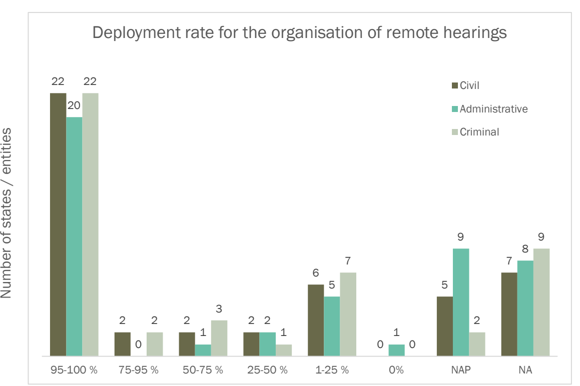


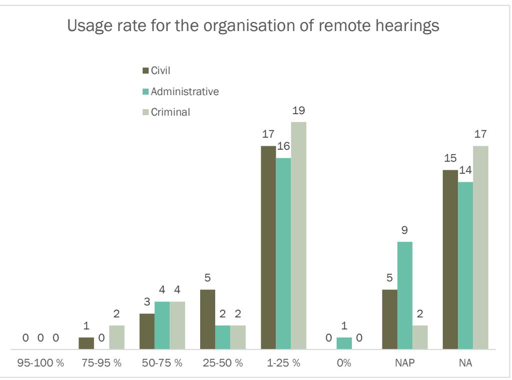
The deployment rate reflects the availability of remote hearings across all instances and categories of cases within each matter. It is calculated as the ratio between the number of hearings where the online format was available, and the total number of hearings conducted in the reference year. Conversely, the usage rate signifies the utilisation of remote hearings across all instances and categories of cases within each matter. This rate is calculated as the ratio between the number of remote hearings that were organised and the total number of hearings where remote hearings were possible in the reference year. Data show considerable difference between the deployment rates and usage rates and a high non-availability of data on the latter.

Since the previous cycle, states and entities have made significant progress in introducing remote hearings in courts for all matters, as illustrated in Figure 6.14. This trend is particularly pronounced in administrative matters, where seven new states or entities have introduced remote hearing capabilities between the two cycles.

Figure 6.14 **Existence of remote hearings by matter (Q62-16 and Q62-17)**







Is artificial intelligence used in courts and what are the concerns?

The rapid advancement of AI has been particularly notable in recent years, with the widespread availability of generative AI tools since late 2022 and their increasing integration into general-use applications as of 2024, after the data collection for this CEPEJ cycle. This swift progression has generated tension between those who advocate for the comprehensive adoption of AI-driven solutions in judicial processes, citing efficiency gains and improved access to justice, and those who express concerns about the potential erosion of human oversight, fairness, and accountability within legal proceedings. Secondly, it has highlighted disparities in access to and understanding of AI technology among legal practitioners and justice system stakeholders, raising questions about equity, transparency, and the need for comprehensive guidelines and ethical frameworks to govern the responsible use of AI in e-justice.

AI presents multiple opportunities to revolutionise the legal landscape. Predictive analytics, fuelled by historical data, offer insights into case outcomes, aiding in fair decision-making and optimizing resource allocation. Natural Language Processing (NLP) streamlines legal processes by summarizing documents, extracting key information, and enhancing legal research capabilities. Machine learning algorithms prioritise cases based on severity and potential impact, ensuring efficient resource allocation and timely resolution. Virtual courtrooms, enabled by AI, enhance accessibility to justice through remote hearings and real-time transcription, fostering inclusivity and efficiency. Blockchain technology secures legal documentation, mitigating the risk of fraud and ensuring the integrity of transactions. Virtual Reality (VR) may aid in crime scene reconstruction, facilitating forensic analysis and enhancing jury comprehension. Ethical AI practices, including bias mitigation techniques, can be used to increase fairness and equity in judicial proceedings. Generative AI can be used to streamline legal document generation and powers legal chatbots, enhancing accessibility to legal information. Large Language Models (LLMs) can power legal research, assist in case strategy development, and facilitate language translation and interpretation services, fostering a more efficient, inclusive, and equitable justice system.

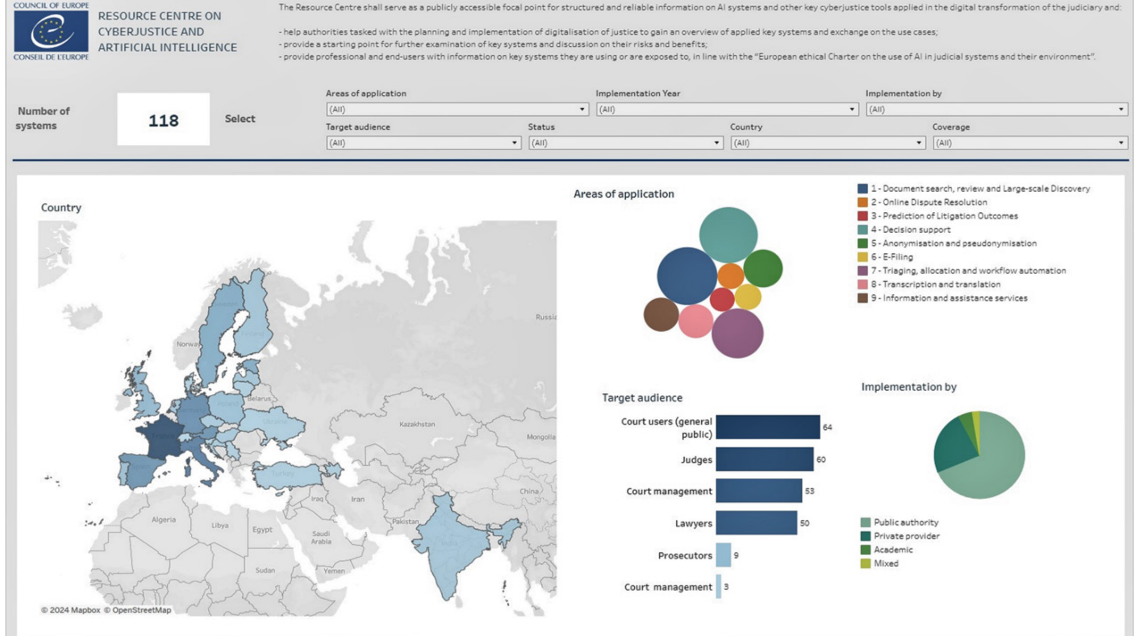
Nevertheless, there exist significant risks and challenges that necessitate careful consideration. Human oversight on AI outputs appears to be one of the most criticised topics in the Justice domain. This challenge is multifaced and includes the opacity of AI decision-making processes, the difficulty in comprehending the inner workings of complex algorithms, and the potential for biases encoded within the data or algorithms themselves prompting apprehensions regarding accountability and the susceptibility to errors or biases in automated decision-making procedures. Furthermore, the inherent complexity of AI training presents challenges, particularly in the context of judicial decisions where outcomes cannot be easily and definitively categorised as right or wrong but depend on the judge's interpretation of the applicable laws and the facts of the case. This ambiguity can complicate the development of accurate and reliable AI models, potentially undermining the integrity of legal proceedings and fair trial. Additionally, ensuring compatibility between the logical derivation required of legal decisions and the correlation-based nature of AI systems presents a consistent challenge. The necessity for clear, transparent decision-making processes in the legal realm may conflict with the probabilistic nature of AI algorithms, necessitating careful calibration to ensure alignment with legal standards and principles such as fair trial. Moreover, considerations of ethical and legal implications, such as fairness, transparency, and accountability, must be carefully addressed to mitigate the risks associated with AI integration in the justice system and uphold the principles of fair trial, due process and the right to a reasoned decision. Other elements that should be considered include the difficulty in comprehending the inner workings of complex algorithms, and the potential for biases encoded within the data or algorithms themselves.

In 2018, the CEPEJ adopted the "European Ethical Charter on the use of Artificial Intelligence in judicial systems and their environment". The Charter offers a structured framework of principles designed to assist policymakers, legislators, and justice professionals as they navigate the integration of AI into national judicial processes. Since its adoption, the Ethical Charter has gained recognition as a foundational document in the realm of AI in judicial systems, garnering global attention and extensive media coverage for its pioneering approach to addressing ethical considerations in this evolving field. Several points in the Charter contribute as effective and relevant guidance to the application of AI in the legal domain. The Charter's emphasis on fundamental rights, non-discrimination, transparency, and user control aims at upholding ethical standards and safeguarding individual rights and liberties within judicial processes. Furthermore, it calls for monitoring, evaluation, and adaptation of a proactive approach to address emerging challenges and ensure the continuous improvement of AI practices in alignment with evolving technologies. However, weaknesses in the Charter may arise from its broad scope and the potential for interpretation ambiguity, which could lead to inconsistent implementation across different jurisdictions. Moreover, while the Charter advocates for user control and transparency, it may lack specific mechanisms or enforcement measures to ensure accountability and compliance among stakeholders. Thus, while the Charter provides a valuable framework for ethical AI usage in judicial systems, ongoing refinement and clarification may be necessary to strengthen its efficacy and impact.

Furthermore, as stated previously, the CEPEJ created a Resource Centre focused on cyber justice and artificial intelligence, which provides a centralised repository for information on cyber justice and artificial intelligence (AI) advancements. Its primary goal is to provide a comprehensive overview of functional AI systems and cyber justice tools utilised in the digital transformation of judicial processes across Europe and beyond. By offering concrete examples and distinguishing between conceptual and operational stages, the Resource Centre aims to facilitate informed discussions on AI developments and use in the legal domain, promote transparency, and foster mutual learning among stakeholders involved in the digital transformation of judicial systems.

The Centre operates through the collaboration of the European Cyberjustice Network (ECN) members, who contribute data alongside publicly available sources. The information collected undergoes classification and review by the CEPEJ Artificial Intelligence Advisory Board (AIAB) to ensure accuracy and relevance. Regular updates are conducted quarterly to keep the Centre's data updated. AI systems included in the Centre must meet specific criteria, such as having complete, relevant, and verifiable information, and being beyond the conceptual or pilot stage. The Centre categorises systems based on their main and secondary fields of application, year of functionality, country of application, underlying technology, official source/reference, implementing body, target audience, and system status.

Figure 6.15 **CEPEJ Resource Centre on Cyberjustice and AI**



The CEPEJ questionnaire does not focus on AI tools as such, considering that in 2022 no real AI tool was visible in the public site of the judicial sector. Nevertheless, the questionnaire includes some advanced features within different tools that might include some attempts to introduce AI or at least more complex algorithms, such as automatically suggested decisions and speech-to-text features in writing assistance tools or "automatic transcript from recording" in the recording of court hearings.

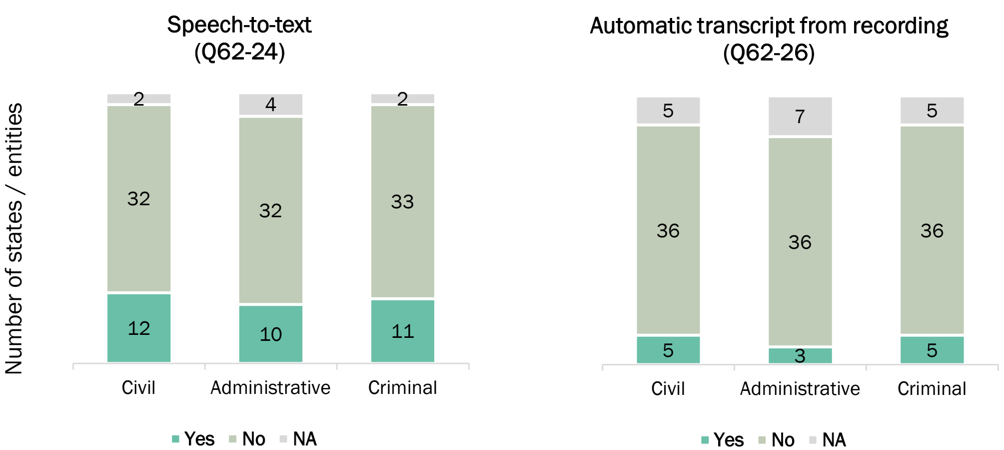
Only **Latvia** reports to include a feature for automatically suggested decisions for all matters and **Luxembourg** for criminal only. Speech-to-text seems to exist in up to 12 states and entities, but the complexity of the feature cannot be derived from the collected data. The automatic transcript from recordings seems less present than speech-to-text in up to 8 states and entities, depending on the matter.

First attempts of AI-based on other innovative tools in judiciary in **Germany** include following implemented or pilot examples: "FRAUKE" as a pilot software for the use in a civil court. It assists judges in so called mass lawsuits. It extracts relevant case data and provides the decision maker with suitable text modules for the judgement. A higher regional court uses AI in the project ""OLGA"". It assists judges in appeal proceedings in relation to claims against automotive manufacturers. The application analyses the contested decision of the first instance court as well as the statements of the parties regarding the grounds of appeal. "Codefy" is an AI-powered application that assists in the recording, processing and structuring of comprehensive case files, in particular in so called mass lawsuits. https://codefy.de/de/justice and finally "MAKI" is a pilot project at two civil courts, an AI-based judicial assistance that aims at helping judges by identifying differences between case files particularly in so called mass lawsuits and proposing suitable procedural and material decisions and customised templates.

In **Sweden** there is a specialised, legal language text translation application that translated in 60+ languages using AI; Process mining: a tool for collecting data from IT-systems in order to analyse processes, creates objective statistics in order to develop and change the workflow of the court; Anonymisation application that identifies and anonymises personal information in documents submitted to the courts (pilot). Automatic transcription and translation of speech: solution that transcribes and translates hearings in a court room into 60+ languages (pilot); and finally (m)INI - Intelligentes Notitia Iustitia: application that uses AI to search for legal information in vast volumes of material, cases, law, preparatory work etc. (pilot).

In **Latvia**, new anonymisation tool for court decision to recognise and substitute text with pseudonyms; Case documents turner tool allow judge to review case electronic documents; Image processing tool provides different image formatting possibilities; virtual assistants enable e-case portal users to identify issues of interest on specific topics at any time of day. Virtual assistant "Justs" is available on the E-case portal www.elieta.lv and "Robot" ensures automated workflow for submitted e-forms from portal users.

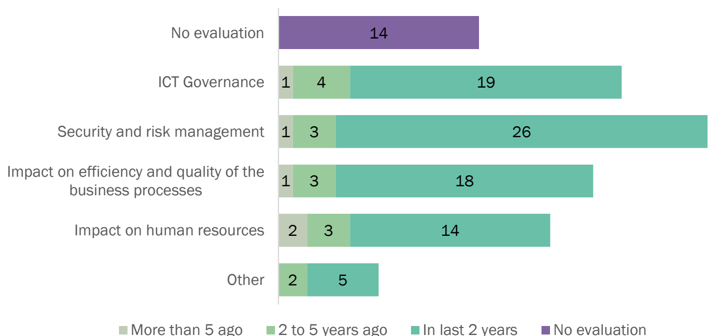
Figure 6.16 **Existence of some advanced features Q62-24 and Q62-26)**



ICT IMPACT AND EFFICIENCY

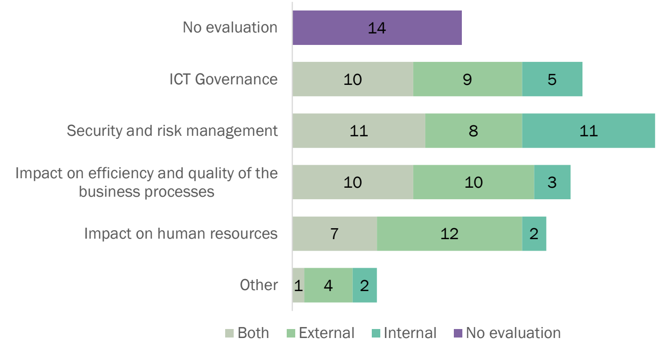
‟ Is it possible to measure the ICT impact on judicial systems?

Figure 6.17 **Existence and frequency of audits/evaluations of the impact of the implementation of the ICT systems (Q5, Q6 and Q7)**



A relatively high number of states have evaluated ICT investments in the areas of governance, security and risk management, impact on efficiency and quality of the business processes and workflow, impact on human resources (number, workload, wellbeing and other in the last two years, which might indicate a trend towards frequent assessments. More than 2 years or even more than 5 years are very infrequent. However, due to the frequent unavailability of data, it is challenging to ascertain a consistent trend in the frequency of evaluation.

Figure 6.18 **Existence and type of audits/evaluations of the impact of the implementation of the ICT systems (Q5, Q6 and Q7)**



Internal evaluations appear to be more frequent in security and risk management, whereas external evaluations seem to be more common in other areas. This could be attributed to the simplicity of conducting internal assessments or established institutional procedures.

More in general, governance and especially security emerge as prominent areas of evaluation, suggesting a consistent focus on these critical aspects of ICT investments. However, once again, due to the lack of data, the extent of attention given to other areas remains uncertain.

The prevalence of entries marked as "NA" (data not available) underscores the potential problem of incomplete assessment processes, possibly due to resource constraints or administrative complexities. In particular, in 14 states and entities no impact assessment is carried out at all.

Does e-justice improve efficiency?

Efficiency is often regarded as a crucial element of a well-functioning justice system. Judicial reforms aimed at enhancing efficiency are thought to be positively correlated with economic growth. ICT has been proposed as a means of improving efficiency and reduce costs, among other benefits. From this the question if the resources invested in e-justice have resulted in efficiency gains for the judiciary.

Attempting to determine whether e-justice has resulted in efficiency gains for the judiciary is challenging for several reasons. Firstly, ICT is proposed as a tool to enhance efficiency and reduce costs, while efficiency in the judiciary is influenced by multiple other factors: procedural reforms, for instance, can either complement or hinder the impact of ICT, making it difficult to isolate the effects of digitalisation alone.

Additionally, the efficiency of justice systems varies considerably across different jurisdictions due to diverse procedural and institutional arrangements. In some systems, where procedures are already streamlined and efficient, the incremental gains from ICT might be marginal. Conversely, in systems burdened with procedural inefficiencies, digitalisation might lead to more noticeable improvements. In other cases, the attempt to transpose the paper procedure isomorphically into digital form, without considering the differences of the new media may result in complex ICT systems that imitate paper procedures increasing inefficiencies.

Moreover, measuring efficiency gains involves more than just assessing technological adoption. It requires a comprehensive evaluation of how ICT integrates with existing judicial processes and its long-term effects on case management and resource allocation. Factors such as user adoption, training, infrastructure readiness, and ongoing maintenance must be considered. Finally, it should be noted that efficiency is just one of the approaches through which to assess the functioning of a justice system, which can have problems in terms of judicial independence, fairness of proceedings or the quality of the justice service.

In the attempt to explore the link between e-justice and efficiency, we analysed the correlation between the ICT Deployment Index and the Disposition Time (theoretical duration of a court case) as a proxy for the efficiency of a justice system. Shorter Disposition Times generally indicate that the system can handle cases more quickly and effectively, suggesting higher efficiency. Conversely, longer Disposition Times may signal inefficiencies, such as backlogs, procedural delays, or insufficient resources. The changes in the ICT questionnaire do not allow an intertemporal analysis but limit it to the current situation (2022 data). From the next cycle it will be possible to add this element to the analysis.

The initial analysis did not reveal any meaningful correlation between the ICT Deployment Index and Disposition Time. However, when the states and entities were grouped based on their level of their ICT Deployment Index, a correlation between these groups and the average Disposition Time of court cases within the groups became apparent. Table 6.19 shows the data of DT in relation to the ICT Total Index, while Figure 6.20 presents the correlation of the ICT Index by matter and Disposition Time by matter.

States and entities with higher levels of ICT deployment generally show lower average Disposition Time, indicating greater efficiency in their judicial systems. Conversely, states and entities with lower ICT deployment tend to have a higher average Disposition Time, reflecting less efficient judicial processes. This grouped analysis underlines the importance of considering digitalisation levels in a more nuanced manner.

Figure 6.19 **Correlation of the ICT Total deployment Index and Disposition Time (Coe median) by matter**

ICT Deployment index	Disposition time		
	Civil matter	Administrative matter	Criminal matter
< 2,5	255	290	232
2,5 - 5	312	389	99
5 - 7,5	192	281	164
7,5 - 10	160	167	138

Figure 6.20 **Correlation of the ICT deployment Index by matter and Disposition Time (Coe median) by matter**

Civil matter		Administrative matter		Criminal matter	
ICT Deployment index	Disposition Time	ICT Deployment index	Disposition Time	ICT Deployment index	Disposition Time
< 2,5	255	< 2,5	376	< 2,5	227
2,5 - 5	284	2,5 - 5	389	2,5 - 5	115
5 - 7,5	238	5 - 7,5	200	5 - 7,5	164
7,5 - 10	171	7,5 - 10	128	7,5 - 10	110

Other underlying factors could contribute to both higher ICT deployment and judicial efficiency. These factors might include economic development, the legal culture of a country, or broader government investments in public services. Attempting to isolate the effect of ICT deployment on efficiency might oversimplify the complex interactions that determine judicial performance.

The quality of ICT implementation is another critical factor. Without high-quality implementation, the potential benefits of ICT might not be fully achieved. Additionally, there may be time lag effects to consider. Efficiency gains from ICT investments might not be immediate. There could be a significant delay between the deployment of new technologies and the realisation of efficiency improvements as the system adjusts and users become proficient.

Finally, focusing solely on Disposition Time as a measure of efficiency might overlook other important aspects of judicial performance. While Disposition Time is a critical metric, it does not capture the quality of judicial decisions, access to justice, or the fairness of procedures. A comprehensive evaluation of e-justice should consider these broader impacts to provide a more holistic understanding of its effects on the judicial system.

Trends and conclusions

The exploration of data on ICT diffusion and use within the judicial systems of the Council of Europe reveals a complex and multifaced reality. ICT initiatives aim at bolstering administrative efficiency, enhancing access to justice, strengthening procedural safeguards and rights to a fair trial, and transparency and improving the quality of the justice service. Technology integration is pursued with the anticipation of bringing about many benefits, including heightened transparency, streamlined procedures, improved accessibility, and elevated service quality. However, it is important to note that achieving these objectives cannot be taken for granted and requires navigating to the complexities of developing and deploying a broad arrangement of tools and ensuring their constant maintenance and use over time.

The significance of ICT became particularly evident during the COVID-19 pandemic, where digitised procedures played a pivotal role in ensuring the continuity of judicial operations through remote hearings, e-filing and the sharing of case-related data. This also probably contributed to the process of advancement of the availability and quality of digital tools. However, despite the clear advancement, comparing progress across different countries poses challenges due to variations and complexity in approaches and data collection methods.

The allocation of resources towards ICT in the judiciary demands careful consideration, as budgetary efforts fluctuate based on factors like the life cycle of technological components and prevailing economic conditions. Effective governance structures play a critical role in navigating this landscape, striking a delicate balance between efficiency and judicial independence. Stakeholder involvement and the periodic adoption of ICT strategies are essential components of this governance framework.The deployment of ICT tools varies across different matter and countries, with the civil matter often exhibiting higher adoption levels compared to administrative and criminal. Data on the usage of these tools provide an additional element to better understand the current situation and appreciate the complexity of e-justice. Discrepancies between deployment and usage data underlines the effort that many judiciaries must still make to collect the data needed to assess and steer their e-justice initiatives. Implementing robust mechanisms to track and evaluate the utilisation rates of ICT tools within the justice domain is crucial. These mechanisms are required not only to improve resource allocation but also to ensure transparency and accountability, thereby fostering public trust in the ongoing modernisation efforts of the justice systems. In many cases, better efforts should be made when setting up new ICT project, to link the ICT development objectives with measurements of impact and availability of usage data.

The emergence of new innovative tools to assist judges seems to become noticeable during this evaluation cycle, marking the beginning of more significant developments in this area from now on. Initial attempts at creating these tools are already underway, particularly in the context of mass lawsuits (class actions), automatic anonymisation and specialised translation. These areas are at the forefront of adopting AI-based tools in judiciary.

Setting clear objectives for new ICT systems in the judiciary is crucial to ensure their effective implementation and to maximise their potential benefits. These objectives should outline specific, measurable goals that the ICT systems aim to achieve, such as reducing case Disposition Times, improving access to legal resources, or enhancing the transparency and fairness of judicial processes. Once these objectives are established, it is essential to regularly evaluate whether they are being met through systematic impact assessments. This involves collecting and analysing usage rates and other basic statistics available within the system, such as the number of cases processed electronically, user satisfaction levels, and the frequency of system downtimes. By continuously monitoring these metrics, stakeholders can identify areas for improvement, ensure that the ICT systems are being utilised effectively, and make data-driven decisions to enhance their functionality and impact.

ICT has been often advertised as a tool to enhance justice systems efficiency. At the same time, determining whether e-justice investments have led to efficiency gains is complex. The correlation between the ICT Deployment Index and Disposition Time did not initially reveal significant findings. However, when countries are grouped by their level of digitalisation, a pattern seems to emerge, suggesting that higher ICT deployment is associated with lower Disposition Times. This highlights the importance of considering digitalisation levels in light of the various factors and contexts influencing ICT impact on the justice system.

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CEPEJ TOOLS

Dynamic database of European judicial systems (CEPEJ-STAT)

Evaluation of judicial systems

- CEPEJ annual study for the European Union Justice Scoreboard
- CEPEJ annual Western Balkans Dashboard
- CEPEJ annual Eastern Partnership Dashboard

Quality of justice

- Checklist for promoting the quality of justice and the courts (2008)
- Revised Guidelines on the creation of judicial maps to support access to justice within a quality judicial system (2013)
- Handbook for conducting satisfaction surveys aimed at court users in Council of Europe member States (2016)
- Guide on communication with the media and the public for courts and prosecution authorities (2018)
- Guidelines on the simplification and clarification of language with users (2021)

Judicial time management

- Towards European timeframes for judicial proceedings (Implementation Guide, 2016)
- Case weighting in judicial systems (2020)
- Revised SATURN guidelines for judicial time management (4th revision, 2021)
- Backlog reduction tool (2023)
- Time management checklist (2023)

Cyberjustice and artificial intelligence used in the field of justice

- Information note on the Use of Generative AI by judicial professionals in a work-related context (2024)
- Resource Centre on Cyberjustice and AI (2022)
- European ethical Charter on the use of Artificial Intelligence in judicial systems and their environment and tool for its operationalization (respectively 2018 and 2023)
- Guidelines on electronic court filing (e-filing) and digitalisation of courts (2021)
- Guidelines on videoconferencing in judicial proceedings (2021)
- 2022 – 2025 CEPEJ Action plan: "Digitalisation for a better justice"

Mediation

- Mediation development toolkit (2018)
- European Handbook for Mediation Lawmaking (2019)
- Promoting mediation to resolve administrative disputes in Council of Europe member States (2022)

Enforcement

- Good practice guide on enforcement of judicial decisions (2015)

The latest edition of the report of the European Commission for the efficiency of justice (CEPEJ), which evaluates the functioning of the judicial systems of 44 participating Council of Europe member States as well as two observer States to the CEPEJ, Israel, and Morocco, continues the process carried out since 2002, focusing the content of the report on the analysis of European trends. In addition, the CEPEJ has also elaborated, for each participating state a profile which presents in a synthetic way the main data and indicators developed by the CEPEJ as well as an analysis of the main aspects of each judicial system. All the quantitative and qualitative data collected from the CEPEJ national correspondents as well as the accompanying comments are also available in the CEPEJ-STAT dynamic database (https://www.coe.int/en/web/cepej/cepej-stat). Relying on a methodology which is already a reference for collecting and processing large number of judicial data, this unique study has been conceived above all as a tool for public policy aimed at improving the efficiency and quality of justice. To understand, analyse and reform, it is necessary above all to acquire knowledge. This is the CEPEJ's objective for this report, which is aimed at public decision-makers, legal practitioners, researchers, as well as those who are simply interested in the functioning of justice in Europe and beyond.

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