



European judicial systems

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Efficiency and quality of justice

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Chapter 1. The evaluation process of the CEPEJ

This first chapter describes the evaluation process carried out by the CEPEJ to prepare this report. It lays out the working principles and methodological choices used in this exercise, and introduces the general demographic and economic data.

1.1 The European Commission for the Efficiency of Justice

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, and is entrusted primarily with proposing concrete solutions, suitable for use by Council of Europe member states for:

- promoting the effective implementation of existing Council of Europe instruments used for the organisation of justice (normative "after sale customer service");
- ensuring that public policies concerning the courts take account of the needs of users of the justice system; and
- helping to reduce congestion in the European Court of Human Rights by offering states effective solutions prior to application to the Court and preventing violations of Article 6 of the European Convention on Human Rights.

The CEPEJ is today a unique body for all European States, made up of qualified experts from the 47 Council of Europe member states, to assess the efficiency of judicial systems and propose practical tools and measures for working towards an increasingly efficient service to the citizens.

According to its Statute, the CEPEJ must "(a) *examine the results achieved by the different judicial systems (...) by using, amongst other things, common statistical criteria and means of evaluation, (b) define problems and areas for possible improvements and exchange views on the functioning of the judicial systems, (c) identify concrete ways to improve the measuring and functioning of the judicial systems of the member states, having regard to their specific needs*". The CEPEJ shall fulfil these tasks, for instance, by "(a) identifying and developing indicators, collecting and analysing quantitative and qualitative figures, and defining measures and means of evaluation, and (b) drawing up reports, statistics, best practice surveys, guidelines, action plans, opinions and general comments".

The statute thus emphasizes the comparison of judicial systems and the exchange of knowledge on how they function. The scope of this comparison is broader than 'just' efficiency in a narrow sense: it also emphasizes the quality and the effectiveness of justice.

In order to fulfil these tasks, the CEPEJ has undertaken a regular process for evaluating judicial systems of the Council of Europe's member states.

1.2 The Scheme for evaluating judicial systems

In comparison with the previous exercise (2010 Edition of the Report, based on the 2008 data), the CEPEJ wished to settle the scheme meant to gather, from the member states, qualitative and quantitative information on the daily functioning of judicial systems. The main goal in keeping such consistency was to ensure the collection of homogeneous data from one exercise to another, thus allowing for comparisons over time, on the basis of the compilation and analysis of initial statistical series (see below). Hence, the evaluation scheme used for this current cycle¹ remains very similar to the one used for the 2008-2010 cycle. Only a few questions were either clarified or completed to take into account new issues of concern, such as gender issues within the judiciary or the use of video-conference in courts.. In addition, the explanatory note² was completed to minimize as far as possible the difficulties of interpretation and to facilitate a common understanding of the questions by all national correspondents, allowing therefore to guarantee uniformity of the data collected and processed. To answer each question, a careful reading of the explanatory note has been recommended to all national correspondents.

The Scheme for understanding a judicial system was designed and used by the CEPEJ on the basis of the principles identified in the Resolution Res(2002)12 which establishes the CEPEJ, and relevant Resolutions and Recommendations by the Council of Europe in the field of efficiency and fairness of justice.

The Evaluation Scheme was reviewed by the CEPEJ at its 16th plenary meeting (December 2010). The scheme and the explanatory note were submitted to the member states in May 2011, in order to receive new

¹ See Appendix.

² See Appendix.

data at the end of 2011, using the electronic version of this scheme, allowing each national correspondent to access a secure website to transfer its responses to the Secretariat of the CEPEJ.

1.3 Data collection, validation and analysis

This report is based on figures from 2010. As the majority of the states and entities were only able to issue judicial figures for 2010 in the summer or autumn of 2011, the CEPEJ was not able to gather figures before the beginning of 2012. This left only a few months for member states to collect and consolidate their individual replies to the Evaluation Scheme and less than four effective working months for the experts to process them and prepare the report.

Methodologically, the collection of figures is based on reports by member states and entities, which were invited to appoint national correspondents, entrusted with the coordination of the replies to the Scheme for their respective states or entities.

The CEPEJ instructed its Working Group, under the chairmanship of Mr Jean-Paul JEAN (France), with the preparation of the report³. The Secretariat of the Council of Europe appointed Ms Svetlana SPOIALA (Consultant in public administration and analysis of judicial systems, Republic of Moldova), as scientific expert in charge of analysing the national figures submitted by member states and preparing the report together with the Secretariat of the CEPEJ⁴.

The national correspondents were considered to be the main interlocutors of the Secretariat and the experts when collecting new figures, and the first to be held liable for the quality of figures used in the survey. All individual replies were recorded in a database by the scientific expert.

The scientific expert has done extensive work to verify the quality of data submitted by the states. Therefore, she was frequently in contact with national correspondents to validate or clarify the figures (see box below) and their adjustment continued until shortly before the final version of the report. The CEPEJ experts agreed that the figures would not be changed *ex officio*, unless the correspondents explicitly agreed to such changes. Thus, all data changes have been approved by the relevant national correspondents. Yet, following discussions with the national correspondents, the experts have decided to exclude some data that seemed insufficiently accountable to be worthy of publishing.

The meeting between the scientific experts, the CEPEJ-GT-EVAL and the network of national correspondents (Strasbourg, May 2012) was an essential step of the process, aimed at validating figures, explaining or amending, on the same questions, significant variations between 2004, 2006, 2008 and 2010 data, discussing decisions of the experts and improving the quality of the figures provided.

Responding states

By May 2012, 46 member states had participated in the process: **Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus⁵, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia,**

³ The Working Group of the CEPEJ on the evaluation of judicial systems (CEPEJ-GT-EVAL) was composed of:
Ms Munira DOSSAJI, Principal Operational Research Analyst, Strategy and Innovation Team, Human Rights and International Directorate, United Kingdom,
Mr Ramin GURBANOV, Chief of reforms Division, General Department of organisation and supervision, Co-ordinator of Judicial Modernisation Project, Ministry of Justice, Azerbaijan,
Ms Beata Z. GRUSZCZYŃSKA, Institute of Justice, Ministry of Justice, Poland,
Mr Adis HODZIC, Head of the Budget and Statistics Department, Secretariat of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina,
Mr Jean-Paul JEAN, Public Prosecutor, Court of Appeal of Paris, Associated Professor at the University of Poitiers, France (President of the CEPEJ-GT-EVAL),
Mr John STACEY, Ministry of Justice, International Department, United Kingdom (President of the CEPEJ),
Mr Georg STAWA, Head of Department for Projects, Strategy and Innovation, Federal Ministry of Justice, Austria,
Mr Frans van der DOELEN, Programme Manager of the Department of the Justice System, Ministry of Justice, Netherlands.

The Group was also actively supported by the scientific experts Mr Julien LHUILLIER, Ms Daria SOLENIK, Ms Christel SCHURRER and Mr Marco VELICOGNA.

⁴ The Turkish authorities have made available to the Secretariat of the CEPEJ Mr. Hasan HENDEK, judge, to work as Special Adviser.

⁵ The data provided by Cyprus does not include data of the territory which is not under the effective control of the Government of the Republic of Cyprus.

Lithuania, Luxembourg, Malta, the Republic of Moldova,⁶⁷ Monaco, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia⁸, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia"⁹, Turkey, Ukraine and the United Kingdom¹⁰.

Only **Liechtenstein** has not been able to provide data for this report. **Germany**, which was not able to participate in the previous cycle, has been able to provide their data this time.

It should be noted that in federal states or states with a decentralised system of judicial administration, the data collection has different characteristics compared to those of centralised states. The situation is frequently more complex in those cases. In these states, data collection at a central level is limited, while at the level of the federated entities, both the type and the quantity of figures collected may vary. In practice, several federations have sent the questionnaire to each of their entities. Some states have conceived their answers for the whole country from the figures made available from the entities, taking into account the number of inhabitants for each component. To facilitate the data collection process, a modified version of the electronic scheme has been developed, at the initiative of Switzerland.

All the figures provided by individual member states have been made available on the CEPEJ website: www.coe.int/cepej. National replies also contain descriptions of the legal systems and comments that contribute greatly to the understanding of the figures provided. They are therefore a useful complement to the report although not all of this information has been included in it, in the interest of conciseness and consistency. Thus, a genuine data base on the judicial systems of the Council of Europe member states is easily accessible to all citizens, policy makers, law practitioners, academicians and researchers.

1.4 General methodological issues

Objectives of the CEPEJ

This report does not claim to have exploited exhaustively all the relevant information that has been put forward by member states, given the large amount of data submitted. As for the previous editions of this report, the CEPEJ tried to address the analytical topics bearing in mind, above all, the priorities and the fundamental principles of the Council of Europe. Beyond the figures, the interest of the CEPEJ report lies in the display of the main trends, evolutions and common issues for European states.

This report is part of an on-going and dynamic process carried out by the CEPEJ. Throughout the elaboration of the report, experts and national correspondents were encouraged to bear in mind the long term objective of the evaluation process: defining a set of key quantitative and qualitative data to be regularly collected and equally processed in all member states, bringing out shared indicators of the quality and efficiency of court activities in the member states of the Council of Europe and highlighting organisational reforms, practices and innovations, which enable improvement of the service provided to court users.

The quality of data

The quality of the figures in this report depends very much on the type of questions asked in the data collection instrument, the definitions used by the countries, the system of registration in the countries, the efforts supplied by national correspondents, the national figures available to them and the manner in which the figures have been processed and analysed. In spite of the improvements resulting from previous experiences, it is reasonable to assume that some variations occurred when national correspondents interpreted the questions for their country and tried to match the questions to the information available to them. The reader should bear this in mind and always interpret the statistical figures given in the light of their attached narrative comments and the more detailed explanations given in the individual national replies.

⁶ The data provided by the Republic of Moldova does not include data of the territory of Transnistria which is not under the effective control of the Government of the Republic of Moldova

⁷ Mentioned as « Moldova » in the tables and figures below

⁸ The data provided by Serbia does not include data of the territory of Kosovo (*All reference to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.*)

⁹ Mentioned as "the FYROMacedonia" in the tables and graphs below.

¹⁰ The results for the United Kingdom are presented separately for England and Wales, Scotland and Northern Ireland, as the three judicial systems are organised on different basis and operate independently from each other.

The CEPEJ has chosen to process and present only the figures which offered a high level of quality and accountability. It decided to disregard the figures which were too disparate from one country to another, or from one evaluation exercise to another, or did not present sufficient guarantee of reliability. The information that was not included in this report has been collected and is available on the CEPEJ website (www.coe.int/cepej).

The control and the coherence of data

A specific effort of validation has been committed to ensure the coherence and accountability of data and allow to compose and analyse, for the first time within this process, a few statistical series. These series are designed to measure evolutions, if at all possible between 2006 and 2010, and, more often, between 2008 and 2010, depending on the homogeneity of the data available. As regards the accuracy of figures, statistical rules (see below) have been applied to compare the 2006, 2008 and 2010 data, which has enabled us to identify the answers showing large or small variations which can hardly be explained. Through these comparisons, methodological problems have been identified and corrected. On the other hand, in some cases, strong variations have been explained by the evolution of economic situations, structural and organisational reforms, political decisions or the implementation of new mechanisms, procedures or measures.

Methodology and procedure for validating data

Before any steps could be taken to validate data, it has been necessary to re-build the intervention framework for the four evaluation cycles (2004, 2006, 2008 and 2010 data). To do so, a data base has been set up, which brings together all information available from the first to the last cycle. As the questionnaire was slightly modified and/or adjusted from one cycle to another one, the scientific expert recoded several variables and used some data mapping methods on the figures provided for the three exercises.

All data (some 2.5 million entries, without counting comments) have been submitted to the validation procedure. The methodology chosen, which is specially adapted for this exercise is the "method of time-series mapping on three levels". This methodology brings together three validation procedures for quantitative data. First of all, significant differences (of more than 20%) between the entries for the same item and for the three exercises have been identified. In order to guarantee the validity of this procedure, data have also been examined according to the *Grubbs' test*. This has enabled to isolate the true "outliers" (extreme values which, in addition to being different from previous entries, [differences of more than 20%] were difficult to be compared with, or were not comparable at all with the entries for the year 2010 for the other states). If some values presenting differences of more than 20% from one year to another one could be explained by the national correspondents, all other "outliers" have been corrected, without exception. The third validating element through the "time-series mapping on three levels" is the check of the internal validity. This procedure has mainly been applied to complex items, namely those made of several entries. Among the variables submitted to this procedure appear budgetary items and the cases addressed by the courts. For this purpose, a specific validation scheme has been set up by the scientific expert. The elements which are part of the complex variables have been horizontally verified (correspondence between the sum of the elements with the entry corresponding to the total) and sometimes also vertically verified (inclusion or exclusion of the elements within the total).

The validation has been made according to very rigorous methodology. However, it is not possible to guarantee the full reliability of all data. One must take into account the fact that the exactitude of some entries was confirmed by national correspondents without specific explanation as regards the difference which had been noted. Generally, such entries have been either excluded from the analyses, or kept with disclaimers in the text as regards the interpretation of the results of the analyses taking these elements into account.

The CEPEJ has set up in 2008 a peer evaluation process concerning the systems for collecting and processing judicial data in the member states. This process aims at supporting the states in the improvement of the quality of their judicial statistics and the development of their statistical system so that such statistics are in line with common indicators defined through the CEPEJ's Evaluation Scheme. It also allows to facilitate the exchange of experiences between national systems, share good practices, identify benchmarks and facilitate the transfer of knowledge. Thus it contributes to ensuring the transparency and accountability of the CEPEJ process for evaluating European judicial systems.

To date, the systems have been examined by the peers for 14 volunteer member states in order to analyse the organisation of CEPEJ's data collection and communication to the Secretariat of the Council of Europe:

Austria, Azerbaijan, Bosnia and Herzegovina, France, Malta, Netherlands, Poland, Russian Federation and Turkey. Furthermore, a visit was organized in **Norway**, bringing together as well experts from **Denmark, Finland, Iceland and Sweden**. During these visits, the experts appointed by the CEPEJ-GT-EVAL precisely analysed the practical way of responding to selected questions of the Evaluation Scheme and on the content of these answers, namely questions related to budgetary issues, types and number of judges, litigious civil cases and methods of calculating the length of proceedings.

Moreover, the CEPEJ gave its assent to the guidelines on judicial statistics for the services in member states which collect and process statistics in the justice field.¹¹ These guidelines aim at ensuring the quality of the judicial statistics collected and processed by the member states, as a tool for public policy. They should also facilitate comparison of data between European countries by ensuring adequate homogeneity despite the substantial differences between countries (as regards judicial organisation, economic situation, demography, etc.).

Comparing data and rules

Indeed the comparison of quantitative figures from different countries revealing varied geographical, economic and legal situations is a delicate job. It should be approached with great caution by the experts writing the report and by the readers consulting it and, above all, by those who are interpreting and analysing the information it contains.

In order to compare the various states and their various systems, the particularities of the systems, which might explain differences from one country to another one (different judicial structures, organisation of courts and the use of statistical tools to evaluate the systems, etc.), must be borne in mind. Special efforts have been committed to define words and ensure that concepts had been addressed according to a common understanding. For instance, several questions have been included in the Scheme, with clear definitions in the explanatory note, to address the number of courts (both through an institutional and a geographical perspective) or the number of judges (different categories have been specified). Particular attention has been paid to the definition of the budget allocated to courts, so that the figures provided by member states correspond to similar expenditures. However, the particularities of some systems might prevent achieving shared concepts. In these cases, specific comments have been included with the figures. Therefore only an active reading of this report can allow analyses and conclusions to be drawn; figures cannot be passively taken one after the other, but must be interpreted in the light of the subsequent comments.

The report aims to give an overview of the situation of the European judicial systems, not to rank the best judicial systems in Europe, which would be scientifically inaccurate and would not be a useful tool for the public policies of justice. Indeed, comparing does not mean ranking. However, this report gives the reader tools for an in-depth study which would then have to be carried out by choosing relevant clusters of countries: according to the characteristics of the judicial systems (for instance civil law and common law countries; countries in transition or with old judicial traditions), geographical criteria (size, population) or economic criteria (for instance within or outside the Euro zone). Secondly, the CEPEJ will carry out, as for the previous cycle, its own analysis on the basis of this report.

The CEPEJ scheme was completed by small states. **Andorra, Monaco and San Marino** are territories which are not operating at a scale comparable to the other states surveyed in the report. Consequently the figures of these states must be interpreted cautiously, taking into account the specificities of the national structural indicators.

Monetary values are reported in Euros. Because of this, some problems have occurred while using exchange rates for states outside the Eurozone. Exchange rates vary from year to year. Since the report focuses mainly on 2010, the exchange rates of 1 January 2011 were used. For states experiencing high inflation rates, this choice may generate very high figures which must be interpreted within their specific context. The high variation of the exchange rate might have a considerable effect on the figures for the countries outside the Eurozone. For some of them, a more favourable exchange rate than in 2009 has strengthened the growth of budgetary or monetary increase once expressed in Euros. Therefore, it is necessary to pay attention to this issue while comparing monetary figures of the 2010 and 2012 editions. A specific table (Table 1.3) shows the variation of the exchange rate for the countries outside the Eurozone.

The evolution of judicial systems

¹¹ Document CEPEJ(2008)11.

Since 2010, a few member states of the Council of Europe have implemented fundamental institutional and legislative reforms of their legal systems. For these states, the situation described in this report may be completely different from today's situation when reading the report. Therefore the states were invited to indicate whether reforms had been implemented since 2010 or whether other reforms are under way. This enables us to identify main trends related to prioritised reforms in the various justice systems.

On the contrary, the economic situation has decreased in some countries since 2010 because of the crisis, which has had an impact on the functioning of justice. For such states too, the situation described in this report might have evolved – in **Greece** for instance, the budgets voted in 2010 have not been executed as foreseen.

Displaying the data

In the 2010–2012 evaluation cycle, the CEPEJ has tried to take a global approach of 48 states and entities' judicial systems. In order to highlight some particularities of European judicial systems, several indicators have been developed or calculated: ratios, rates, averages and/or medians, indexes, etc. Several tables include replies as provided by the countries. Other tables show the replies processed together or presented according to aggregated figures. Graphs show, more often than not, global answers at a European level. Some indicators are shown using maps.

In order to propose some references for reading the results of the analyses at a European level, the CEPEJ has used the following indicators of central tendency:

- **Average:** represents the arithmetic mean which is the outcome of dividing the sum of the observations of a distribution (data supplied) by the total number of countries which have indicated the information included into the distribution. The average is sensitive to extreme values (too high or too low).
- **Median:** represents the middle point of a set of ordered observations (ranked according to an increasing or decreasing order). The median is the value that divides the data supplied by the countries concerned into two equal groups so that 50% of the countries are above this value and 50% are below it. When there is an odd number of observations, the median is the value that is just in the middle of these two groups. The median is sometimes better to use than the average, as it is less sensitive to extreme values. The effect of the extreme values is then neutralised.

In addition to the average and the median, the minimum and maximum have been included in several tables:

- **Minimum:** the lowest recorded value in the given column of the Table.
- **Maximum:** the highest recorded value in the given column of the Table.

Often in this report is presented the indicator of *average annual variation*

- **Average annual variation:** represents the result of the calculation (in %) of the variation observed between several given years. This value enables to establish the trend of the general evolution on the period examined. Then, a country which shows a great decrease between 2006 and 2008 and a slight increase between 2008 and 2010 will have, however, a negative indicator of the average annual variation. This indicator takes into account the values of each year and not only the values of the first and the last year, which allows a more accurate reading of the given phenomenon on several years.

On several graphs, the reader will also find the coefficient of determination (R^2).

- **Coefficient of determination:** can have values between 0 (0%) and 1 (100%). The stronger is the explanation link between two variables, the closer to 1 the coefficient of determination will be. If, for instance, the R^2 between two variables is equal to 0.7, this can be interpreted as follows: the variable Y explains 70% of the variability of the variable X.

The CEPEJ has also attempted to include a more complex analysis: factorial analysis followed by classifications. Such analysis, often used in social sciences, enables us to consider a greater number of data and highlight trends, similarities or differences. Therefore the models which result from such a presentation are obviously approximations. The advantage of this method lies in its capacity to present a synthesis of the information on a unique graph or table and to avoid presenting selected raw data one by one. This allows for the creation of clusters. In this report, groups of countries have been created around main elements.

1.5 General economic and demographic figures

These figures, which almost every state was able to provide, give comprehensive information on the general context in which this study was conducted. In particular, they enable, as it was the case in the previous

exercise, to relativize the other figures and put them in context, particularly budgetary figures and figures relating to court activity.

The figures also enable the reader to measure the variations in the population and the size of the countries concerned, from **Monaco**, with less than 36.000 inhabitants, to the **Russian Federation** with almost 143 million. This demographic variable must always be borne in mind. The population concerned by this study is roughly 800 million people, which is almost the whole population of the Council of Europe's jurisdiction - since only **Liechtenstein** is absent from the 2012 Edition.

The data also demonstrate the large differences regarding wealth and living standards in the various countries through per capita GDP and partially by the amount of the global public expenditure (national and regional). The average annual gross salary gives an interesting overview of the wealth and living standards as it involves economic, social (welfare system) and demographic figures. Though this indicator is not perfect, it nevertheless highlights, again, substantial disparities between the citizens of the member states.

Finally, the influence of the monetary exchange rate between the "Euro zone" countries and the "others" must be taken into account, as it strongly modifies what salaries represent vis-à-vis the quality of life for the inhabitants of each country.

Therefore comparisons must always be limited to what can be compared. The results that each member state would want to measure against other states that appear comparable to it must be balanced, taking into account the specific context. There are obviously threshold effects according to the level of population or level of living standards which are measured through ratios regarding the number of inhabitants and the per capita GDP.

The data regarding public expenditure (Q2) seem to be tied to various public accounting techniques, both as regards defined perimeters and, for instance, the presentation of deficits. The problematic effects of national and regional budgets on public competences as a whole also gives rise to further methodological problems. Therefore, these figures are only given as information in the table of general economic and demographic figures.

It was decided, mainly for budgetary comparisons with graphs, to use only two ratios usually used in such surveys for comparisons: the number of inhabitants and the per capita GDP.

The figures on population were provided by all member states. They will be used in all ratios which measure an impact per inhabitant (most of the time per 100 000 inhabitants).

Figures related to the GDP per inhabitant were provided by all the participating states. Here again, very large disparities in the per capita GDP can be noted and must always be kept in mind when considering the subsequent results. For instance, two extremes can be noted: on the one hand the countries with a per capita GDP below 2.000 € (**Georgia, Republic of Moldova**), and on the other hand, **Luxembourg** with a reported per capita GDP more than 40 times higher.

The national annual gross salary has also been used several times for comparing the salaries of judges and prosecutors. This was made so as to guarantee an internal comparability with the standards of living conditions in each country.

Table 1.1 Economic and demographic data in 2010, in absolute values (Q1 to Q4)

States/entities	Population	Total annual State public expenditure including regional and federal entity levels	GDP Per capita	Average gross annual salary
Albania	3 195 000	2 614 398 000	3 149 €	3 772 €
Andorra	85 015	NA	31 006 €	23 943 €
Armenia	3 262 600	1 726 006 000	2 168 €	2 560 €
Austria	8 387 742	166 981 000 000	34 120 €	28 715 €
Azerbaijan	8 997 600	11 624 337 100	4 406 €	3 820 €
Belgium	10 839 905	240 693 600 000	32 400 €	39 165 €
Bosnia and Herzegovina	3 843 126	5 542 506 251	3 257 €	7 467 €
Bulgaria	7 364 570	NA	4 789 €	3 165 €
Croatia	4 412 137	18 733 528 635	10 394 €	12 647 €
Cyprus	804 536	8 626 826 886	21 569 €	23 424 €
Czech Republic	10 517 247	84 374 860 334	14 324 €	11 395 €
Denmark	5 560 628	88 814 453 050	42 446 €	49 882 €
Estonia	1 340 194	5 317 986 254	10 674 €	9 508 €
Finland	5 375 276	51 745 195 000	33 608 €	36 516 €
France	65 026 885	682 700 000 000	29 805 €	33 512 €
Georgia	4 469 200	2 312 362 869	1 972 €	3 026 €
Germany	81 751 602	839 005 000 000	30 566 €	44 532 €
Greece	11 309 885	114 213 000	20 108 €	24 460 €
Hungary	9 986 000	48 875 848 664	9 712 €	9 291 €
Iceland	318 452	3 645 801 690	29 857 €	34 174 €
Ireland	4 581 269	73 332 000 000	34 892 €	36 371 €
Italy	60 626 442	526 944 000 000	25 727 €	23 976 €
Latvia	2 229 600	4 332 771 971	8 096 €	7 588 €
Lithuania	3 244 600	9 334 565 279	8 378 €	6 910 €
Luxembourg	511 840	17 155 800 000	82 100 €	42 000 €
Malta	417 617	3 121 279 000	20 200 €	14 466 €
Moldova	3 560 430	1 788 249 642	1 230 €	2 172 €
Monaco	35 881	838 206 335	55 809 €	33 828 €
Montenegro	620 029	1 465 410 000	5 006 €	8 580 €
Netherlands	16 655 799	301 236 000 000	35 414 €	50 900 €
Norway	4 920 305	113 209 000 000	64 022 €	55 216 €
Poland	38 200 000	98 086 225 285	9 359 €	9 769 €
Portugal	10 636 979	88 726 400 000	16 245 €	20 500 €
Romania	21 431 298	24 808 849 302	5 700 €	5 355 €
Russian Federation	142 914 136	413 815 587 982	7 766 €	6 210 €
San Marino	33 153	641 267 724	33 425 €	34 976 €
Serbia	7 291 436	13 215 188 800	3 841 €	5 422 €
Slovakia	5 435 273	15 337 011 000	12 125 €	9 228 €
Slovenia	2 050 189	9 874 155 345	17 286 €	17 939 €
Spain	45 989 016	477 773 000 000	23 100 €	30 819 €
Sweden	9 415 570	189 211 000 000	39 408 €	38 078 €
Switzerland	7 864 012	152 087 600 000	51 200 €	57 398 €
The FYROMacedonia	2 057 284	1 280 589 198	3 383 €	5 930 €
Turkey	72 561 312	204 343 000 000	7 541 €	11 501 €
Ukraine	45 778 500	29 106 607 981	2 257 €	2 378 €
UK-England and Wales	55 200 000	569 089 000 000	21 547 €	31 728 €
UK-Northern Ireland	1 799 392	18 898 000 000	18 155 €	26 895 €
UK-Scotland	5 222 100	NA	22 632 €	28 915 €

Comments

Austria: the figure gives the average gross income including taxes and social expenses borne by the employee, but not employer's contribution for social insurance - this is in line with the figures given in Q 132 (gross annual salary of judges and prosecutors), but not with previous periods.

Bosnia and Herzegovina: state public expenditures include B&H government, consolidated entity-FBH Government, Cantons, local governments (municipalities and cities), social security funds and PE for road reconstruction and maintenance of entity FBiH, Tuzla and Central-Bosnia Canton; Consolidated Entity - RS Government, local governments (municipalities and cities), social security funds and PE for road reconstruction and maintenance, and Brcko District Government, Brcko District Health insurance Fund, Brcko District Employment Fund. The annual gross salary includes net payments and taxes and contributions paid on the burden of employees (contributions paid by the employers are not included).

Croatia: state public expenditures refer to general government, which includes the subsectors according to the IMF methodology GFS 2001: budgetary central government (the national budget); the extrabudgetary users (funds) i.e. the Croatian Waters, the Fund for Environmental Protection and Energy Efficiency, etc; local government. The statistical data for local government since the year 2001 include the operations of 53 largest local units (20 counties, the City of Zagreb and 32 other large cities), which participate through a series of years with 70-80% of total local government operations. The data include the GFS 2001 category of expense (Table 2) and the GFS category of net acquisition of nonfinancial assets (Table 31), on cash basis.

Estonia: the decreased in state public expenditure is due to cuts in public sector spending, in public demand and to the depreciation of the building sector. Rethinking the revenue had also an impact on the decrease of the total annual public expenditure - an increase in taxes and due to the increase of unemployed the tax revenues decline.

Germany: the average gross is the income of private households per month (€ 3.711) in 2009 (x12), excluding households of the self-employed and farmers and households with a monthly income of € 18 000 and above.

Iceland: the increase in the state public expenditures can be explained by the strengthening of the ISK. Public expenditure has increased due to a higher index of consumer prices by 10.5%, and increasing salaries by 12% between 2008 and 2009 and an additional 5% until 2010. The difference in the GDP between the years can be explained to the bank crises and changes in the currency. The average salary is based on full time employees in the private sector.

Latvia: the decrease in annual public expenditure and in the GDP are due to the financial crisis in Latvia.

Monaco: the Department of Social Affairs and Health has recently evaluated the average salary.

Montenegro: population at 31 March 2011.

Netherlands: the figures on state public expenditure reported for the previous years were compiled differently. Expenditure on state level includes central and local governments and social security funds.

Poland: in previous exercises public expenditure were given only at state level. Here it also includes the regional levels.

Romania: the annual state expenditure is less than 2008 due to the macroeconomic context.

Portugal: population at 31 December 2010. The value of the average gross annual salary is still provisional.

Russian Federation: population at 1 January 2011. The amount of state public expenditure reflects the executed budget.

Spain: expenditure at state level includes central, state and local governments and social security funds.

Sweden: the exchange rate explains the increase of the total annual public expenditure by 29.6% - the variation in Swedish crowns is an increase by 6.97 %. The same applies to GDP - the increase in GDP in € is by 24,3%; in Swedish crowns by 2.59 % only. As regards the average gross salary the increase in euros is by 26,93% whereas in Swedish crowns it is limited to 4,80 % (the net annual salary includes taxes but excludes social expenses).

Switzerland: the evolution of the figures between 2008 and 2010 must be considered with care as the exchange rate between CHF and € must be taken into account – it was 0,67 in 2008 and 0.80 in 2010, which means an increase of about 20 % which is only due to the decrease of Euro.

Turkey: general public expenses include the central administration budget, the local administrations, revolving fund organizations, unemployment insurance fund, social security organizations, general health insurance, and funds. The difference between this period and the previous one results from the fact that while the total annual expenditure declared for the year 2008 was based on the data on the central administration budget, the data pertaining to the year 2010 covered the total public expenditure (central administration budget, local administrations, organizations with circulating capital, unemployment insurance fund, social security institutions, general health insurance, and all the relevant funds). Apart from that, an increase of 131.71 % was observed in the payments made from the unemployment insurance fund, in connection with the increase in the number of enterprises closed due to global economic crisis. In addition, more individuals were taken under the coverage of general health insurance as from which explains the 413.58% increase in the share of the General Health Insurance premiums. The average annual gross salary is the salary of a public servant, including the social security contributions.

Ukraine: the state general fund revenues have increased and this permitted to increase the level of minimum monthly wage in Ukraine.

UK-England and Wales: regional data for GVA rather than GDP. The euro figure increase can be explained by the conversion rates used.

UK-Scotland: population is an estimate at 30 June 2010

1.6 Analysing the findings of the report

The ultimate aim of the regular evaluation exercise is to develop recommendations and set up concrete tools to improve the quality, equity and efficiency of judicial systems. Some qualitative indications and main trends are highlighted in the report. They appear in the conclusion. However it is only during a second stage that the CEPEJ will be able to make a more in-depth analysis, on the basis of the entire data brought into perspective.

Keys

In order to have a complete and easy view of the complex maps and graphs, codes have been used at several occasions instead of the names of the member states. These codes correspond to the official classification (ISO 3166-1 alpha-3 codes with three letters) published by the *International Organisation of Normalisation*. As the ISO codes do not exist for the entities of the United Kingdom, the official FIFA (*Fédération Internationale de Football Association*) codes were used. These codes are ENG, WAL, NIR et SCO respectively.

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

In the report – especially in the tables presented – a number of abbreviations have been used:

- (Qx) refers to the (number of the) question in the Scheme which appears in the appendix, thanks to which the information has been collected.
- If there was no (valid) information, this is shown by writing “NA” (not available).
- In some cases, a question could not be answered, for it referred to a situation that does not exist in the responding country. These cases, and cases in which an answer was given but clearly did not match the question, are shown as “NAP” (not applicable).
- FTE = full time equivalent; number of staff (judges, prosecutors, etc.) are given in full time equivalent so as to enable comparisons (where possible).

POPULATION AND GDP PER CAPITA (IN €)

GDP PER CAPITA

- Less than 10 000 €
- From 10 000 to less than 20 000 €
- From 20 000 to less than 40 000 €
- 40 000 € and over

POPULATION

- Less than 5 000 000 inhabitants
- From 5 000 000 to less than 10 000 000 inhabitants
- From 10 000 000 to less than 20 000 000 inhabitants
- 20 000 000 inhabitants and over
- Data not supplied
- Not a CoE Member State

Map showing GDP per capita and population data for various European countries. Data labels are provided for many countries, including:

- Iceland: 29657
- Finland: 33608
- Sweden: 39408
- Norway: 64022
- Denmark: 42446
- Poland: 10674
- Czechia: 8096
- Slovakia: 8378
- Hungary: 9359
- Romania: 2257
- Bulgaria: 1230
- Greece: 5700
- Turkey: 7541
- Albania: 4406
- North Macedonia: 2164
- Serbia: 1972
- Montenegro: 3149
- Bosnia and Herzegovina: 3383
- Croatia: 3441
- Slovenia: 3257
- Italy: 30425
- France: 51200
- Spain: 31006
- Portugal: 16245
- United Kingdom: 21547
- Ireland: 34892
- Malta: 20200
- Belarus: 7766
- Ukraine: 2257
- Moldova: 1230
- Russia: 7766

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Table 1.3 Exchange rates vis-à-vis € on 1 January 2009 and 1 January 2011 and its evolution

States/entities	Exchange rate from national currency to € on 1 Jan 2009	Exchange rate from national currency to € on 1 Jan 2011	Exchange rate bi-annual variation of the national currency with regard to the euro
Albania	123	138,77	-12,8%
Armenia	435	481,16	-10,6%
Azerbaijan	1,245	1,056	15,2%
Bosnia and Herzegovina	1,95583	1,95583	0,0%
Bulgaria	1,95583	1,95583	0,0%
Croatia	7,331773	7,384297	-0,7%
Czech Republic	26,83	25,06	6,0%
Denmark	743	745,31	-0,3%
Georgia	2,3475	2,37	-1,0%
Hungary	265,48	278,85	-5,0%
Iceland	170	153,8	9,5%
Latvia	0,702804	0,702804	0,0%
Lithuania	3,4528	3,4528	0,0%
Moldova	14,7408	16,1045	-9,3%
Norway	9,695	8,01	17,4%
Poland	4,2181	3,9603	6,1%
Romania	3,9852	4,2848	-7,5%
Russian Federation	41,4275	40,4876	2,3%
Serbia	89	105	-18,0%
Sweden	10,8405	8,95	17,4%
Switzerland	0,67	0,8	19,4%
The FYROMacedonia	61,4	61,1	0,5%
Turkey	2,133	2,07	3,0%
Ukraine	10,855	10,57	2,6%
UK-England and Wales	0,9609	0,8506	-11,5%
UK-Northern Ireland	0,9609	0,8506	-11,5%
UK-Scotland	0,9609	0,8506	-11,5%

Chapter 2. Public Expenditures: courts, prosecution system and legal aid

2.1 Public expenditure on the operation of judicial system: overview

This chapter focuses on the financial means allocated to courts, public prosecution services and legal aid.

The methodology used to present the figures remains close to the one followed in the 2010 Edition of this evaluation report. According to the states, there are common and distinct ways of financing courts, public prosecution services and legal aid.

Consequently, like in the 2010 report, it is for example impossible, for 8 states, to provide separate data for courts and public prosecution services, since they are included in a single budget (**Austria, Belgium, France, Germany, Greece, Luxembourg, Spain and Turkey**).

Denmark (the public prosecution service's budget partially depends on the police budget) has not been able to provide any data on the budget allocated to the prosecution system, hence restricting this country from a significant number of tables and figures within this chapter. Contrary to the previous report, **Portugal, San Marino** and **UK-Northern Ireland** have managed to do so and should be commended on such efforts which improve the overall budget analysis.

Regarding legal aid, the budgetary data could be isolated for 40 states or entities. It was impossible to isolate the budget allocated to legal aid in **Andorra, Cyprus, San Marino, Serbia, Slovakia, "the former Yugoslav Republic of Macedonia", Ukraine** and **UK-Scotland**. Contrary to the previous report, **Croatia** has managed to do so, whereas **Andorra, San Marino, Slovakia, "the former Yugoslav Republic of Macedonia"**¹², **Ukraine** and **UK-Scotland** have not been able to provide such data this time.

Of the 48 states or entities concerned, 8 have not been able to give the total of the three budgets (courts + prosecution service + legal aid): **Andorra, Cyprus, Norway, San Marino, "the former Yugoslav Republic of Macedonia", Ukraine, UK-Scotland** (legal aid budget not available) and **Denmark** (public prosecution budget not available).

Bearing such differences in mind and regarding the complexity of these questions, the CEPEJ has chosen to break down as much as possible the various elements of the budgets in order to allow a progressive approach. Therefore, three budgets were taken into account:

- the budget allocated to the courts, which will be related to the part of the report on the activities of the courts (chapter 5),
- the budget allocated to the public prosecution, which will be related to the part of the report on the activities of public prosecutors (chapter 10),
- the budget allocated to legal aid which constitutes an indicator of the efforts devoted by a state or entity to making its judicial system accessible, and which will be related to the part of the report on access to justice (chapter 3).

Table 2.1 presents the background information which enables comparisons for each of these three budgets: the courts (C) (first column), the legal aid system (LA) (second column), the public prosecution (PP) (third column).

The table also makes it possible to provide a study of the budgets on comparable basis:

- 4th column: budget allocated to access to justice and the courts (LA + C): total budget allocated to the courts and to legal aid in 2010;
- 5th column: budget allocated to all bodies dealing with prosecution and judgment (PP + C): total budget allocated to the courts and to the public prosecution in 2010 (without legal aid);
- 6th column: budget allocated to all three budgets (C + LA + PP): total budget allocated to the courts, legal aid and the public prosecution in 2010.

As a result, any state or entity will be able to compare itself to other states or entities deemed as similar. It will then, in the same way, be able to refer to the results on activity.

¹² "the former Yugoslav Republic of Macedonia" did not provide data for legal aid, because the Law on free legal aid which was adopted in December 2009, started to be implemented from July 2010.

In order to contribute to a better understanding of these reasoned comparisons, all the reported and studied figures have been made available. Ratios have been highlighted, in order to allow comparisons between comparable categories, by connecting the budgetary figures to the number of inhabitant and the GDP per capita, in the form of figures.

Following the main table, figures are presented with the ratio of the budget per inhabitant and the ratio as a percentage of the GDP per capita, to compare realistically comparable categories.

The CEPEJ report aims at highlighting statistical series, showing the evolution of indicators over the years, by referring to the data of previous evaluation cycles (see Figure 3). Generally, the CEPEJ has chosen to refer to the three last cycles (2006, 2008 and 2010 data). When the 2006 data have not been considered as solid enough, the comparison is limited to the two last cycles.

Note for the reader: The budgets indicated correspond in principle (unless specifically mentioned otherwise) to the amounts as voted and not as effectively spent. This might have an impact on the results provided by several member states, which did not execute in 2010 the budget voted at the end of 2009, due to the effects of the financial and economic crisis. This is in particular the case for **Greece**, which has indicated, as requested, the budget as voted by the Parliament, but which did not spend the budget as initially planned due to the crisis.

In addition, it must be stressed that the financial and economic crisis might have had a serious impact on the situation of the public budgets since the 2010 year of reference: budgets might have been reduced since then, or, on the contrary, some states might have decided to dedicate further efforts to the justice system to face the challenges of the crisis.

All the amounts are given in Euros. For the countries which are not part of the Euro zone, the CEPEJ was very attentive to variations in exchange rates between the national currency and the Euro (unless stated otherwise, the value is taken on 1 January 2011). Inflation may also explain a few significant budgetary evolutions. This fact must fully be taken into account while interpreting variations in states or entities outside the Euro zone (see table 1.3 in chapter 1).

For a more in-depth analysis of the specificities in the budgets of the various member states or entities, the reader is invited to examine the detailed answers given by each state or entity which appear on the CEPEJ's website: www.coe.int/cepej.

Table 2.1 Public budget allocated to courts, legal aid and public prosecution in 2010, in € (Q6, Q12, Q13)

States/entities	Total annual approved public budget allocated to all courts with neither prosecution nor legal aid	Total annual approved public budget allocated to legal aid	Total annual approved public budget allocated to the public prosecution system	Total annual approved budget allocated to all courts and legal aid	Total annual approved budget allocated to all courts and public prosecution	Total annual approved public budget allocated to all courts, public prosecution and legal aid
Albania	10 552 685	21 429	8 901 893	10 574 114	19 454 578	19 476 007
Andorra	5 803 340	NA	810 965	NA	6 614 305	NA
Armenia	11 285 536	294 140	4 496 722	11 579 676	15 782 258	16 076 398
Austria	NA	18 400 000	NA	NA	691 580 000	709 980 000
Azerbaijan	40 315 230	345 054	40 007 281	40 660 284	80 322 511	80 667 565
Belgium	NA	75 326 000	NA	NA	859 511 000	934 837 000
Bosnia and Herzegovina	69 300 099	5 906 637	20 400 465	75 206 736	89 700 564	95 607 201
Bulgaria	112 211 184	3 867 730	79 203 203	116 078 914	191 414 387	195 282 117
Croatia	211 304 301	229 550	41 296 176	211 533 851	252 600 477	252 830 027
Cyprus	33 546 827	NA	15 964 412	NA	49 511 239	NA
Czech Republic	346 497 809	28 361 213	83 446 289	374 859 022	429 944 098	458 305 311
Denmark	216 795 693	87 896 311	NAP	304 692 004	NA	NA
Estonia	26 797 340	2 982 213	9 135 614	29 779 553	35 932 954	38 915 167
Finland	243 066 350	58 100 000	42 937 000	301 166 350	286 003 350	344 103 350
France	NA	361 197 138	NAP	NA	3 574 350 963	3 935 548 101
Georgia	16 214 854	1 080 548	7 333 463	17 295 402	23 548 317	24 628 865
Germany	NA	382 382 576	NA	NA	7 789 169 914	8 171 552 490
Greece	NA	2 500 000	NA	NA	620 970 911	623 470 911
Hungary	259 501 133	304 823	102 321 320	259 805 956	361 822 453	362 127 276
Iceland	7 413 547	4 004 810	872 985	11 418 357	8 286 532	12 291 342
Ireland	148 722 000	87 435 000	43 854 000	236 157 000	192 576 000	280 011 000
Italy	3 051 375 987	127 055 510	1 249 053 619	3 178 431 497	4 300 429 606	4 427 485 116
Latvia	36 919 820	842 985	15 913 545	37 762 805	52 833 365	53 676 350
Lithuania	50 567 945	3 906 105	29 555 000	54 474 050	80 122 945	84 029 050
Luxembourg	NA	3 000 000	NAP	NA	67 458 676	70 458 676
Malta	10 260 000	85 000	2 569 000	10 345 000	12 829 000	12 914 000
Moldova	8 472 063	314 034	4 416 909	8 786 097	12 888 972	13 203 006
Monaco	3 805 800	224 400	1 357 600	4 030 200	5 163 400	5 387 800
Montenegro	19 943 898	169 921	5 176 984	20 113 819	25 120 882	25 290 803
Netherlands	990 667 000	359 000 000	615 642 000	1 349 667 000	1 606 309 000	1 965 309 000
Norway	207 841 410	NA	18 298 000	NA	226 139 410	NA
Poland	1 365 085 000	23 244 000	312 514 570	1 388 329 000	1 677 599 570	1 700 843 570
Portugal	528 943 165	51 641 260	119 901 622	580 584 425	648 844 787	700 486 047
Romania	355 246 737	7 915 238	162 428 333	363 161 975	517 675 070	525 590 308
Russian Federation	2 912 743 823	105 836 124	934 551 021	3 018 579 947	3 847 294 844	3 953 130 968
San Marino	5 420 165	NA	409 149	NA	5 829 314	NA
Serbia	111 016 635	NA	22 608 698	161 163 413	133 625 333	183 772 111
Slovakia	138 493 788	1 357 776	63 702 886	139 851 564	202 196 674	203 554 450
Slovenia	178 158 919	5 834 338	19 263 376	183 993 257	197 422 295	203 256 633
Spain	NA	237 898 199	NA	NA	3 964 118 020	4 202 016 219
Sweden	557 260 358	195 683 782	127 316 425	752 944 140	684 576 783	880 260 565
Switzerland	916 146 809	100 061 055	297 932 258	1 016 207 864	1 214 079 067	1 314 140 122
The FYROMacedonia	28 541 751	NA	4 740 867	NA	33 282 618	NA
Turkey	NA	79 338 098	NAP	NA	1 154 948 704	1 234 286 802
Ukraine	264 262 150	NA	115 165 081	NA	379 427 231	NA
UK-England and Wales	1 182 000 000	2 521 000 000	755 810 000	3 703 000 000	1 937 810 000	4 458 810 000
UK-Northern Ireland	83 154 000	96 280 000	43 500 000	179 434 000	126 654 000	222 934 000
UK-Scotland	146 420 820	NA	135 475 200	NA	281 896 020	NA
Average	462 944 370	105 027 562	125 795 834	538 402 159	811 993 175	895 761 369
Median	138 493 788	6 910 938	40 651 729	181 713 629	202 196 674	266 420 514
Maximum	7 309 253 808	2 521 000 000	1 249 053 619	7 691 636 384	7 789 169 914	8 171 552 490
Minimum	3 805 800	21 429	409 149	4 030 200	5 163 400	5 387 800

Comments

Albania: the 2010 approved budget has decreased compared to 2008, as the activity of 8 courts has been discontinued in August 2008.

Armenia: 6 specialised courts were closed down in 2009 which resulted in the reduction of staff and training expenses in 2010.

Azerbaijan: as a result of its rapid economic development, this country keeps conducting large-scales judicial-legal reforms and increasing significantly the overall budget of judiciary.

Belgium: the budget for constructing new courts or maintaining existing buildings is excluded from the budget of the Federal Justice Public Service. Real property of the Belgium State is managed by the *Régie des Bâtiments* which does not hold separate a specific part for justice.

Bosnia and Herzegovina: the amounts given are estimations of the executed budget. Unlike previous cycles, the lawyers' costs for mandatory defense and costs for lawyers for indigent persons are not included.

Czech Republic: cuts in the justice expenses are due to the economic crisis.

Denmark: part of the "prosecution budget" depends on the budget of the police; therefore the budget of the prosecution system cannot be indicated.

France: the total annual budget allocated to all courts amounts breaks down into judicial justice and administrative justice + cost estimation for transportation of defendants under escort, cost evaluation of prosecuting officers under the Ministry of the Interior, cost estimation of guarding courtrooms (229 millions) + the amount of the rental value of court buildings made available for free to the state by local authorities as part of the shift in costs following decentralisation (66,9 millions) + a part of the expenses paid by the central administration of the Ministry of justice for the functioning of the courts according to the budgetary rules.

The legal aid budget includes amounts coming from the reintegration of amounts taken from the recovering of 11,5 million € and from a tax expenditure related to the application of a reduced VAT rate of 5,5% to the lawyers working under the legal aid regime.

Georgia: as a result of merging the district (city) courts of first instances in 2009-2010, 9 unified courts were established in addition, where the salaries of staff members were increased. All the above mentioned resulted in the increased budget that had been allocated for salaries. Unlike 2008, the amounts include the data of the budget of common courts, among them those of the Supreme Court.

Germany: budgetary data from Germany are limited as some Länder have not been able to specify the budget of the prosecution offices from the court budget. For more details, please refer to the detailed answers provided by Germany on www.coe.int/cepej.

Greece: contrary to 2008, this budget includes the budget approved for the Court of Auditors. The increase noted between 2008 and 2010 is the effect of the implementation of the law which provides an increase in judges' gross salaries. However the budget voted for 2010 was not executed, due to the financial crisis.

Contrary to 2008, and according to the explanatory note, the amounts provided exclude, under "justice expenses", the payment of lawyers under the legal aid system.

Latvia: the budget dedicated to the salaries of judges and court employees have been reduced of about 15 % due to the financial crisis.

Lithuania: at the end of 2008 the salaries of judges were increased, but due to the crisis they were cut in 2009 and remained decreased in 2010 as well. The increase of the budget for justice system is due to the fact that the budget of Ministry of Justice and Prison department were not involved for the year 2008.

Luxembourg: these figures are provisional and the actual spending can be higher or lower once the budget is executed. When the provisions were made by the authorities, it was expected that the expenses would be higher than the years before and therefore the figures put into the provisional budget for 2010 were higher than those in 2008.

Republic of Moldova: data does not include the budget allocated to military courts.

The budget of the whole justice system (column 1) indicated for 2010 cannot be compared with the budget indicated for 2008, as the figures do not include the same elements. Indeed, the budget of the whole justice system remained stable between 2008 and 2010.

Montenegro: Montenegro being devoted to EU accession, numerous activities for strengthening justice capacities are supported by the EU and other international partners, which provide donor support in both training and supplying equipment for the judicial authorities.

The budget for the courts includes the budget of the Constitutional Court.

Poland: all the budgetary data are affected by two important factors: the exchange rate zloty-Euro (approx raise 7%) and the EU financed programs which covered many of the nation expenditures. The budget of the Public Prosecution Service for 2010 is separated from the budget of Justice. The amounts provided are an outcome of budgetary transfers caused by the separation of Public Prosecution Service from Ministry of Justice.

Russian Federation: the budget allocated to all courts (column 2) includes 1) the budget allocated to the Supreme Commercial Court and the system of commercial courts, 2) the budget allocated to the Supreme Court (the highest instance court of general jurisdiction), 3) the budget allocated to the Judicial Department of the Supreme Court and the system of inferior courts of general jurisdiction.

Slovakia: legal aid is financed from two different parts of the budget allocated to the justice system: the budget of the Legal Aid Centre and the budget of the courts. The sum stated in the table represents exclusively the approved budget of the Legal Aid Centre. This sum does not include the payments from the budgets of the courts to the lawyers providing legal aid in civil or criminal proceedings, i. e. the costs of the lawyers appointed free of charge to the participant by the judge in the civil proceedings and the costs of the ex officio appointed counsels in the criminal proceedings. The sum of these costs is included in the budget of courts and it is not possible to extract it.

Sweden: due to differences in nomenclature within different audit systems there is an inherent problem in comparing 2008 and 2010 numbers. As a result, the figures presented in question 6 should be used with prudence. The figures are

not approved budget but executed expenses. Corrected figures show an increase since 2008 by 17,20 %, mainly due to the exchange rate. The difference in Swedish crowns would actually be a decrease by 3,24 %.

Switzerland: the amounts provided are extrapolated for the whole federal state from a significant number of cantons.

Between 2008 and 2010 the justice systems in the cantons and of the Confederation have prepared the implementation of the new single unified civil and criminal procedures (instead of 27): some cantons have already amended their legislation (new organisation, increased number of courts and prosecution offices) and others have chosen to wait and act at a later stage if necessary.

20 % of the difference between the amounts provided in 2008 and 2010 is due to the exchange rate.

Turkey: the data given in Table 2.1 do not cover the Constitutional Court, the Court of Cassation, the Council of State, the Supreme Election Board, and the Military Courts. On the other hand, the data in the first column includes the budget of the Ministry of Justice which covers also the budget of the Court of Jurisdictional Disputes, the Supreme Election Board and the Forensic Medicine Institution and the budget of the Prison Workshops Institution, the budget of the Turkish Justice Academy, and the allocations transferred to the Union of Turkish Bar Associations by the Ministry of Finances-

"the former Yugoslav Republic of Macedonia": the courts' budget includes the budget of the Court Council and Academy for training of judges and public prosecutors.

Additional resources are allocated to computerisation and investments in new (court) buildings from international organisations (World Bank, USAID).

The new legislation (November 2010) establishes a fixed percentage for financing the judiciary, amounting to 0,8 % of GDP, which is twice as high as the current court budget. This level of 0,8 % of the GDP will be reached progressively, with equal increases until 2015. In case of rebalancing the state budget, the funds allocated to the judicial power cannot be decreased. Within the court budget there are contingency funds as current reserve, which cannot exceed 2% of current expenditures of the court budget. At least 2,5% of the court budget must be spent on vocational training of judges, law clerks, court police and other employees of courts.

UK-England and Wales : this figure does not include Capital (spending on capital items such as land, buildings, plant and machinery which will be used by the business in more than one financial year and which will be shown on the balance sheet as fixed assets).

2.1.1 Public expenditure on the operation of the overall justice system

The CEPEJ aims to identify, understand and analyse the operation of the judicial system (operation of the courts). Hence, the report focuses essentially on budgets for courts, prosecution services and legal aid. It is however interesting to study, before any further analysis on the budgets of the judicial system, the efforts committed by public authorities towards courts in comparison with the efforts carried out for the operation of the overall justice system which may include, for instance, the prison systems' budget, the operation of the Ministry of Justice or other institutions such as the Constitutional Court or the Council of Justice, the judicial protection of youth, etc.

Note for the reader: data in the first column of table 2.1 is indicated for information purposes only. Each member state or entity was invited to include all the budgets allocated to justice, but, as it appears in table 2.2, the budgets indicated do not all represent the same reality, taking into account the various powers given to justice according to the states and entities. It is in particular relevant to specify the member states which have included the budget of the prison system into the overall budget of justice from those which have not. Thus **Andorra, Bulgaria, Czech Republic, San-Marino** and **Spain** do not include the budget of the prison system in the budget allocated to the whole justice system (see column 2 in the table 2.2).

Table 2.2 Total annual approved budget allocated to the whole justice system in 2010, in € (Q10)

States/entities	Total annual approved budget allocated to the whole justice system
*Albania	53 278 944
Andorra	36 963 662
Armenia	NA
*Austria	1 174 830 000
*Azerbaijan	100 914 019
*Belgium	1 802 642 657
*Bosnia and Herzegovina	177 456 251
Bulgaria	224 069 853
*Croatia	352 621 340
*Cyprus	79 536 746
Czech Republic	557 183 160
*Denmark	2 086 000 000
*Estonia	98 519 256
*Finland	792 410 000
*France	7 517 535 561
Georgia	NA
*Germany	13 320 680 442
*Greece	714 721 911
*Hungary	1 604 399 373
*Iceland	23 343 734
*Ireland	2 540 438 000
*Italy	7 716 811 123
*Latvia	137 747 332
*Lithuania	155 377 083
*Luxembourg	116 165 559
*Malta	83 998 000
*Moldova	54 453 215
*Monaco	9 039 700
*Montenegro	38 236 480
*Netherlands	6 098 900 000
*Norway	3 754 745 000
*Poland	2 821 561 570
*Portugal	1 693 952 793
*Romania	569 175 715
*Russian Federation	9 129 524 916
San Marino	792 288
*Serbia	245 022 123
*Slovakia	278 261 799
*Slovenia	263 000 000
Spain	4 632 278 011
*Sweden	4 064 159 050
*Switzerland	1 363 587 966
*The FYROMacedonia	44 880 556
*Turkey	2 274 389 431
*Ukraine	727 216 001
*UK-England and Wales	10 866 000 000
*UK-Northern Ireland	1 378 080 000
*UK-Scotland	1 993 680 000
Average	1 953 512 096
Median	641 948 813
Maximum	13 320 680 442
Minimum	792 288

Note: * indicates the countries including their prison system as budgetary element in the calculation of the whole justice system budget

Strong disparities between the European states must be highlighted regarding the budgetary commitment of public authorities on the operation of justice. However, when analysing data, one should keep in mind the non-homogeneous levels of prosperity among the member states. Thus, it is worth restricting the comparisons to the states which are considered to be reasonably comparable regarding their standards of living.

In addition, the elements which are or not considered under this overall budget must be taken into account for relevant analysis. For the first time, the CEPEJ is able to indicate the budgetary elements which are considered by the member states when providing the overall budget of justice. Therefore, for this edition, the CEPEJ has decided not to compare with specific amounts the evolution of this budget between the previous years and 2010. It is hoped that such evolution can be measured in the next evaluation cycles, while considering similar perimeters.

Nevertheless, trends can be indicated from the elements provided by several member states. The overall budget of justice has increased in several states since 2008 (while taking into account the evolution of the exchange rates),

- of less than 5 % (**Austria, Bulgaria, Montenegro, Netherlands**),
- between 5 and 10 % (**Bosnia and Herzegovina, Finland, Italy, Monaco, Slovenia**),
- between 10 % and 20 % (**Belgium, Denmark, France, Luxembourg, Spain**),
- between 20 and 50 % (**Lithuania, Norway, Portugal**),
- of more than 50 % (**Azerbaijan¹³, Cyprus, Turkey**).

Some member states explicitly refer to economic investments in the judiciary (**Sweden** has invested to safeguard effective public prosecution services the quality of the judiciary, the effective prison and probation systems and to strengthen the victim perspective throughout the justice system), significant investments in courts buildings (**Azerbaijan, Cyprus**), developments in the prison system (**Azerbaijan, Bosnia and Herzegovina**) or large investment in IT applications (**Azerbaijan, Portugal**).

On the contrary, other member states indicate a decrease in the overall budget of justice due to the financial and economic crisis (**Albania, Estonia, Hungary, Ireland, Latvia, Romania, Serbia, Slovakia, “the former Yugoslav Republic of Macedonia”**).

¹³ This development must be tempered by a favorable evolution of the exchange rate of +15.2% between 2008 and 2010.

2.3 Budgetary elements those are included in the whole justice system (Q11)

States/entities	Courts	Legal aid	Public prosecution services	Prison system	Probation services	Council of the judiciary	Judicial protection of juveniles	Functioning of the Ministry of Justice	Refugees and asylum seekers services	Other
Albania										
Andorra										
Armenia										
Austria										
Azerbaijan										
Belgium										
Bosnia and Herzegovina										
Bulgaria										
Croatia										
Cyprus										
Czech Republic										
Denmark										
Estonia										
Finland										
France										
Georgia										
Germany										
Greece										
Hungary										
Iceland										
Ireland										
Italy										
Latvia										
Lithuania										
Luxembourg										
Malta										
Moldova										
Monaco										
Montenegro										
Netherlands										
Norway										
Poland										
Portugal										
Romania										
Russian Federation										
Serbia										
Slovakia										
Slovenia										
Spain										
Sweden										
Switzerland										
The FYROMacedonia										
Turkey										
Ukraine										
UK-England and Wales										
UK-Northern Ireland										
UK-Scotland										
Yes	47	42	42	42	33	27	23	43	9	20
No	1	6	6	6	12	16	20	5	36	26
NA/NAP	0	0	0	0	3	5	5	0	3	2

Note: San Marino is not included in the table 2.3. All given answers to the question 11 are negative.

Comments

Malta: as regards the budget of the whole justice system (column 1), the Police Force also fell under the remit of the Ministry of Justice and Home Affairs in 2010 and the total budget allocated to the Police Force was of 45013000 €.

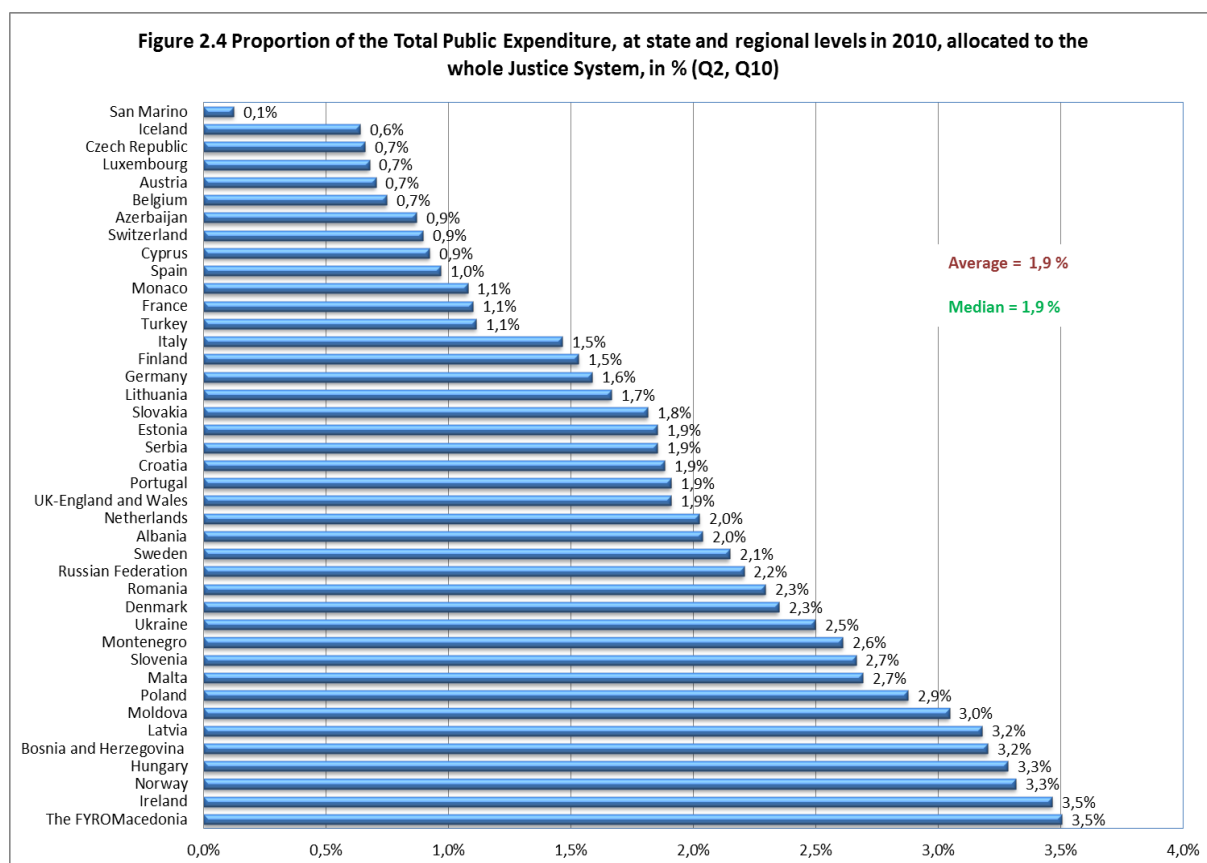
Slovenia: "judicial protection of juveniles" does not mean special services for juveniles (like education, housing, etc.). The budget of the justice system covers criminal procedures against juveniles, but not other (social) expenditures. Similarly, the category 'Probation services' involves the work of probation commissions at the Ministry of Justice, but not other possible expenses.

Spain: refugees and asylum' services and the prison system depend on the Ministry of Interior and the judicial protection of juveniles has been transferred to the Autonomous Regions.

Switzerland: the answers correspond to the situation in the major part of the cantons.

Among the « other » elements which constitute the overall budget of justice, can be mentioned *inter alia* constitutional courts (**Latvia, Republic of Moldova, Turkey**), national judicial management bodies

(Republic of Moldova), the state advocacy (Albania), enforcement services (Albania, Finland, Republic of Moldova), community justice services (UK-Scotland), notariat (Republic of Moldova), centres for the harmonization of legislation and institutes of justice (Republic of Moldova), official publication bodies (Albania), forensic medicine and/or judicial expertise (Albania, Republic of Moldova, Sweden, Turkey), election expenditures or bodies (Finland, Turkey), insurances or social funds for judicial staff (Latvia) or various agencies entrusted for instance with adoption (Albania), data protection (Finland), property restitution (Albania), crime prevention (Finland, Sweden), drugs (UK-Scotland), victims and compensation funds (Sweden, UK-Scotland). In some member states the police is also included in this overall budget (Sweden, UK-Scotland).

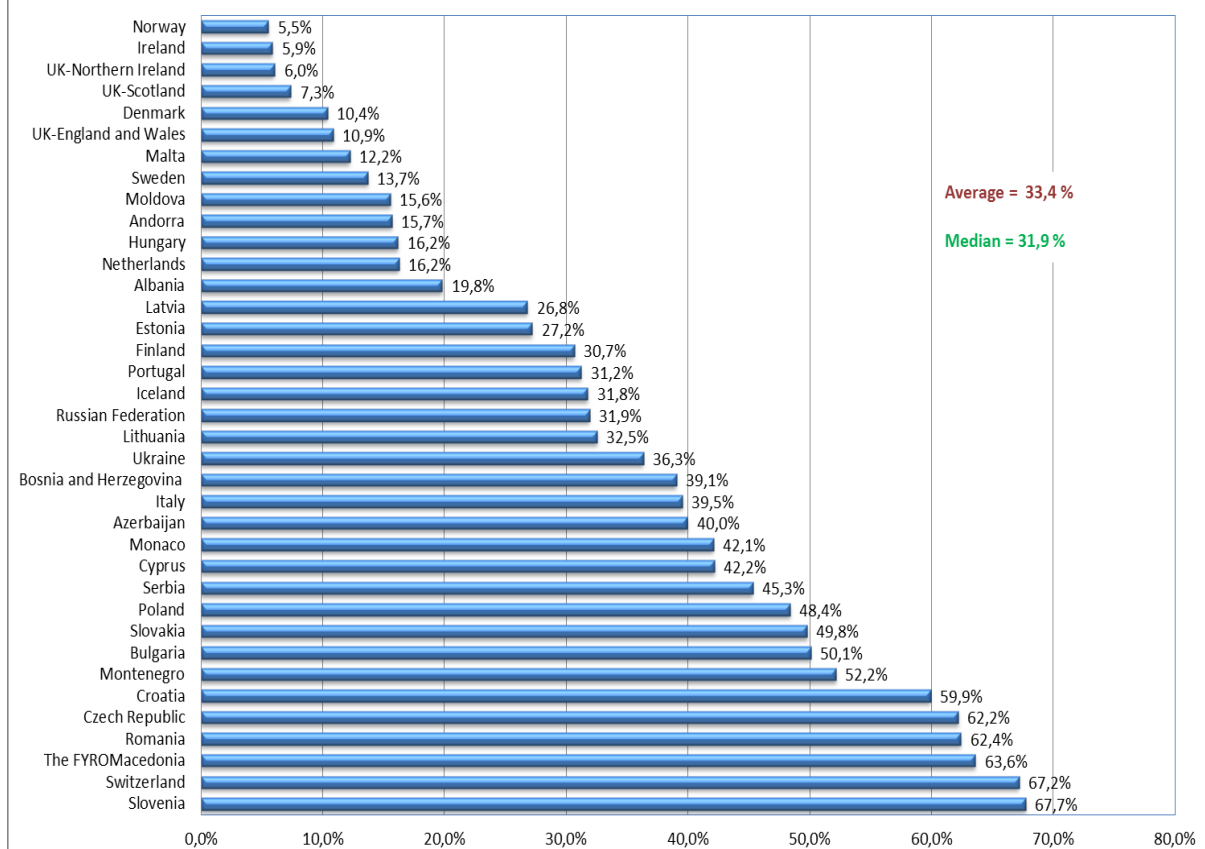


Note: once again, this information must be analysed with care, considering namely the perimeter of the overall budget of justice, and in particular the inclusion of the prison system or not.

2.1.2 Budgetary commitment to courts

In order to calculate the proportion taken by the budget for the judicial system within the overall budget for justice, the CEPEJ has chosen to restrict the scope of the public expenditure devoted to the operation of courts, *stricto sensu* (excluding the budgets for public prosecution services and legal aid), hence enabling a comparison of homogeneous data, despite the diversity of answers given to question 10. On a methodological point of view, comparing data is therefore scientifically relevant. States whose answers to question 10 were not relevant were excluded from this study. As a result, 34 member states or entities (2 more than in the last evaluation cycle) are considered here.

**Figure 2.5 Proportion of the whole Justice System budget in 2010 allocated to the Courts
(excluding Public Prosecution Services and Legal Aid), in % (Q6, Q10)**



Note: the 8 states which could not provide separate data for courts and public prosecution services are not considered here (**Austria, Belgium, France, Germany, Greece, Luxembourg, Spain and Turkey**).

Even if the information provided does not cover all member states, it can be noticed that the situation in Europe is very uneven when identifying budget priorities for states in matters of justice. More than half of the European states or entities commit more budgetary resources in other areas of justice than for the operation of courts. In 4 states or entities (**Norway, Ireland, UK-Northern Ireland and UK-Scotland**), courts represent less than 10% of the public budgetary commitment to justice. In opposition, 8 of the responding European states devote more than 50% of their budget for justice to the operation of courts (**Bulgaria, Montenegro, Croatia, Czech Republic, Romania, “the former Yugoslav Republic of Macedonia”, Switzerland and Slovenia**). This reflects in particular the differences in the organisation of the judicial system, as the core tasks of courts may differ. In some countries courts perform tasks in land and business registers (for instance **Austria, Poland**), whereas in other countries these tasks are performed by separate, specialized bodies (**Azerbaijan, the Netherlands** for instance).

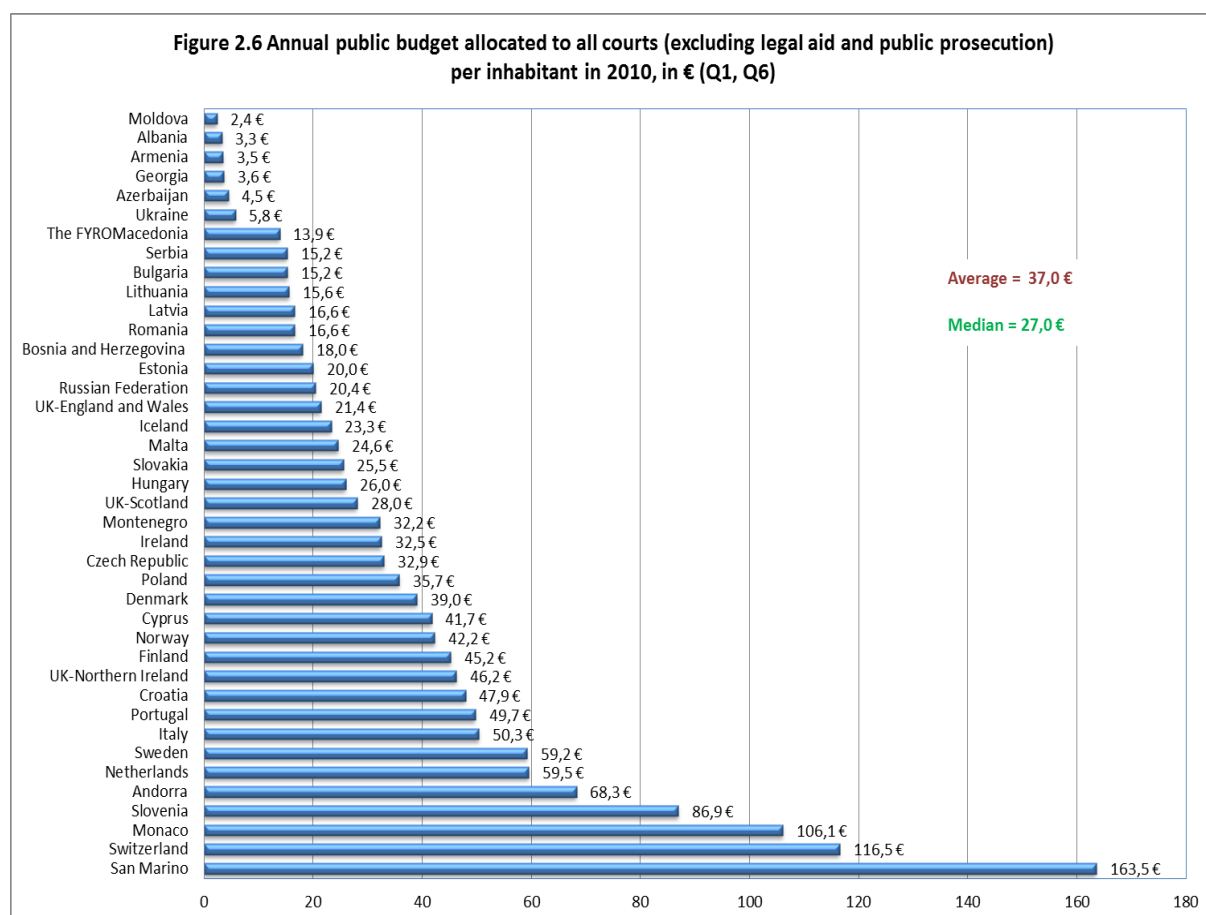
2.2 Public budget allocated to the courts

This section measures the efforts that each state or entity makes for the proper functioning of its courts.

Among 48 states or entities, 40 were included in this analysis. The figures take into consideration only those states providing distinct budgets allocated to courts and to the public prosecution service. This does not include the budget allocated to legal aid.

2.2.1 Public budget allocated to all courts

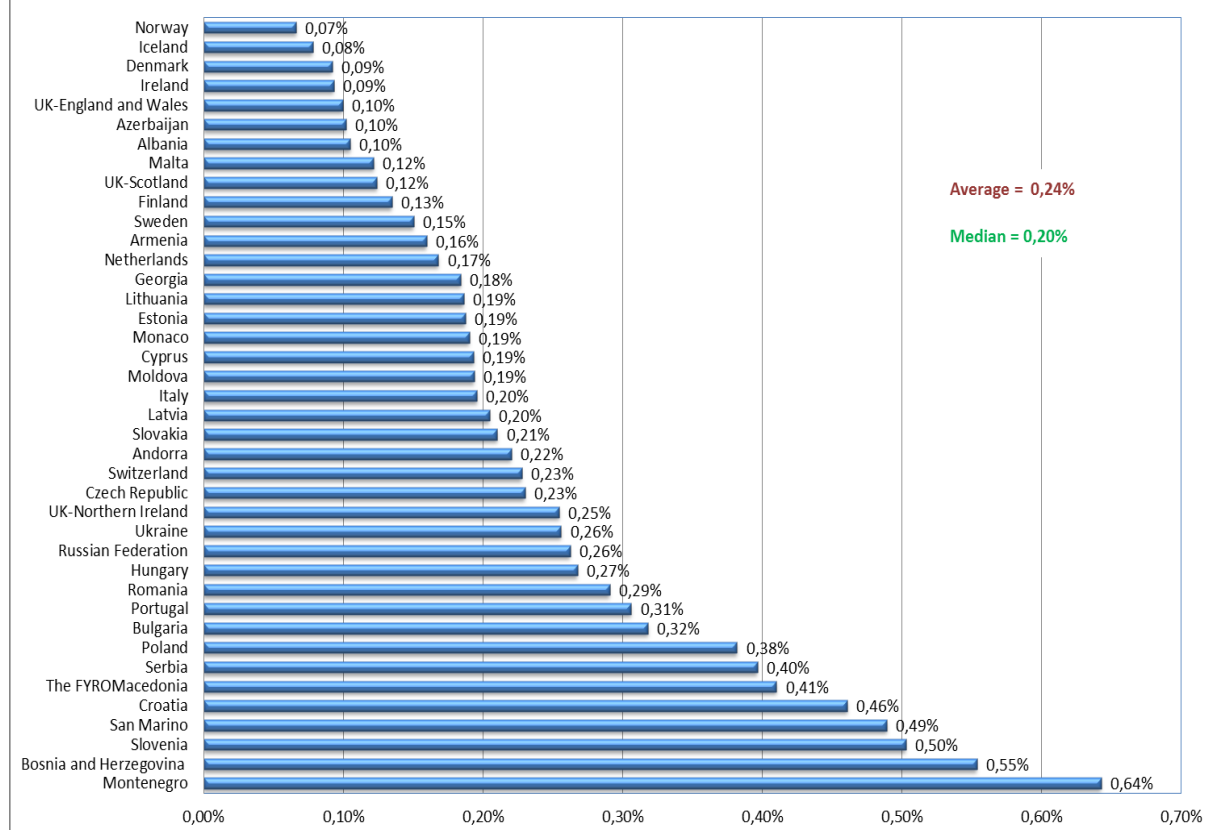
The data is considered per inhabitant and in relation to the GDP per capita (in %), so as to take into account respectively, within the analysis, the dimensions of states or entities and the levels of wealth of countries.



Note: data given by small states (**San Marino, Monaco**) must be reported to the small number of their inhabitants when comparing budgetary efforts per inhabitant. Therefore these states are not always considered in the following analysis.

The budgetary efforts dedicated per inhabitant to the functioning of courts differ significantly among the member states, from small amounts of less than 10 € per inhabitants in Eastern European states where the economic development remains fragile (**Republic of Moldova, Albania, Armenia, Georgia, Azerbaijan, Ukraine**) to amounts exceeding 100 € per inhabitant in richer states such as **Switzerland**. However the economic situation in the member states is not the only explanations: some member states give a high priority in the functioning of the courts, whereas other have more balanced priorities between the various components of their justice system.

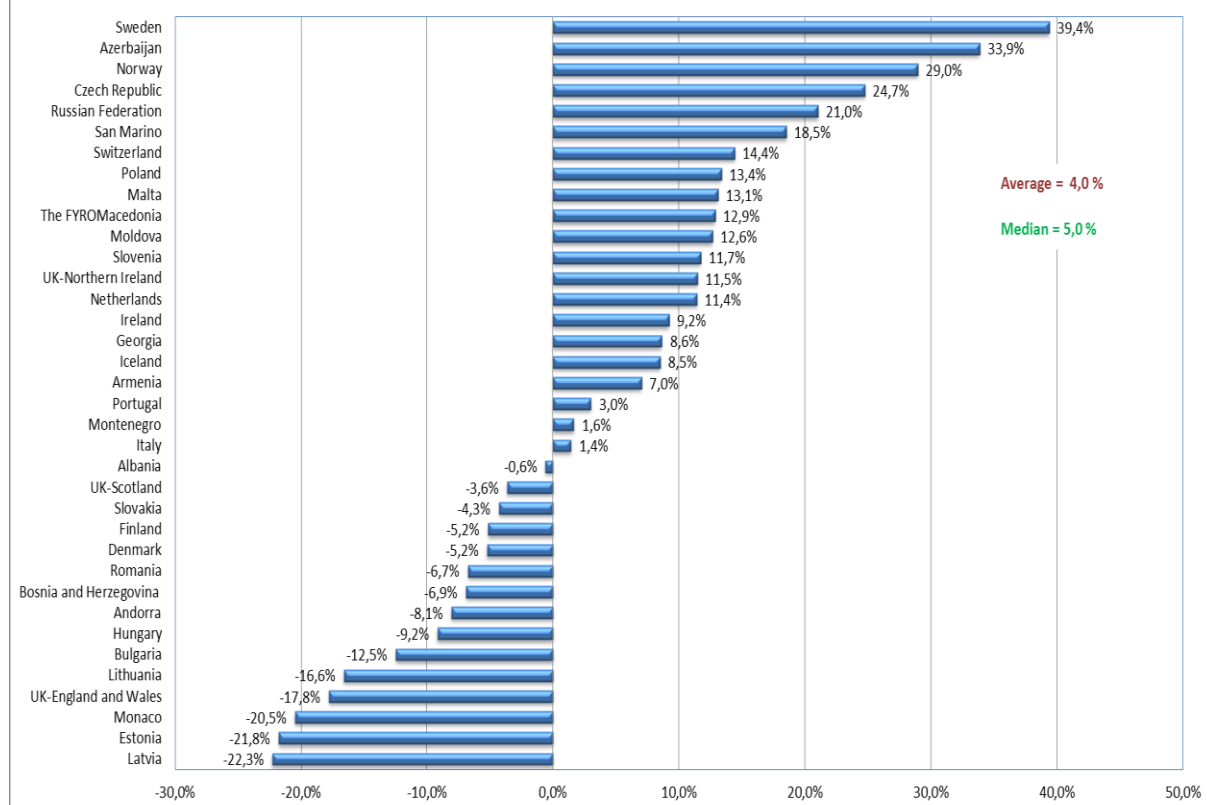
**Figure 2.7 Annual public budget allocated to all courts (excluding public prosecution and legal aid)
as percentage of GDP per capita, in 2010 (Q1, Q3 and Q6)**



A different perspective is shown when analysing the budget allocated to the courts by comparing it to the states' prosperity in terms of the GDP per capita. States that benefit from large scale assistance to improve the Rule of Law, in particular from the European Union or other international organisations, automatically allocate relatively high proportions of their budget to their court system. This is the case in particular for **Montenegro, Bosnia and Herzegovina** and **"the former Yugoslav Republic of Macedonia"**.

Consequently, Western European states or entities, which have higher national levels of wealth such as **Denmark, Finland, Norway, Ireland, Iceland**, the **Netherlands, Switzerland, Sweden, UK-England and Wales**, seem to spend a smaller amount (GDP per capita) to finance courts. This distorting effect must be taken into consideration when making possible comparisons, in order not to make the wrong comment according to which a wealthy state or entity would not allocate a significant budget to the functioning of its courts.

**Figure 2.8 Variation in the annual public budget allocated to all courts
(excluding legal aid and public prosecution) between 2008 and 2010, in % (Q6)**



The variation of the budget allocated to courts between 2008 and 2010 can be measured in 36 of the 48 states or entities. In average in Europe, the budget has increased of 4 %, in spite of the economic and financial crisis. However the situation (given in euros) is not homogenous among the member states: 21 of the responding states have increased the budget allocated to the functioning of courts, while 15 states have decreased this part.

Part of these results must be tempered because of the variation of the exchange rate between national currencies and euro (**Azerbaijan, Czech Republic, Poland, Sweden**) and must even be completely attributed to this factor as regards **Switzerland**¹⁴. However the increase in several states can also be explained in particular by the increase of the official pay rate (**Armenia**) or major investments in buildings (**Republic of Moldova**). In **Azerbaijan**, following the economic development and intensive judicial and legal reforms, large-scale projects for improving the judiciary have been implemented, especially investments for developing a unified concept (standards) for designing court buildings, the construction of innovative court buildings (court complexes), the implementation of modern ICT projects in courts and a significant increase in the number of judges and court staff. The **Russian Federation** seems to have pursued its continuous efforts towards the reforms of the court system. **Czech Republic** also explains the increase by the evolution of the economic situation and the need for the state to follow the escalation of the VAT rates, of the cost of energies, water, etc. On the contrary, it can be noted that the financial and economic crisis of 2008 has had a negative impact on this budgetary effort in more than one third of the European states, which had to reduce the budget of courts, most of the time together with other (general) cuts in public budgets.

Some decreases in the budgets are also explained by a negative effect of the evolution of the exchange rate, which does not reflect the same trend in national currencies: the budgets in national currencies have actually slightly increased in **Albania, UK-Scotland** and **Romania**. The effect of the decrease is more limited then as regards **UK-England and Wales**.

¹⁴ See table 1.3 above.

2.2.2 Composition of the budget allocated to courts

In order to analyse more precisely the budgets allocated to courts, the CEPEJ studies the different components of these budgets, by singling out various parts: gross salaries of staff, Information Technologies - IT - (computers, software, investments and maintenance), court fees (such as the remuneration of interpreters or experts), costs for hiring and ensuring the operation of buildings, investments in buildings, training.

24 of the 48 states or entities concerned have been able to indicate figures regarding such details, and 18 others come very close to that objective, which is a major qualitative improvement in the data processed compared to the previous evaluation cycle, on which member states must be commended. This positive evolution towards a more precise knowledge of court budgets is encouraging and allows to create a relevant break-down of the main components of court budgets.

Note: for **Austria, Belgium, France, Greece, Germany, Luxembourg, Spain** and **Turkey** the amounts indicated below include both the courts and the prosecution system, as it has not been possible for these states to specify both budgets.

Table 2.9 Break-down by component of court budgets in 2010 (Q6)

States/entities	Annual public budget allocated to (gross) salaries	Annual public budget allocated to computerisation (equipment, investments, maintenance)	Annual public budget allocated to justice expenses	Annual public budget allocated to court buildings (maintenance, operating costs)	Annual public budget allocated to investments in new buildings	Annual public budget allocated to training and education	Other
Albania	8 233 494	189 861	1 498 660	80 767	516 834	33 069	NA
Andorra	5 690 922	NA	86 000	3 000	NAP	23 418	NAP
Armenia	8 782 622	36 204	32 213	418 540	81 398	360 226	1 574 333
Austria	369 730 000	47 970 000	103 630 000	77 750 000	NAP	1 100 000	109 800 000
Azerbaijan	22 576 111	2 710 000	NAP	2 771 000	9 186 553	1 293 230	1 778 336
Belgium	621 115 000	37 623 000	107 464 000	68 767 000	6 341 000	5 220 000	88 307 000
Bosnia and Herzegovina	56 289 944	1 058 373	1 262 957	7 147 962	NAP	1 087 908	8 359 592
Bulgaria	76 452 684	322 123	10 740 991	202 289	NA	25 799	18 699 888
Croatia	145 186 639	11 684 416	31 059 496	5 949 553	4 497 538	1 624 490	11 302 169
Cyprus	22 335 367	116 180	87 100	2 653 611	6 310 040	98 929	1 945 600
Czech Republic	200 850 638	7 412 689	12 058 220	4 608 165	NAP	101 057	121 467 040
Denmark	148 501 965	17 053 306	NAP	33 408 917	NA	2 012 585	15 818 920
Estonia	20 629 784	271 414	841 964	4 821 159	NA	214 574	18 445
Finland	184 667 056	11 967 040	8 124 195	31 586 338	NA	NA	6 721 721
France	2 174 257 350	48 085 112	475 409 713	273 692 554	157 210 031	72 585 033	373 111 170
Georgia	11 026 251	118 976	3 920 373	227 382	128 809	428 188	364 875
Germany	4 758 375 002	161 650 654	1 712 187 748	315 904 319	65 625 004	56 770 990	718 656 197
Greece	597 275 000	300 000	3 400 000	10 416 000	9 379 911	200 000	NAP
Hungary	209 393 222	7 532 956	16 030 255	26 297 344	NA	247 356	NAP
Iceland	NA	123 537	NA	NA	NA	NA	NA
Ireland	52 943 000	5 457 000	180 000	17 972 000	57 163 000	1 172 000	13 835 000
Italy	2 274 336 102	58 083 534	317 399 440	269 968 019	NA	755 313	130 833 579
Latvia	24 194 890	1 807 390	2 840 282	6 677 230	NA	211 718	1 188 310
Lithuania	34 853 452	779 367	211 886	1 387 656	NAP	234 882	13 100 702
Luxembourg	48 884 317	1 500 000	3 643 000	596 100	NAP	119 500	15 715 759
Malta	7 151 000	1 308 000	1 399 000	100 000	300 000	2 000	NAP
Moldova	5 150 736	650 776	NA	800 835	715 705	201 043	952 968
Monaco	3 921 800	NA	850 000	NA	NA	65 000	326 600
Montenegro	13 968 319	430 535	2 918 231	69 750	NAP	NAP	2 557 061
Netherlands	733 603 000	98 485 000	3 673 000	109 615 000	NAP	20 522 000	24 769 000
Norway	131 803 069	7 416 880	NAP	46 649 616	1 758 951	2 470 205	17 742 689
Poland	894 463 000	10 512 000	148 297 000	68 961 000	42 381 000	2 329 000	198 142 000
Portugal	429 475 486	10 565 978	27 544 641	38 762 543	NAP	22 594 517	NA
Romania	181 192 857	774 286	71 190	33 529 762	11 571 429	421 975	127 685 238
Russian Federation	1 864 433 723	97 767 272	12 964 676	186 833 154	225 871 947	7 929 817	516 943 234
San Marino	4 004 926	51 097	288 192	NA	1 044 046	30 120	1 784
Serbia	93 326 436	NAP	NAP	8 530 951	NAP	NAP	9 159 248
Slovakia	90 173 951	2 152 994	312 818	8 900 352	NAP	1 336 296	36 975 153
Slovenia	126 167 405	4 074 203	37 976 296	7 634 034	1 077 240	1 229 741	NAP
Spain	1 329 868 250	158 163 660	NA	NA	NA	NA	NA
Sweden	394 206 713	13 108 158	NA	78 077 930	NA	6 873 752	70 688 129
Switzerland	707 602 496	38 348 245	88 050 242	59 589 128	7 137 382	3 464 996	11 954 320
The FYROMacedonia	24 154 827	146 481	959 869	1 715 319	232 275	421 588	911 392
Turkey	832 198 544	22 973 075	48 236 098	26 289 836	224 734 300	516 850	NA
Ukraine	146 973 360	NA	NA	6 766 912	NA	453 280	110 068 598
UK-England and Wales	717 000 000	30 000 000	64 000 000	238 000 000	1 000 000	1 000 000	131 000 000
UK-Northern Ireland	46 800 000	10 000 000	2 441 000	23 600 000	NA	313 000	NA
UK-Scotland	52 888 680	4 914 000	13 718 250	51 480 000	NAP	1 170 000	22 249 890

Comments

Finland: as regards computerization, the increase results are mainly due to the planning and preparation of the new data system (new criminal case management system).

Germany: the amounts provided here are only estimations and must be considered with care, as some Länder have not been able to specify the breakdowns. For more details, please refer to the detailed answers provided by Germany on www.coe.int/cepej.

Monaco: the decrease between 2008 and 2010 for the part « others » can be explained by the fact that in 2008, 220.000 € allocated to legal aid were included into the part “others”.

Montenegro: category “other” includes the payments for other personal incomes (868.781 €) and meal allowances and reimbursements, fees for renting apartments of judges, several compensation for judges and court staff, payments to commercial courts for expenses in liquidation procedures, purchase of office material, business trips, representation, electricity, fuel for official vehicles, heating of court rooms, telephones, mail services, etc. Montenegro being devoted to EU accession, numerous activities for strengthening justice capacities are supported by the EU and other international partners, which provide donor support in both training and supplying equipment for the judicial authorities.

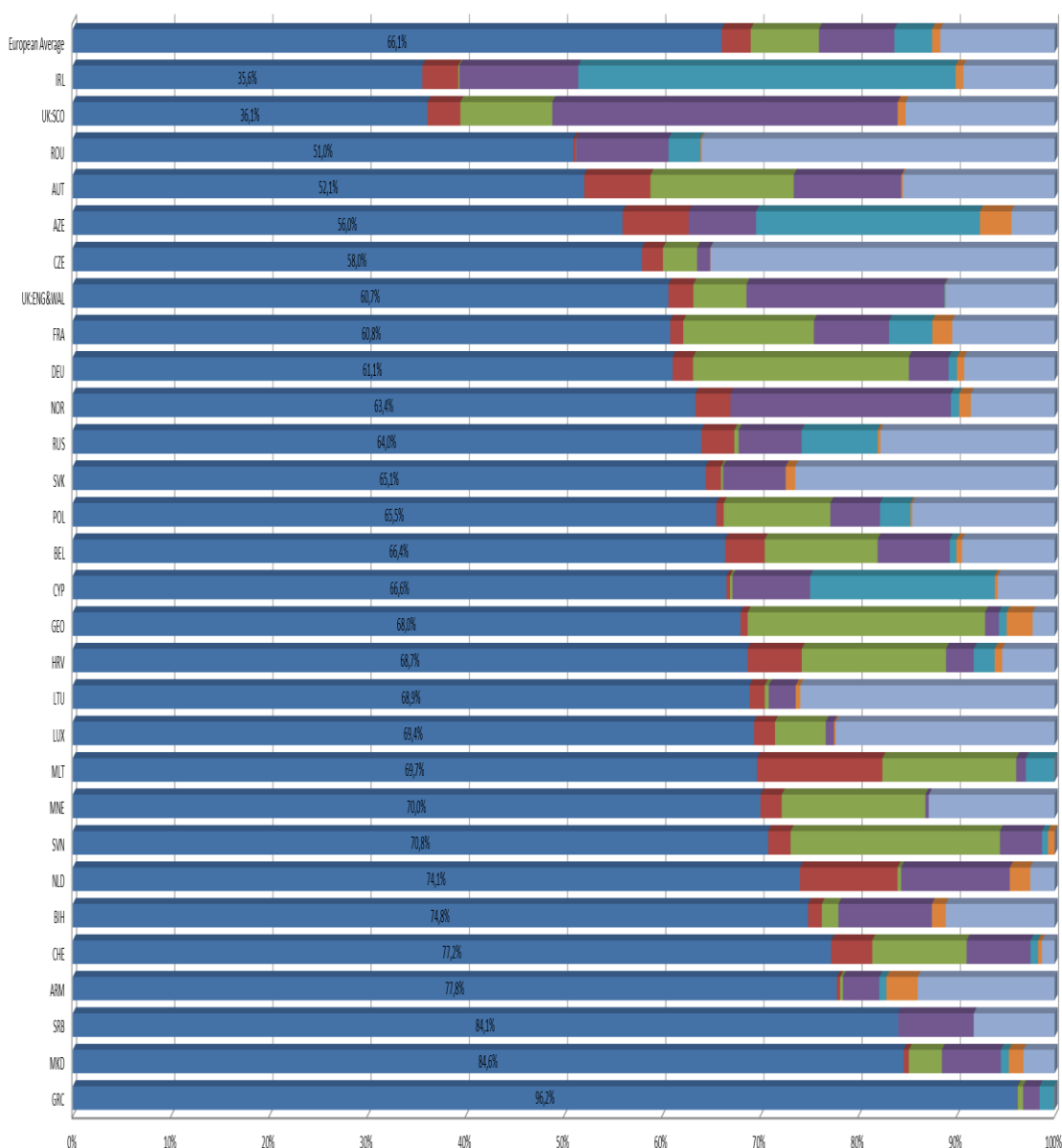
Netherlands: the reported figures do not include the budget for the High Council (the highest appeal court) and the justice expenses of the Raad van State (Council of State).

“the former Yugoslav Republic of Macedonia”: the difference in some categories between 2008 and 2010 (especially parts of the budget allocated to justice expenses and the functioning of courts) is due to the fact that different methodology has been used, which enables to have more precise data in 2010.

UK – Northern Ireland : there have been a few profiling changes since 2008 to ensure that court costs are accurately recorded in the correct categories. Major changes in recognition of expenses in comparison to previous years are recognised below.

- “Other” includes auditors’ remuneration, income, staff travel, HR allowances (previously recognised in “staff salaries”), GIA Queens University, criminal appeals, administration costs (previously recognised in “Court buildings”), consultancy costs and other. In previous years NI Legal Services Commission (NILSC) was recognised within ‘Other’, as NICTS is now an NI Agency it no longer accounts for NDPB’s.
- “Justice fees” now includes coroners, interpreters, summon servers fees and income these were all previously recognised in “Court buildings”.
- “Court Buildings” no longer includes administration costs, coroners, interpreter costs or safety camera expenses. But is inclusive of capital spent on buildings.
- “Computerisation” includes capital spent on information technology. In the previous return all capital was categorised into “Investment in new buildings”, in this return it has been profiled into their respective category, NICTS has no new court buildings.

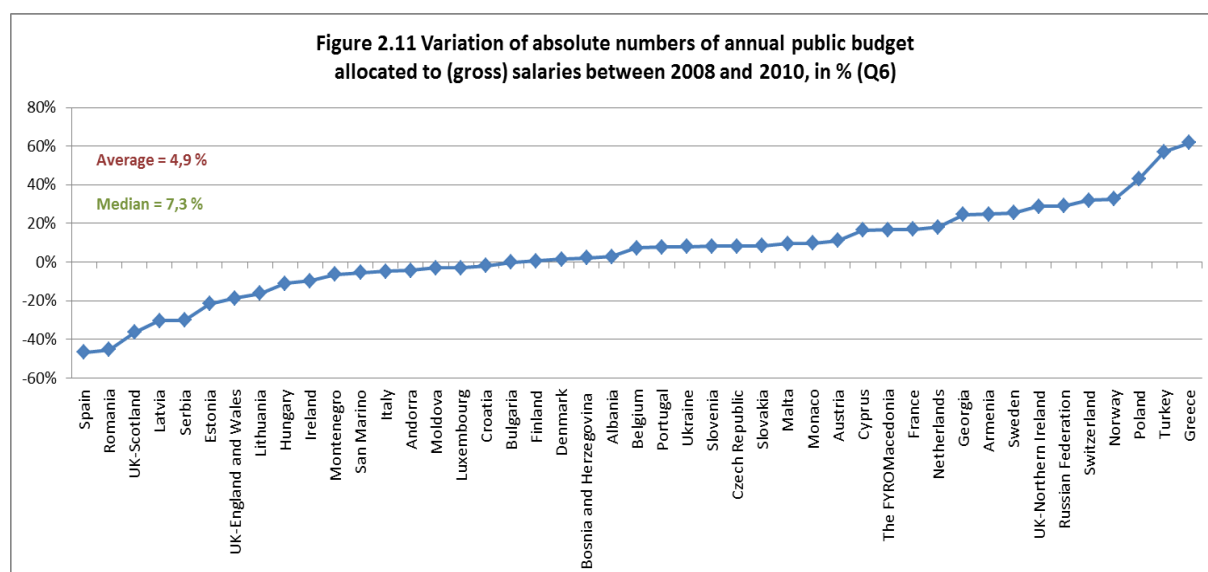
Figure 2.10 Distribution of the main budgetary posts of the courts by country in 2010, in % (Q6)



Salaries

Knowing the obvious existence of significant differences between states, on average, at a European level (average of the 29 states for which data is available), the highest expenditure for courts remains the overall salaries for judges and court staff (66.1%). Extreme differences vary from 96.2% of the courts budget allocated to salaries in “Greece” (it must be reminded that the amounts voted by the Parliament had not finally been distributed as such due to the crisis) to 36.1% in **UK-Scotland**. In general, *common law* countries, operating systems with a large number of lay judges (with the exception of **Ireland**), spend lower

budgets on wages even though this must be put into perspective by the high amount of wages paid (see Chapter 7 below).



Comments

Estonia: probation supervision has been transferred from the courts to the prison system, which explains mainly the decrease in the salaries, which can also be partly explained by the cuts due to the economic crisis. However the state fees have increased.

Georgia: since January 2009, salaries of judges of the courts of all instances were increased. As a result of merging the district (city) courts of first instances in 2009-2010, 9 unified courts were established in addition, where the staff salaries were increased. All the above mentioned resulted in the increased budget that had been allocated for salaries.

Greece: the amounts voted for the salaries had not been executed due to the crisis.

Latvia: the budget dedicated to the salaries of judges and court employees have been reduced of about 15 % due to the financial crisis.

Lithuania: in the previous report, all the taxes related to the salaries were indicated as other matters; these taxes concerned a huge percentage of the salaries.

Norway: the differences in the currency rate between January 2009 and January 2011 is the main reason for the reported increase in budget dedicated to salaries; the real increase in the budget for salaries is NOK 12, 8 %. Only 10 % corresponds to an increase in salaries. The additional increase in budget relates to increased numbers of employees.

Poland: the increase of the budget dedicated to salaries is connected with the major change in legal rules as regards the based for calculating judges and prosecutors' salaries.

Romania: in 2008 the amounts paid for sentences regarding salary rights were superior than in 2010, this explaining the decrease in the budget allocated to salaries in 2010.

Russian Federation: the amount of salaries includes gross salaries (with income tax) of judges and non-judge staff of the courts, as well as insurance and pension contributions paid by the employers for their employees. It does not include the salaries of the staff of the Judicial Department of the Supreme Court.

Serbia: the 2010 reform of judiciary resulted in a reduction of the number of judges and prosecutors and subsequently in a decrease in the budget allocated to salaries.

The amounts allocated to salaries have increased of an average of less than 5 % between 2008 and 2010, whereas this increase was of more than 30 % between 2006 and 2008, which shows in particular that the main phase of strong increases in judicial salaries in several states which were then "in transition" has come to an end.

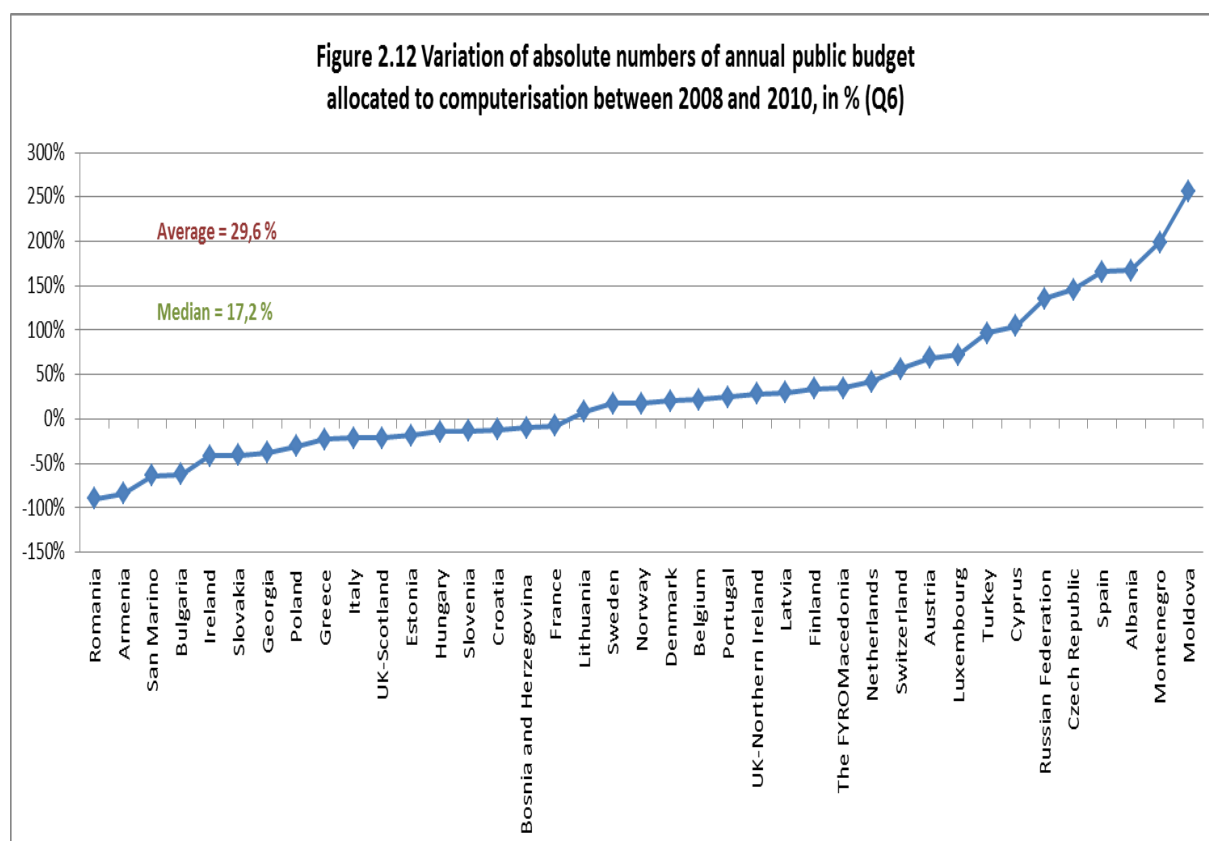
Indeed, it is worth noting that in the previous report several states had more than doubled their effort in two years (2006 – 2008) whereas between 2008 and 2010 the variation is of a maximum between 40 and 60 % for some few states only (**Poland, Turkey, Greece**). Although part of the explanation might be linked with exchange rates¹⁵, it can also be stressed that some states which were "in transition" had previously made significant efforts to build new systems and display a priority to upgrade judicial profession (often with the support of international donors) and have progressively been coming to a more regular and limited rhythm of expansion (**Bosnia and Herzegovina, Bulgaria, Slovakia**). In some of these states a decrease can even be noted (**Latvia, Montenegro**), partly due to the financial and economic crisis and the subsequent decrease in direct salaries.

¹⁵ See table 1.3 above.

A significant decrease in the budget allocated to salaries (between – 20 % and – 40 %) can be noted in **Serbia, Latvia, UK-Scotland, Romania** and **Spain** - this decrease, though real, must be tempered in **Serbia, UK-Scotland** and **Romania** because of the unfavourable evolution of the exchange rate. This decrease does not always affect directly individual salaries, but the global amount, which often means a decrease in the number of human resources.

New technologies

In Europe, 3% of the court budget (average of 29 European countries for which data is available) is devoted to computerization. The level of investment in IT tools remains very low in **Greece** (less than 0.1% of the budget of the courts), whereas a major effort (between 4 and 7% of the court budget) is focused on IT in **Belgium, Switzerland, Croatia, Azerbaijan, Austria** and even exceptional effort can be noticed in the **Netherlands** (nearly 10% of the court budget) and **Malta** (nearly 13%).



Comments

Azerbaijan: the increase in the budget allocated to computerization of courts is due to a major political investment of state towards e-government and e-justice systems.

Georgia: during 2008-2009, the judiciary system was completely equipped with IT appliances, which resulted in the reduction of the budget envisaged for system computerization.

Latvia: An increase in the budget allocated to computerization is due to the partial replacement of outdated hardware taken from the funds allocated to the remuneration of judges and court staff in temporary incapacity (sickness), as well as corresponding to vacancies. The higher amounts for computer maintenance (outsourced service) are due to the advanced payment for the first half of 2008 already made in 2007.

Poland: the computerization budget decreased because of the funding deadlines foreseen in the programme – payments for the further steps of the reform will be reflected in the next evaluation.

Portugal: the increase of 24.95% of the budget allocated to computerization between 2008 and 2010 is due to a major political investment in this area: one of the governments' key objectives was to consolidate, strengthen and expand the computer applications available to the justice's agents, such as the CITIUS application (case management programme).

Russian Federation: the increase of 135.54% of the budget allocated to computerization between 2008 and 2010 is due to the implementation of the Federal Target Program "Development of the Russian Judicial System" for 2007-2011.

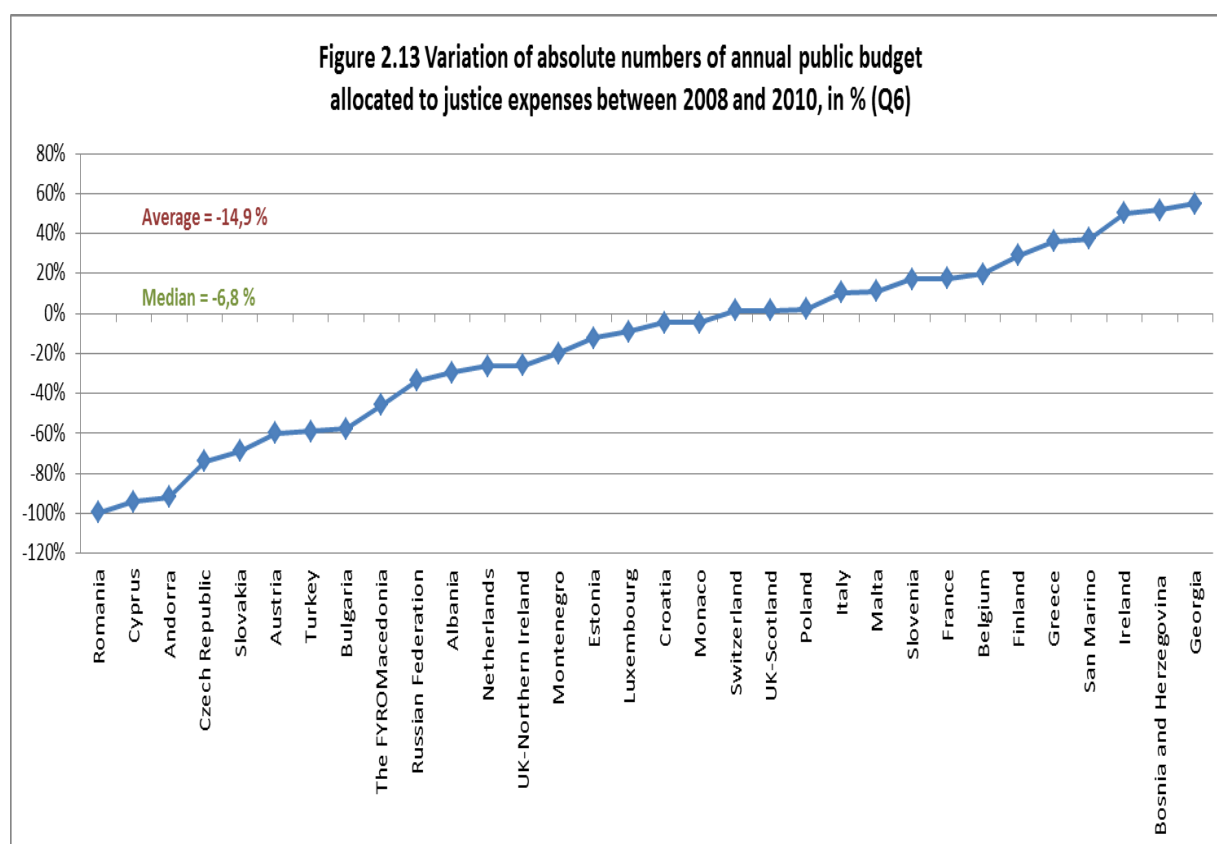
Slovakia: in the comparison with the previous evaluation cycle, the budget allocated to the computerization has lowered. Significant investments in computerization are expected in 2011 and 2012.

Turkey: the income from the Department of Prison Workshops is partly used in judicial services. Therefore for the 2010 data the amount used by the Department of Prison Workshops for court computerization has been included in the general total. In addition, the investments in infrastructure, as well as in computers and hardware have been further increased in the year 2010, in order to render the National Judicial Network Project (UYAP) more efficient.

Between 2008 and 2010 in Europe, the budgets for computerization of courts have increased significantly by almost 30%. These budgets are actually rising in 22 states. They have doubled in **Turkey, Cyprus**, and even larger investments are to be noted in the **Russian Federation, Czech Republic, Spain, Albania, Montenegro** and **Republic of Moldova**. Conversely, these budgets have declined in 17 states, significantly in **Romania, Armenia, San Marino** and **Bulgaria**. These decreases must be interpreted in the light of the variations in exchange rates. However such developments can also be explained by strong previous investments that have now been reduced, the courts being deemed to be equipped (**Georgia** has explicitly mentioned it). Cuts in public budgets are also mentioned (**Italy**).

Justice expenses

Justice expenses represent on average 7% of the court budgets in Europe (for the 29 states considered), while emphasizing significant differences between the states where the part is more than 20% of the court budgets (**Slovenia, Georgia, Germany**) and the states where this part is limited to less than 1% of the budget (**Greece, Armenia, Netherlands, Lithuania, Cyprus, Slovakia, Russian Federation, Romania, Ireland**). The differences in the organisation of the judicial system and in the procedures explain *inter alia* these disparities.



Comments

Finland: all court expenses (interpretation and translation expenses, court mediator expenses, expert expenses, witness's fees borne by state, damages borne by state) have increased considerably.

Georgia: compared to 2008, certain types of expenses were increased significantly in 2010, namely as regards forensic service, translation, communication, fuel used for heating, electricity and water. Unlike 2008, the budget of 2010 allocated for justice administration expenses contains the costs incurred for equipping the buildings.

Hungary: the significant increase is due to the new legislation (2009) increasing the fees for legal expertise.

Latvia: the fundamental increase in the budget allocated to justice expenses is due to the financial crisis and the subsequent increase of civil cases related to payment procedure.

Netherlands: "Justice expenses" exclude those for criminal cases. Justice expenses for criminal cases are included in the budget of the public prosecution service.

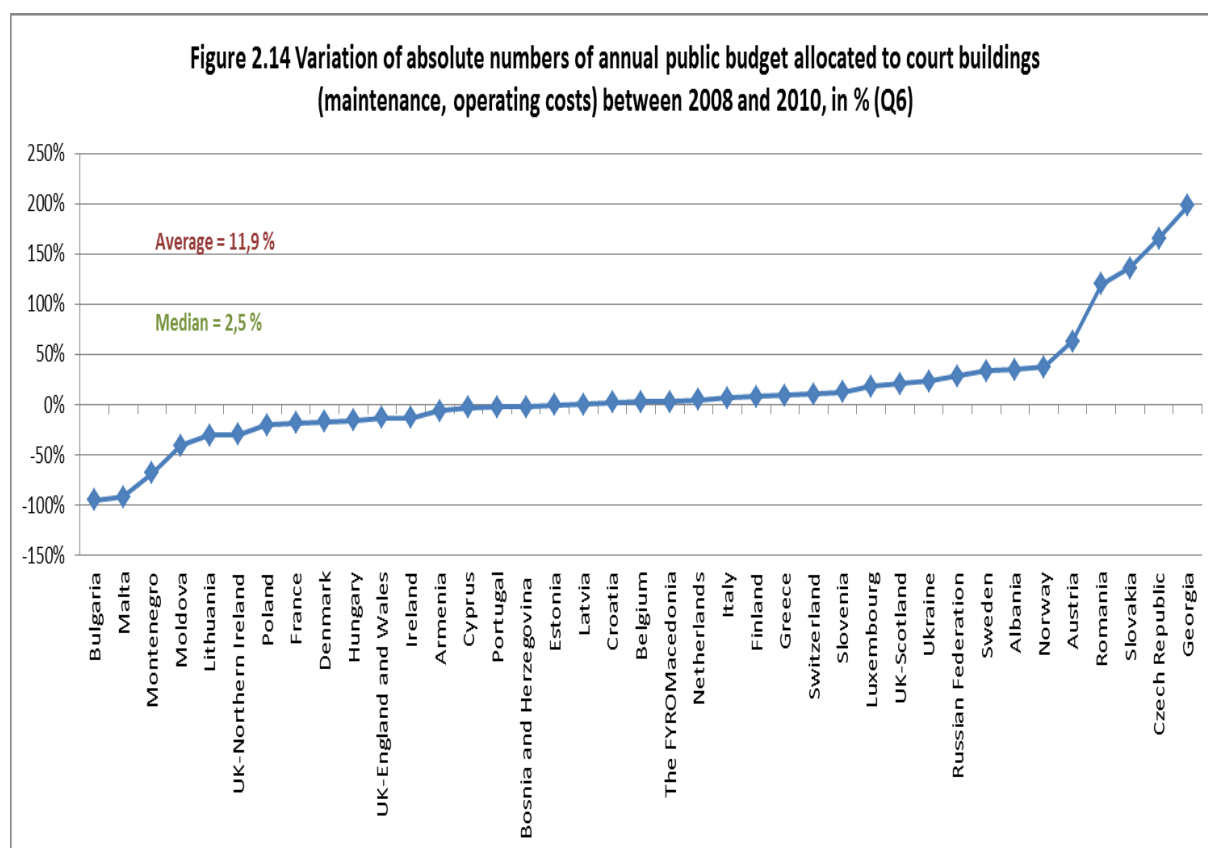
Russian Federation: commercial courts do not have a separate budget for justice expenses. The savings in the other areas of spending are used to cover such expenses, when necessary.

Ukraine: 87.20% decrease in the budget for education and training between 2008 and 2010 is due to the redistribution of state spending to other programs.

On average, justice expenses paid by the courts declined by nearly 15% between 2008 and 2010, and significantly in **Romania, Cyprus, Andorra, Czech Republic** and **Slovakia**. The variation in the exchange rates may explain some differences. Similarly, it appears that some states have better understood the question they were asked than in previous cycles and have therefore responded differently (**Georgia, Ireland**). In such cases, significant changes can be fully or partially virtual. However, it can be assumed that some jurisdictions have had to make savings in legal costs because of the economic situation. Nevertheless, too little information was provided by the states to allow further analysis.

Court buildings

The budget part devoted to courts buildings is on average 11.5% in the 29 states studied, broken down between the maintenance and operation of these buildings (nearly 8%) and investments – in new courts and renovation - (3%). These amounts may fluctuate significantly as regards investments, as real estate programmes have been conducted or not in a given year (even if these investments are generally amortized over several years). An effort in the 2010 budget may be noted in **Ireland, Azerbaijan** (modernization of the court infrastructure and construction of judicial complexes), **Cyprus**. As regards operation, **UK-Scotland, UK-England and Wales** and **Norway** spend a large share of the budget for court buildings, although this information must be interpreted wisely: because of the organisation of judicial systems in these countries, other budget parts (e.g. salaries) are more limited, what comes to substantially change the distribution. Court buildings are not a heavy load (less than 2%) for court budgets (these charges can be referred to other public budgets) in **Greece, Montenegro, Malta, Luxembourg, Georgia, Czech Republic**.



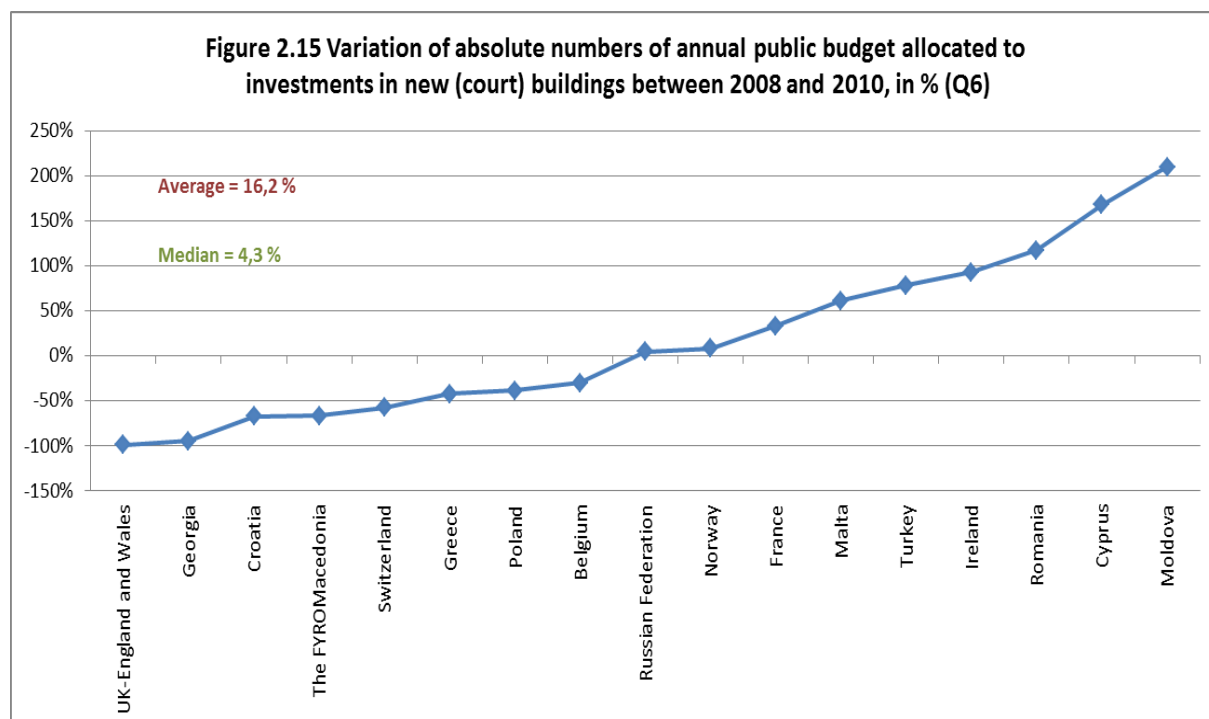
Comments

Sweden: the difference between the 2008 and the 2010 budget allocated to court buildings (33,71 %) is mainly due to the exchange rate. In Swedish crowns the increase is only of 10,45 %.

Turkey: the significant difference between the amounts allocated to maintenance of court buildings between 2008 and 2010 can be explained by the increase in the number and size of the court buildings - it should also be noted that the transfers made from the budget of the Department of Prison Workshops were not included in the 2008 data, while they were included in the 2010 data.

Operating costs of court buildings have increased on average by 12% in European countries concerned between 2008 and 2010. The rising cost of fluids explains some of this increase. Construction of additional buildings may also explain some increases. On the other hand, the decrease in these budgets in some states is related to the need for savings due to the constraints on public budgets. **Bulgaria, Malta** and

Montenegro have not provided the information for interpreting the significant variations, which may be due more to a different interpretation of the question from one exercise to another than major changes in the budgetary policy.



Comments

Belgium: the budget for constructing new courts or maintaining existing buildings is excluded from the budget of the Federal Justice Public Service. Real property of the Belgium State is managed by the Régie des Bâtiments which does not hold separate a specific part for justice.

Georgia: unlike 2008, the budget allocated for investing in new courthouses in 2010 does not include the expenses incurred for equipping the buildings. Repair-reconstruction works of most part of courthouses were finished in 2009. This resulted in the reduction of budget allocated to new courthouses.

Greece: the answer given for 2008 as regards court buildings had not included the respective budget of a supervised (by the Ministry) entity of public law (Court Buildings Fund-CBF).

Lithuania: budgets allocated to investments in new (court) buildings are located within the Ministry of Justice and are not included in the budget of the courts.

Luxembourg: a new Court city was built in 2008 which houses the Court of Cassation, the Constitutional Court, the Court of Appeal, the District Court of Luxembourg, the justice of the peace of Luxembourg as well as prosecution services and specialized courts (labour, youth, trade). New buildings of the justice of peace of Esch-sur-Alzette were also inaugurated. Although these projects have cost more than 100 million € for one, and around 15 million € for the other, these figures are not included in the court budget but in the budget of public buildings; in addition, these amounts are shared over several years, which does not enable specifying figures

Republic of Moldova: two courts were built in Basarabeasca and in Ceadâr Lunga.

Slovenia: there is a considerable difference in the figures allocated to new court buildings (60.000 € in 2008 and 1.077.240 € in 2010): all the funds are devoted to the building of a new court palace in Ljubljana that would accommodate first instance courts that are now scattered between different locations. The 2008 funds were spent for research of the terrain (geo-mechanical and archaeological research) that would be used for the project documentation. The 2009 and 2010 funds were spent for project documentation. None of the funds were devoted to the actual construction of the new court building, as the construction has not started yet. Given the economic situation the question remains, if and when the actual construction might start.

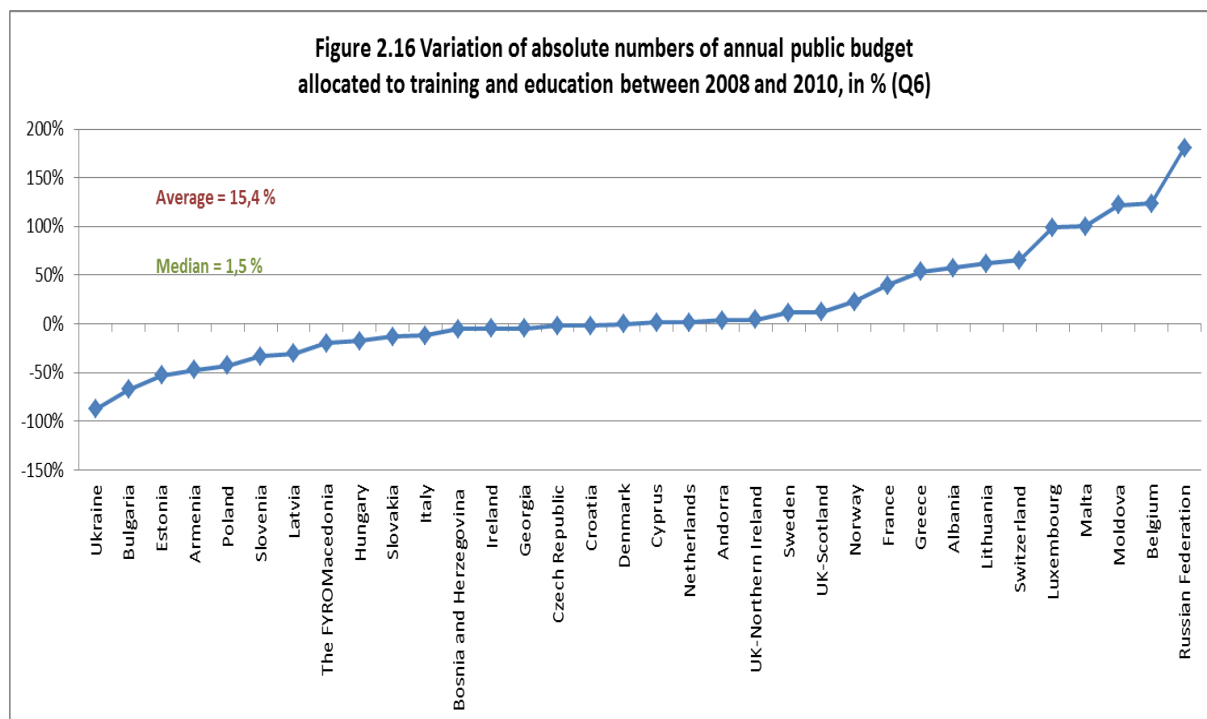
“the former Yugoslav Republic of Macedonia”: resources are much bigger in practice than the ones presented in the table, because IPA and USAID projects are not counted in the court budget.

Turkey: unlike the 2008 data, the amounts allocated to the construction of new court buildings through the transfers from the budget of the Department of Prison Workshops have been included in the 2010 data. The amounts allocated from the general budget for the court buildings being constructed during the year 2010 in İstanbul (the largest court buildings of Europe and the World) were also included in the 2010 data.

Despite budgetary constraints in Europe, some states have conducted real estate programmes for justice between 2008 and 2010 (**Republic of Moldova, Cyprus, Romania, Ireland, Turkey, Malta**) which can be tied with reforms in the judicial map (**France**). The decrease in budgets spent on immovable investments in other states can be explained by significant investments in the past that were either completed before 2010, or limited since 2008 because of budgetary choices.

Judicial training

Less than 1% of court budgets is spent on training of judges and prosecutors in Europe in 2010. This can be considered as a spending priority (more than 2% of the court budgets) in **Armenia, the Netherlands, Georgia, France, Azerbaijan**. This budgetary effort is very limited (less than 0.1% of the court budget) in **Greece, Malta, UK-England and Wales, Czech Republic**. The amounts indicated by **Lithuania, Poland, Romania** and **Slovenia** do not include the separate budgets of training institutes, which explains the limitation of the training budget indicated does not match with the reality of the effort in judicial training undertaken by the authorities.



Comments

Albania: the budget allocated to training and education has increased between 2008 and 2010 because of the increased number of judges participating in professional training developed by the School of Magistrates.

Armenia: 6 specialised courts were abrogated in 2009 which resulted in the reduction of staff and training expenses in 2010.

Belgium: the creation of the *Institut de formation judiciaire* led to a reform of the financing of training and education and explains the increase of 123.84% of the budget allocated to this issue between 2008 and 2010.

Estonia: the budget allocated to training and education between 2008 and 2010 has decreased by 53 % due to the general cuts in the state budget in 2010 - in 2012 this budget is twice as big as in 2010.

France: the increase in the training expenses is due both to budgetary efforts in the training and to the transfer of the remuneration of trainees (judges) from the budget of the *Ecole Nationale de la Magistrature* to the amounts allocated to remuneration (€ 25 million).

Latvia: the decrease in the training budgets due to the financial crisis: starting from 2008 the budget expenditure for all public institutions was reduced.

Lithuania: budgets allocated to training and education are located within the Ministry of Justice and are not included in the budget of the courts.

Malta: Due to the fact that training is not compulsory at present, the budget allocated to training is rather low. Nevertheless, in comparison with 2008, the budget for 2010 was doubled, and in the following years, this was further increased.

Poland: the decrease in training and education budget is connected to the fact that since 2009 the National School for Judiciary and Prosecution has been fully operational; this transferred the budgetary stress from the training performed in regional and district courts (as well as prosecution service) to the centralized training. Since judicial training is financed by the National School, the courts expenditures have decreased subsequently. Moreover since 2008 many EU financed training programmes have been implemented, which has also decreased the level of training and education expenditures.

Romania: the amounts paid for the training of judges and auxiliary staff were not included, as they come from the SCM (NIM and NSC) which has its own budget and which is not linked with the court budget. This amount is of 391 261 €. The right amount for the "Annual public budget allocated to training and education" is then 421. 975 €.

Slovenia: the budget covering training and education does not include the resources provided for education of judges and court staff by the Ministry of Justice to its Judicial Training Centre. The Judicial Training Centre, part of the Ministry

of Justice, spent 238.893 € in 2010 for the education of judges, court staff, prosecutors and state attorneys. The difference in the budget allocated to training and education between 2008 and 2010 can be attributed to the effect of the economic and financial crisis.

Turkey: in the 2010 data, the amounts used by the Academy of Justice and the Department of Prison Workshops for training and education purposes, as well as the training-education expenses and the expenses made for ensuring the attendance in courses by the Department of Education of the Ministry of Justice, and purchasing of other services were also included in the total amount. In the previous years, including 2008, the expenses made for the training and education of judges, prosecutors, and other staff employed within the judiciary were met by the Foundation for Supporting the Judicial Organisation. This Foundation ensures the fulfilment of the judicial services in the best way, and therefore it can be considered as a public entity. The amounts transferred to the Ministry of Justice by the said Foundation to be used in meeting the training and education expenses were not included in the 2008 data. On the other hand, following the amendments made in the national legislation, all of the judges and prosecutors have attended an intensive educational program, particularly within the context of harmonization with the EU Acquis Communautaire.

Ukraine: the decrease of 87.20% in the budget allocated to training and education between 2008 and 2010 is due to the redistribution of state expenditures towards other programmes.

On average in Europe, the budget for the training of judges and prosecutors has increased by over 15% between 2008 and 2010 for the 29 states studied. The creation of new institutions (**Belgium, Switzerland**) and pursuing an active policy of training (**Russian Federation, Republic of Moldova, Albania**) partly explain this trend. Besides the changes in exchange rates, major decreases in the budget contribution to the formation can be explained by the decreasing number of staff to be trained (**Armenia**) or economic (**Estonia, Latvia, Slovenia, Ukraine**).

Budgetary process on court funding

Figure 2.17 Authorities responsible for the budget allocated to the courts in 48 states or entities (Q14)

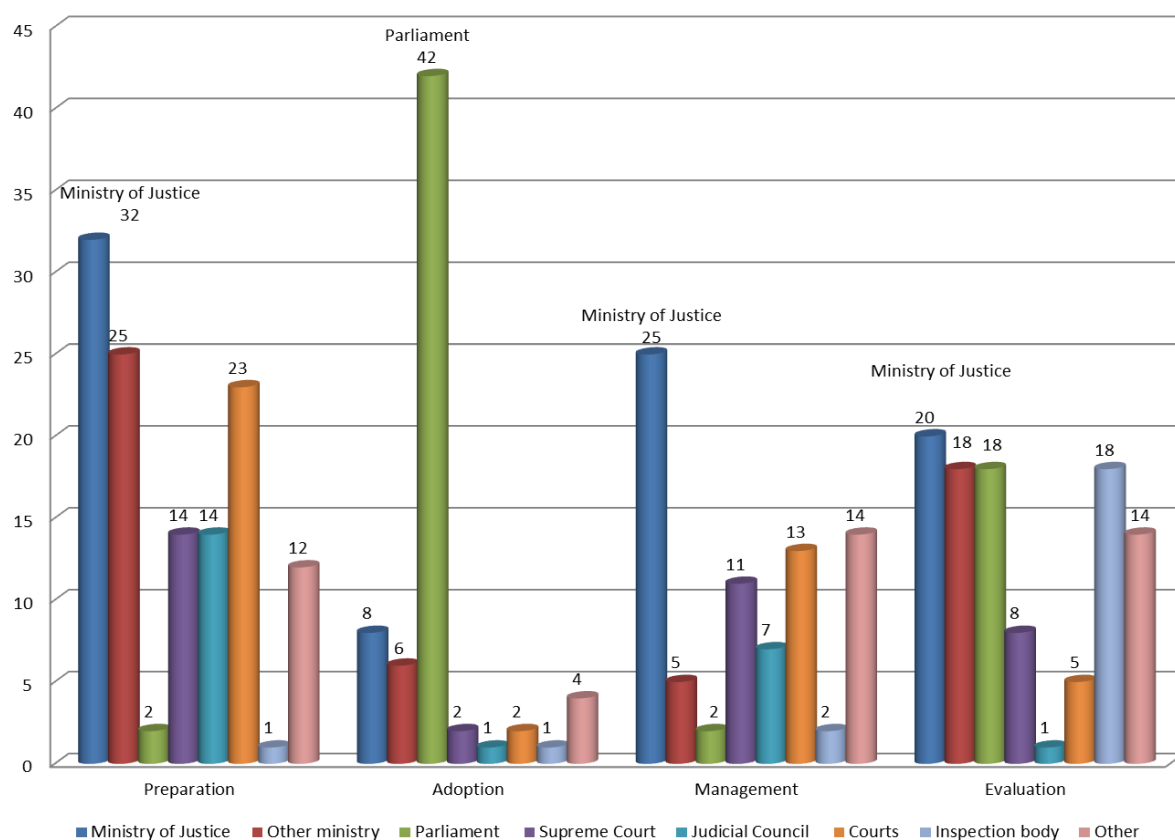
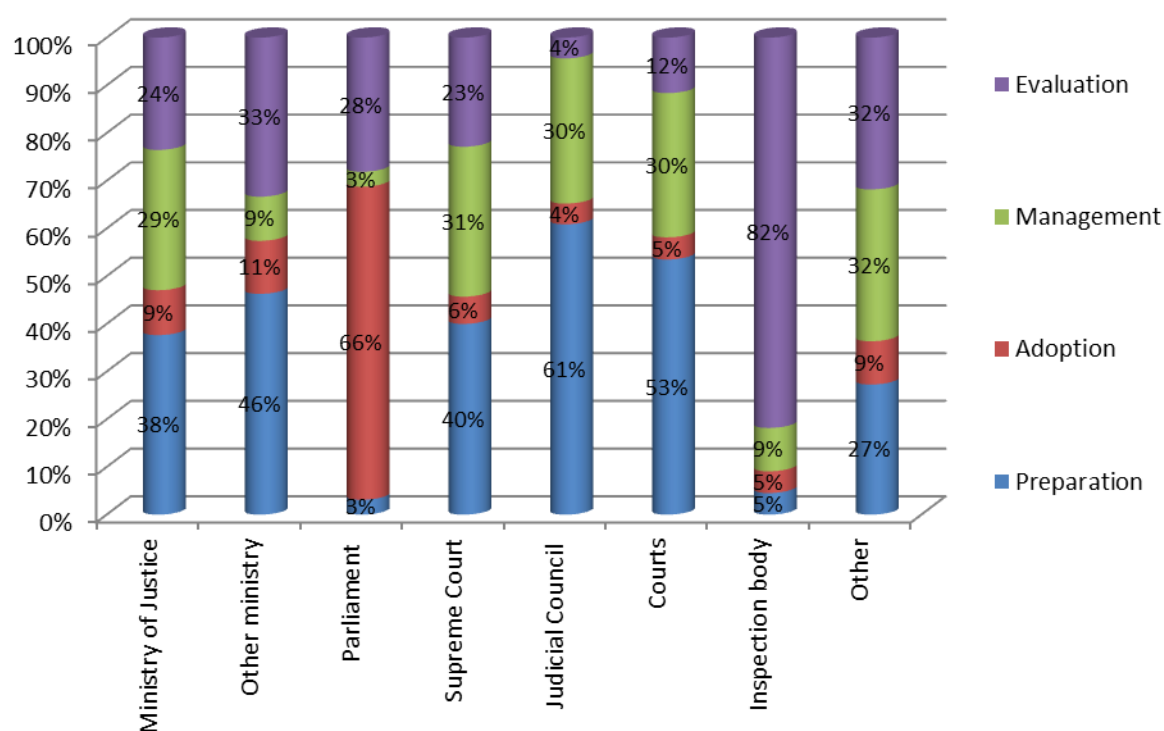


Figure 2.18 Involvement of authorities in different stages related to the budget of the courts (Q14)



The budgetary process (from the preparation to the adoption, the management and the evaluation of budgetary expenditures) is, in most member states, organised in a similar way.

The Ministry of Justice is most of the time responsible for preparing the budget (proposals). In some states or entities, other Ministries may take on that responsibility: this is especially true for states with specialised courts that do not depend on the Ministry of Justice, for example when a labour court is funded by the Ministry of Social Affairs. The Ministry of Finances is often involved in (part of) the budgetary process for courts. The courts themselves (23 states or entities), the Council of Justice (14 states or entities) or the Supreme Court (14 states or entities) play a central role in the stage of preparation. National court administrations (**Norway**) or specific bodies may also participate in 12 states or entities (for example the Office of the judicial budget administration in **Albania**, the Council of Court Presidents in **Armenia**, the National Audit Office of **Denmark**, the Office of Judicial Services in **Monaco** (which is similar in its functions and duties to the Ministry of Justice), the Court budget Council in "**the former Yugoslav Republic of Macedonia**", the State Planning Organisation in **Turkey**, the Management Board of the Court Service of **UK-Scotland**). The Parliament intervenes only rarely (**Austria**) when preparing the budget.

The responsibility of adopting budget proposals lies with Parliament allowing sometimes for other bodies to be involved. Some states or entities have reported that the Ministry of Justice or other Ministries may be involved in this field. However, it is possible that these answers reflect a misunderstanding of question Q14 regarding the formal adoption of the budget. One should be aware of the specific role of federal and autonomous entities in some federal or decentralised states (for instance **Spain**).

Either judicial bodies (courts and/or supreme courts and/or councils of justice), the executive power (Ministry of Justice and/or Ministry of Finances) of national court administrations (**Lithuania, Norway, Sweden, Ukraine, UK-Scotland**) manage most often the overall budget of the judicial system, allowing for frequent participation of several actors combining the executive power and judicial entities (14 states or entities). In some states, ad hoc bodies may be involved in preparing the budget and often have a role to play in managing that budget (see above).

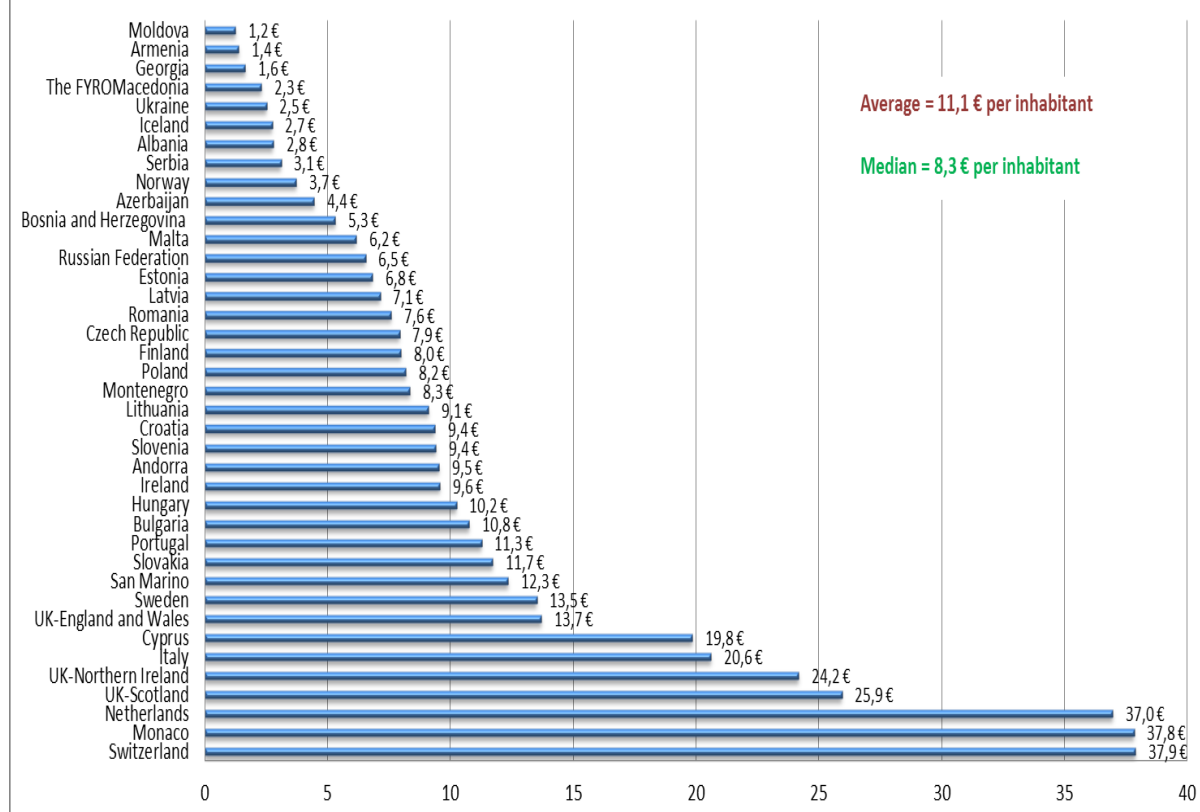
The evaluation of the proper implementation of the budget is widely operated in Europe by the executive power, divided between the Ministry of Justice and other Ministries (mostly Finances). Parliament (19 states or entities) or an independent inspection service (18 states or entities) such as an auditing body (**Azerbaijan, Bulgaria, Estonia, Finland, Iceland, Latvia, Lithuania, Luxembourg, Malta, Montenegro, Norway, Poland, Sweden**) or a court accountant (**Romania, Turkey, UK-Scotland**) may get involved, alone or combined with other executive (sometimes Ministry of Finances) or judicial powers' institutions.

2.3 Public budget allocated to the public prosecution services

The tables below refer only to the 39 states or entities (3 more than in the previous evaluation cycle) that were able to identify a specific budget for public prosecution. In 8 states or entities, the budget for courts includes the budget allocated to public prosecution (**Austria, Belgium, France, Germany, Greece, Luxembourg, Spain and Turkey**). **Denmark** (the public prosecution service's budget partially depends on the police budget) has not been able to provide any data on the budget allocated to the prosecution system. Contrary to the previous report, **Portugal, San Marino and UK-Northern Ireland** have managed to do so.

The analysis of the budgets of the public prosecution services must consider the scope of the powers of the latter in criminal proceedings, as well as possible powers outside the criminal field for a number of member states (see Chapter 10 below).

Figure 2.19 Public annual budget per inhabitant allocated to public prosecution service in 2010, in € (Q13)



Comments

Bosnia and Herzegovina: Prosecutor's office carries out the whole investigation procedure in criminal matters; there is no investigation judge which explains that the budget is pretty high.

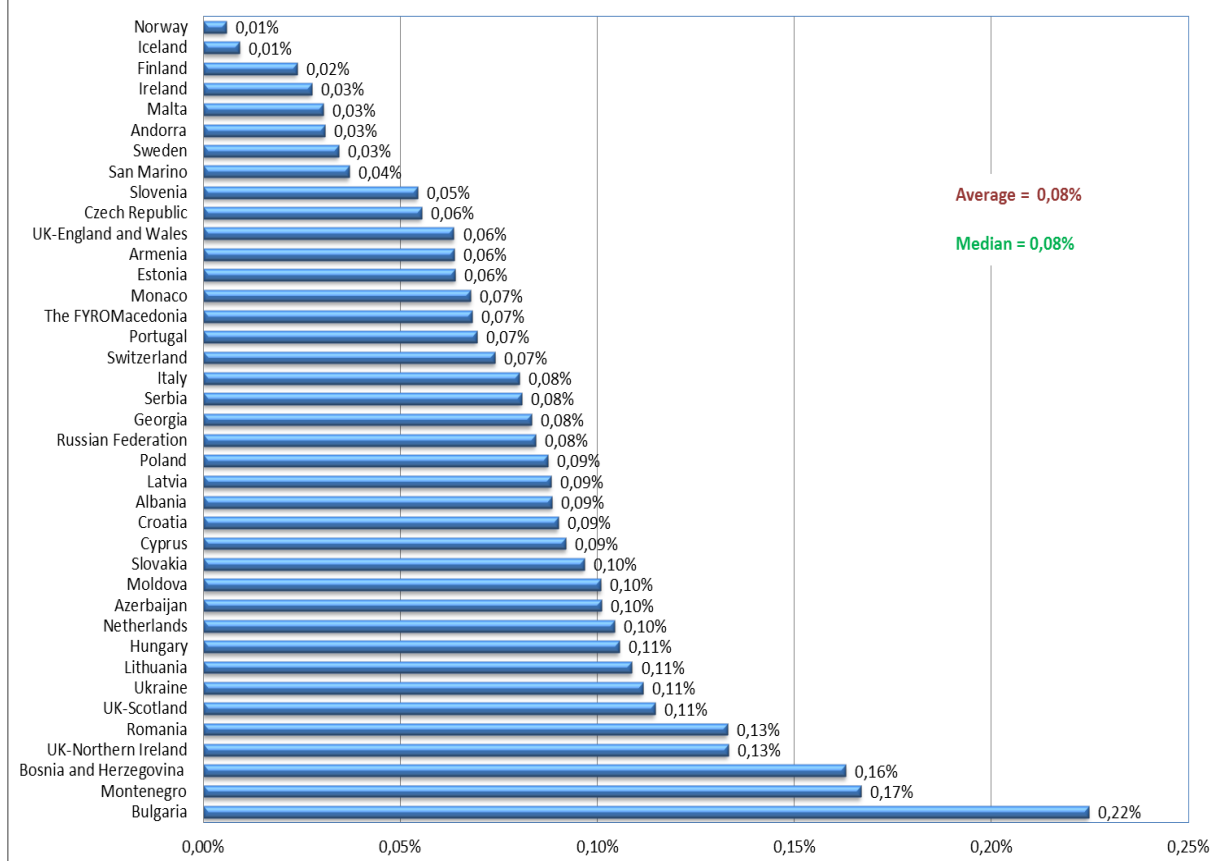
Netherlands: in 2002, 15% of the total annual approved public budget allocated to the public prosecution services concerned justice expenses, including all kinds of costs, like wiretaps, interpreters, compensation for witnesses, etc. This has gradually declined to 7% in 2008. Taking this 7% as an estimate, around 42 000 000 € can be found (rough estimate).

UK-England and Wales: other Government Departments and local authorities may undertake public prosecutions in certain specific cases, usually regulatory offences, but the above figure represents the vast majority of approved public budget allocated for public prosecutions.

The European average and median amount allocated to the prosecution per capita has remained stable since 2008. 6 states or entities (**Italy**, **UK-Northern Ireland**, **UK-Scotland**, **Netherlands**, **Monaco**¹⁶ and **Switzerland**) spend more than 20 € per inhabitant on prosecution services. 10 states spend less than 5 € per capita (**Republic of Moldova**, **Armenia**, **Georgia**, **"the former Yugoslav Republic of Macedonia"**, **Ukraine**, **Iceland**, **Albania**, **Serbia**, **Norway**, **Azerbaijan**).

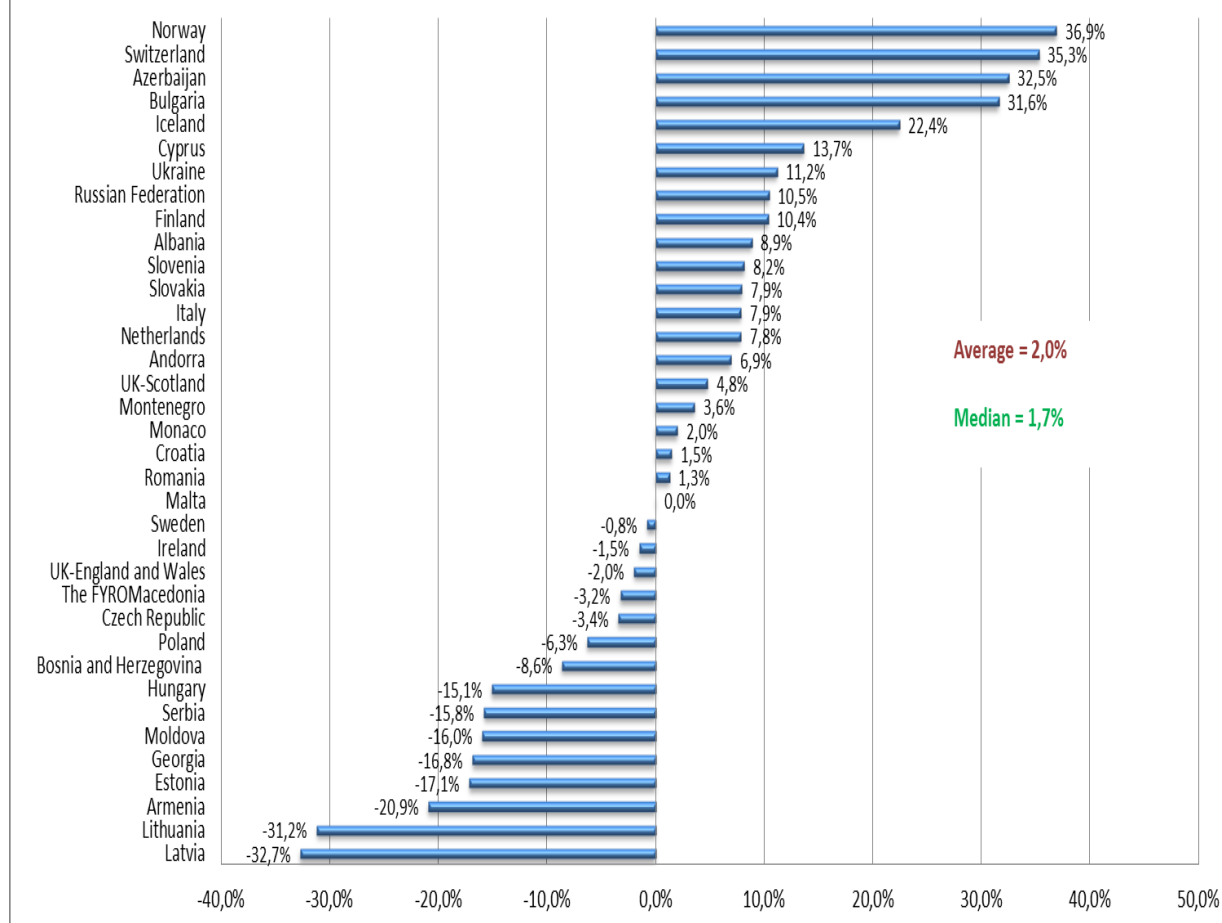
¹⁶ The data needs to be put into perspective by considering the low number of inhabitants.

Figure 2.20 Annual public budget allocated to public prosecution services per inhabitant as part (in %) of the GDP per capita, in 2010 (Q3, Q13)



Keeping in mind the prosperity of each country allows a more precise evaluation of the public authorities' commitment towards prosecution services.. Thus, one should read the analysis per capita by relating it to the GDP. Other realities appear when comparing the public prosecution budget to the level of wealth per capita in each state. The European average has remained stable since 2008. One may notice that **Bulgaria, Montenegro, Bosnia and Herzegovina, Romania, Ukraine, Lithuania, Azerbaijan, Republic of Moldova**, allow a major budgetary priority for public prosecution services.

Figure 2.21 Average annual variation of the public prosecution budget between 2008 and 2010 (Q13)



Comment

Switzerland: the increase by about 35% of the budget of the public prosecution services is explained both by the variation of the exchange rates (20%) and by the fact that some cantons which had investigation judges have anticipated the transition to the system of criminal investigation by prosecutors foreseen in 2011 by increasing already in 2010 the resources granted to the prosecution services (15% of the explanation).

The annual average variation was calculated on the basis of data provided since 2008. It was possible to analyse complete data series for 36 of the 39 states or entities concerned (which is again the proof of a qualitative improvement in the CEPEJ data base).

Like in the previous period analysed (2004 – 2008), budgets allocated to prosecuting bodies between 2008 and 2010 have been relatively stable at a European level. Situations are nevertheless split among member states: 20 of the 36 states concerned have increased their budgetary effort while 15 have decreased it (the budget has remained stable in **Malta**). Public authorities in 5 states or entities have committed large budgets to prosecution services between 2008 and 2010 (increase above 20%), though part of the explanation lies on the exchange rates for some of these states (**Azerbaijan, Iceland, Switzerland**): in **Azerbaijan**, the government allocates significant funds for improving the prosecution system especially through investments in infrastructures, renewing the administrative buildings and application of IT projects. **Norway** and **Bulgaria** have not explained the significant increase in the budget.

On the contrary, **Latvia, Lithuania** and **Armenia** have seriously decreased this effort in two years (below - 20 %), though part of the variation can be explained by the difference in the exchange rate as regards **Armenia**. Budgetary cuts due to the economic crisis can partially explain this trend. Other states have inverted the trend from an increasing one in 2004 – 2008 to a decreasing one in this new period (**Ireland, Republic of Moldova**). Although, it is possible to use the variation in exchange rates as an explanation for part of the downward evolution, it is equally interesting to highlight the fact that some of these countries are currently undergoing large-scale judicial reforms and rebalancing the role of judges, within the legal system, in relation to a traditionally powerful Prokuratura (**Armenia, Georgia, Republic of Moldova**).

Decreases noticed for **Serbia** and **England and Wales (UK)** are virtual, due to the evolution of the exchange rates.

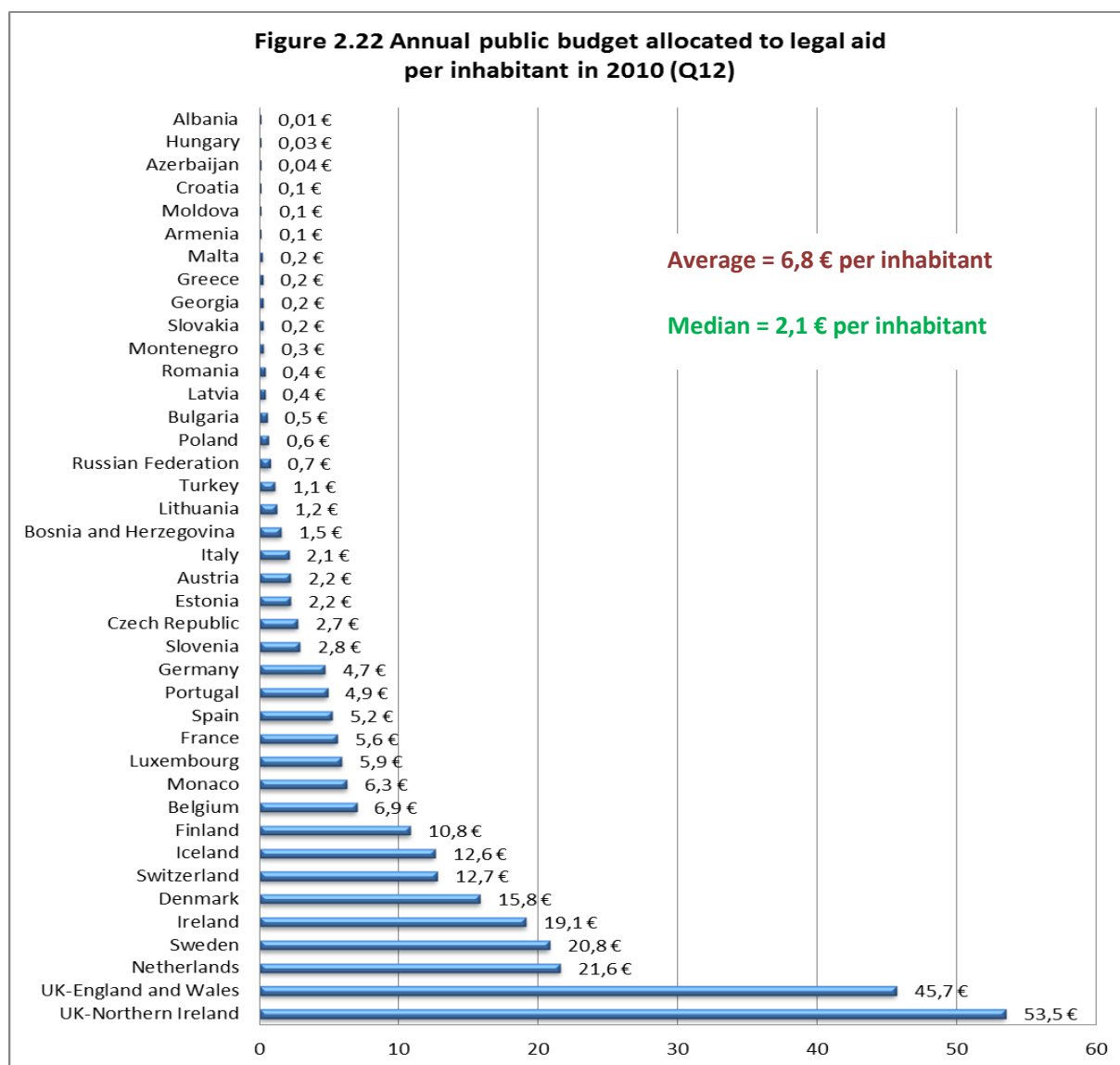
2.4 Public budget allocated to the legal aid system

Legal aid is understood here in a broad sense, including also, for example, the costs of legal aid structures, information policies of court users or mechanisms to support the parties in the proceedings for preventing trials.

7 € per inhabitant is spent on average by the public authorities to promote access to justice through the legal aid system. However, it seems more relevant to consider the median value in Europe: 2 € per inhabitant.

The Northern European states commit the largest budgets to the legal aid systems.

As it was the case in previous evaluation years, Northern European states have a strong tradition of generous legal aid systems: a relatively high budget (more than 20 € per inhabitant) for legal aid (gross data per inhabitant) is spent in **UK-Northern Ireland**, **UK-England and Wales**, **Netherlands** and **Sweden**. A relatively high amount of the budget (more than 10 € per inhabitant) can also be seen in **Ireland**, **Denmark**, **Switzerland**, **Iceland**, **Finland**.



Comments:

Czech Republic: only the public budget for legal aid is indicated - the Czech Bar Association also contributes to legal aid on its own costs.

France : the budget allocated to legal aid takes into account the budgetary amounts from the re-establishment of amounts coming from the recovery of 11.5 million €, and a tax expenditure regarding the application of a reduced VAT rate of 5 , 5% for services provided by lawyers and solicitors in legal aid. The procedure for re-establishing authorized amounts in terms of legal aid allows expenditure above the appropriations. In 2010, the amounts recovered were of 11.5 million €. Moreover, lawyers are paid by the funds of lawyers (CARPA) whose the cash flow evolution (+ 10.8 M € in 2010) is an adjustment variable.

Russian Federation: in the previous evaluation cycle information was provided only about the budget for legal aid lawyers allocated to the courts of general jurisdiction. The sum specified for the year 2010 includes, in addition, the budget for the State-run legal bureaus and the budget for legal aid lawyers allocated to the bodies entitled to conduct criminal inquiry or investigation or participate in them.

Slovakia: there is a duality for granting legal aid, financed both from the budget of the Legal Aid Centre and from the court budget. The amount indicated here corresponds exclusively to the approved budget of the Legal Aid Centre. This sum does not include the payments from the budgets of the courts to the lawyers providing legal aid in civil or criminal proceedings, i. e. the costs of the lawyers appointed free of charge to the participant by the judge in the civil proceedings and the costs of the ex officio appointed counsels in the criminal proceedings. The sum of these costs is not available.

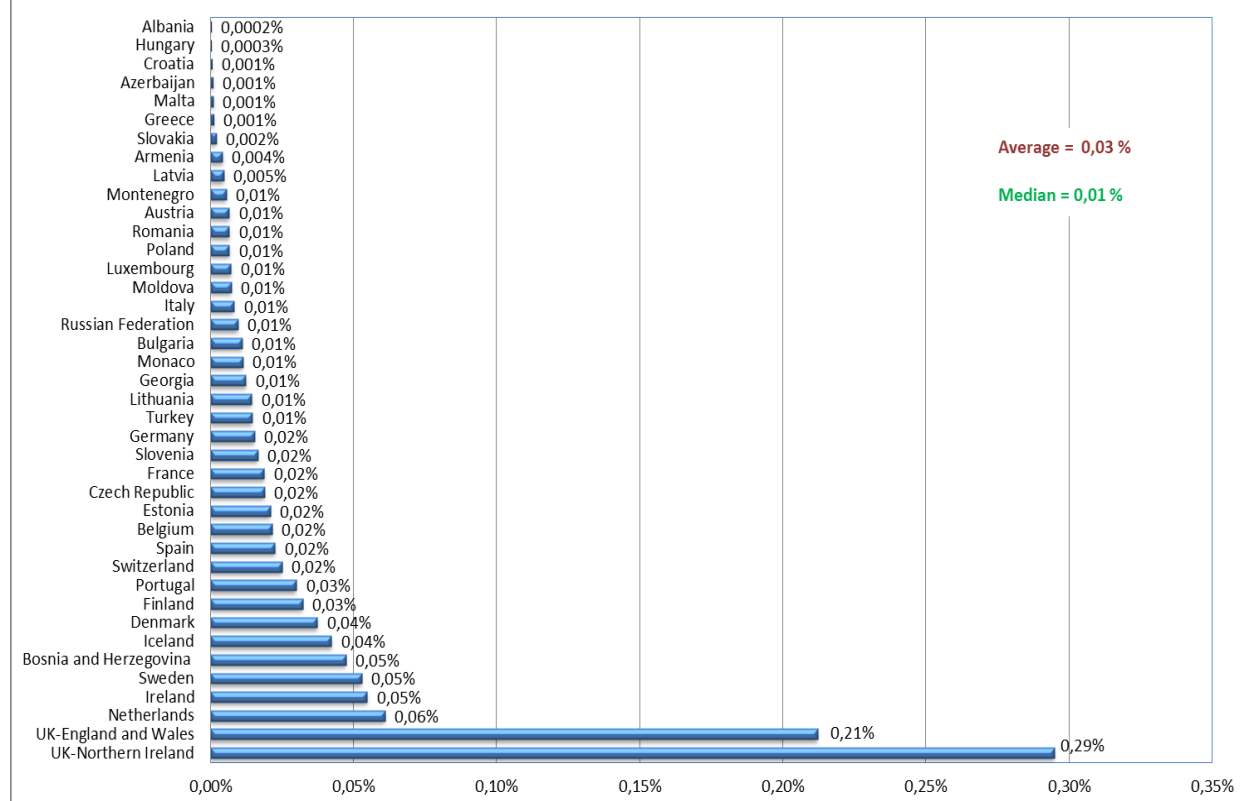
Switzerland : data extrapolated at the national level from data provided by 20 cantons out of 26.

Turkey: there is a dual system of legal aid: in criminal law, only courts are authorized to provide legal aid, while in civil law , Bars can also provide legal aid. The amounts provided both by the courts and by the bars have been provided here.

UK-England and Wales: figures are based on actual spend.¹⁷

Similarly to previous analysis, introducing the reference to the GDP is useful to measure the impact of the budgetary amount allocated to legal aid, in relation to the states' prosperity, to help people who do not have sufficient means find access to justice.

Figure 2.23 Annual public budget allocated to legal aid per inhabitant as part (in %) of the GDP per capita, in 2010 (Q3, Q12)

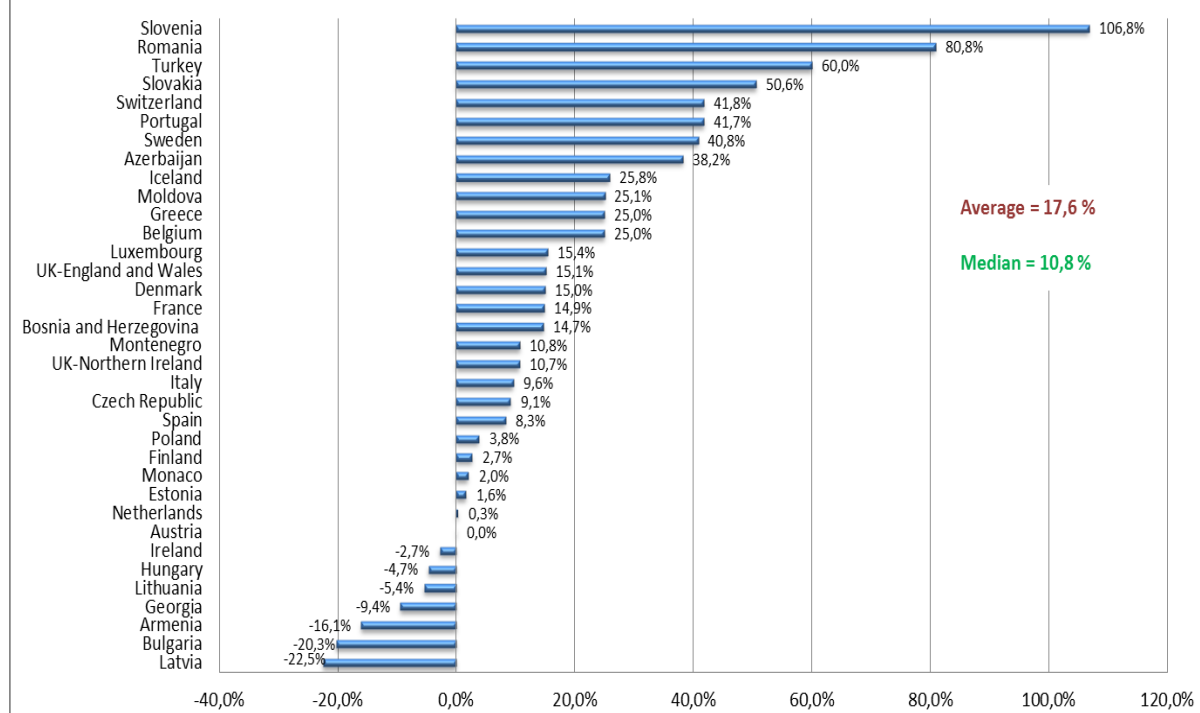


When comparing the effort dedicated to the legal aid budget to the level of wealth of the states, the situation of the states that have a more generous system is not radically changed. It allows however to highlight the efforts, supported by European and international funds, of **Bosnia and Herzegovina** in access to justice.

¹⁷ Report explaining legal aid figures:

<http://www.justice.gov.uk/downloads/statistics/mojstats/international-legal-aid-comparisons.pdf>

Figure 2.24 Average annual variation of the budget allocated to legal aid between 2008 and 2010 (Q12)



Comments

Romania: significant raise in the expenses for public legal aid should be understood, on one hand, as a consequence of the entering into force of the new legislation which extends significantly the number of cases for which legal aid is granted, and on the other hand, as a consequence of the increase of the lawyers' fees for juridical assistance services.

Russian Federation: data does not appear in this figure as the authorities have changed their calculation methodology since the previous evaluation cycle.

Slovenia: the huge increase is due both to an increased number of incoming cases (11.728 incoming cases in 2008 and 15 909 incoming cases in 2010) which is the consequence of a better awareness of the public as regards the possibility of free legal aid and to a higher amount of funds dedicated to legal aid because of the economic crisis, which hit the parties in court proceedings. Additionally, an increase in the number of bankruptcy cases can be noted and a subsequent adoption of new legislation.

Turkey: legal aid is considered as a priority for public policies both in the criminal and civil law field. Contrary to the practice in force during the previous evaluation cycles, amounts were deposited in 2010 by the Ministry of Finances in the bank account of the Union of Turkish Bar Associations.

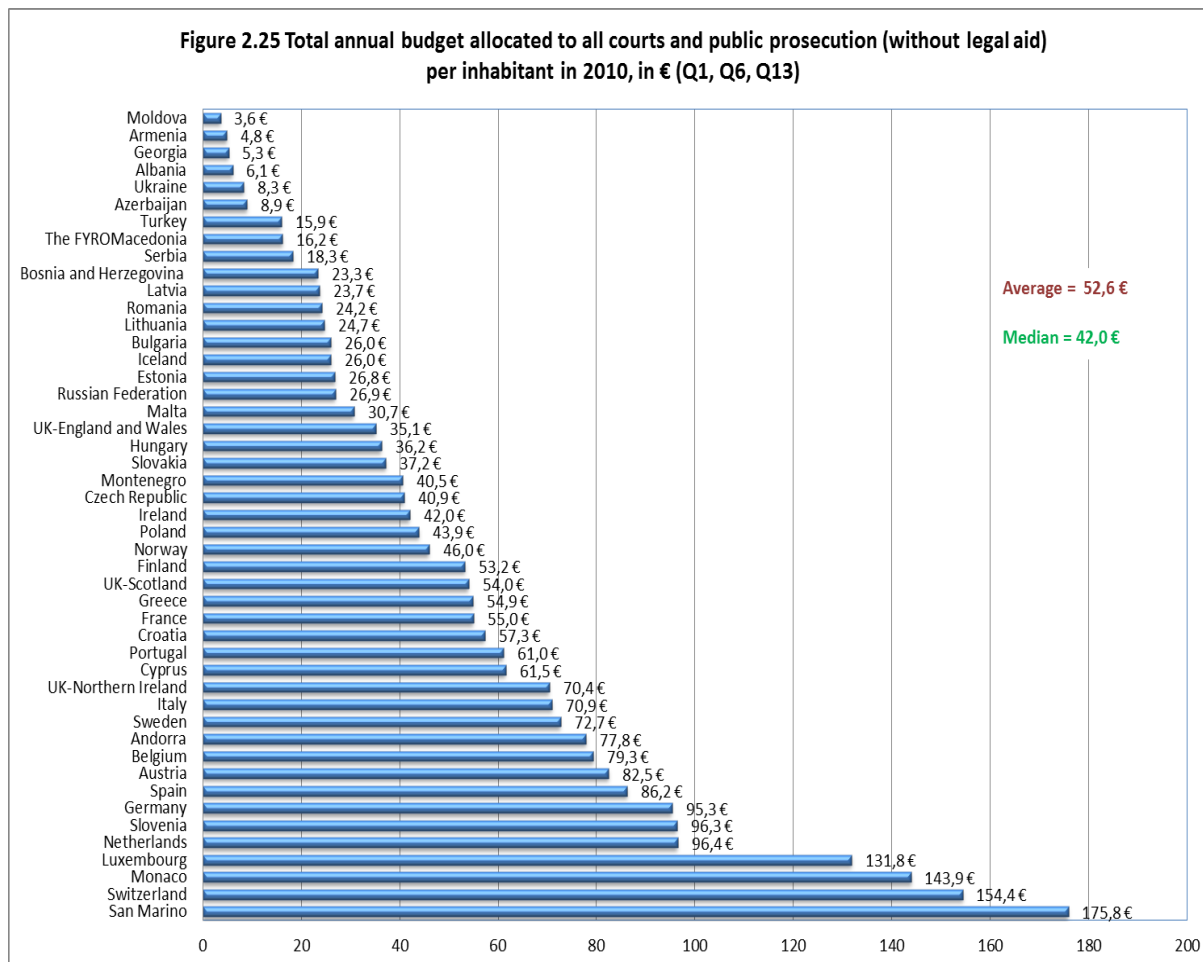
UK-England and Wales: since the previous evaluation cycle data of the legal aid budget has been updated as incorrect figures were made available to the CEPEJ.

35 member states have been considered as regards the evolution of their budget allocated to legal aid (only 30 were considered in the previous evaluation exercise, which must be stressed as a positive improvement in the report). This enables to highlight a positive European trend regarding access to justice through the indicator of amount allocated to legal aid; such trend being consistent with the requirements and spirit of the European Convention on Human Rights. An encouraging average increase of 17.6 % between 2008 and 2010 can be underlined in Europe, though 7 member states have decreased their legal aid budget (**Ireland, Hungary, Lithuania, Georgia, Armenia, Bulgaria, Latvia**). The variation in the exchange rate explains part of (**Armenia**) or the whole (**Hungary**) evolution, however some member states have clearly indicated that the decrease in the budget allocated to legal aid is due to general budgetary cuts (**Latvia, Lithuania**).

Changes in the legislation can explain increasing variations of the legal aid budgets, like in **Romania, Slovenia** or **Switzerland**. An increase in the number of incoming cases can be the explanations of the increase in the legal aid budget for some member states (**Slovenia, Sweden**). A positive exchange rate explains part of the variation in **Switzerland**. Other states having recently implemented legal aid systems still hold commitments and should be encouraged to follow such path (**Republic of Moldova**).

2.5 Public budget allocated to all courts and public prosecution (without legal aid)

The following analysis, which concerns 47 states or entities (7 more than in the previous evaluation cycle), refers to the sum of the budgets for courts and prosecution services. This data allows for the integration of states where the court budget cannot be separated from the budget allocated to prosecution services (**Austria, Belgium, France, Germany, Greece, Luxembourg, Spain, Turkey**). It was however not possible to include **Denmark** in this analysis, as this state cannot indicate the budget of the prosecution services.



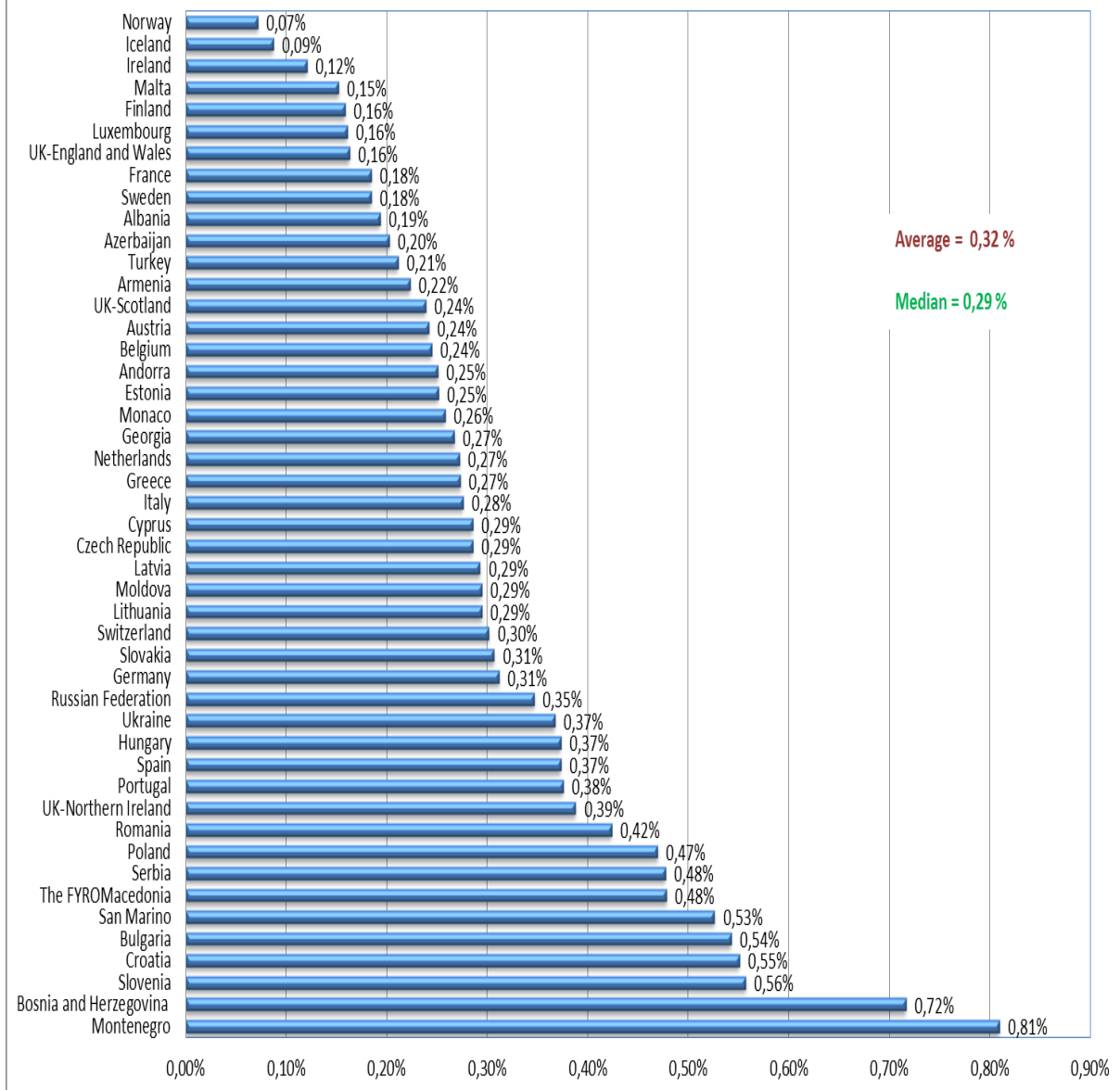
Three zones can still be identified from the geographical distribution of sums allocated to court and prosecution services' budgets: given their transitional economic systems, Eastern and South-eastern European states report the lowest budgets; Central European states, much of which have now joined the European Union, stand at an intermediate level, together with the **Russian Federation**; Western European states spend the largest budgets per capita in accordance with the state of their economy, joined, since the previous evaluation cycle, by **Slovenia**.

In Europe, the average budget allocated to courts and prosecution services is 53 € per capita. The median level is 42 €.

San Marino, Switzerland, Monaco, and Luxembourg spend the largest amounts (more than 100 € per capita) for courts and public prosecution services. It must be borne in mind that sums per inhabitant in small states should always be put into perspective regarding the small number of inhabitants. **Azerbaijan, Albania, Georgia, Ukraine, Armenia** and **Republic of Moldova** spend less than 10 € per inhabitant on legal aid, the systems being more recent.

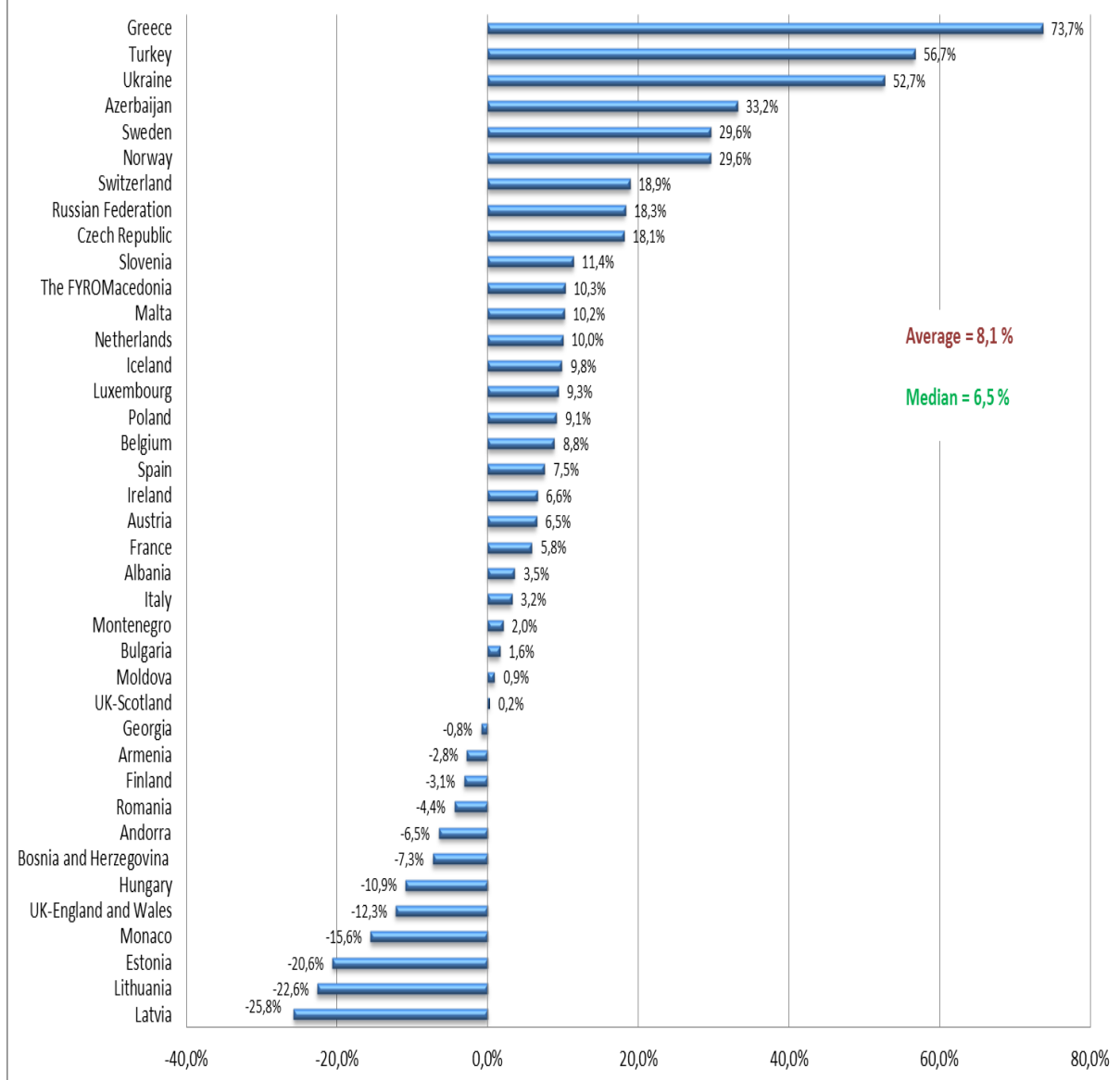
A ratio including the GDP per capita must be analysed in order to compare these sums to the state's prosperity. One can observe that efforts of public authorities are higher than what the raw data suggest in these countries. According to the previous analysis, the relative commitments of public authorities (supported by European and international funds) in the judicial system remain high in **Montenegro, Bosnia and Herzegovina, Bulgaria, Poland, Romania, Ukraine**.

**Figure 2.26 Annual public budget allocated to all courts and public prosecution service
(without legal aid) as part (in %) of the GDP per capita, in 2010 (Q3, Q6, Q13)**



The variation between 2008 and 2010 of these aggregated budgets follows the variation of the respective budgets of the courts and prosecution services individually analysed above (see chapters 2.2 and 2.3 above).

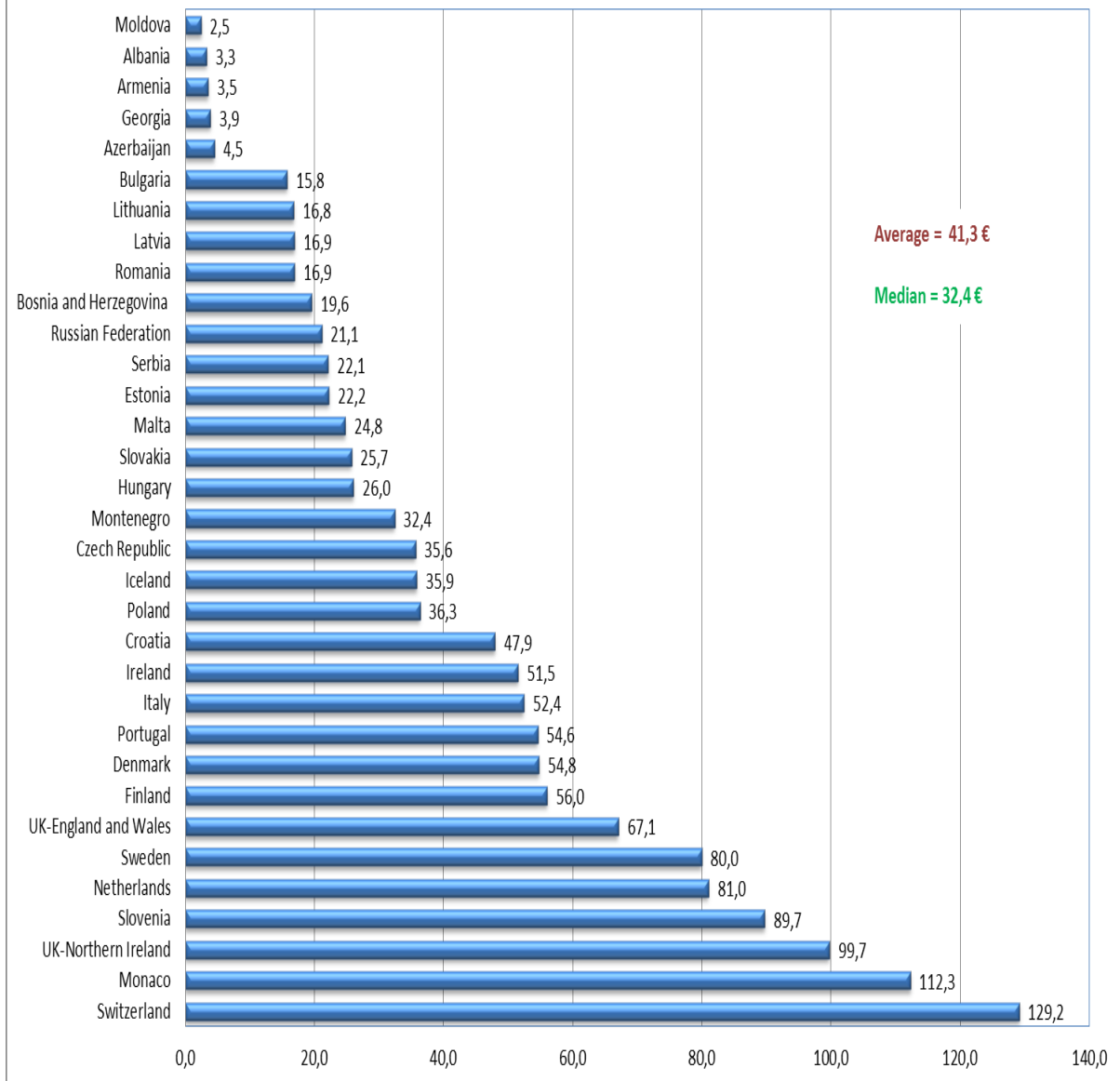
Figure 2.27 Average annual variation of the budget allocated to all courts and public prosecution service (without legal aid) between 2008 and 2010, in % (Q6, Q13)



2.6 Public budget allocated to all courts and legal aid (excluding prosecution services)

In this section, it is possible to compare with each other budgetary figures for courts and legal aid of 33 states or entities. In certain states, the legal aid budget is an integral part of the court budget and cannot be isolated. It is now possible to take these countries or entities into account in the following analysis.

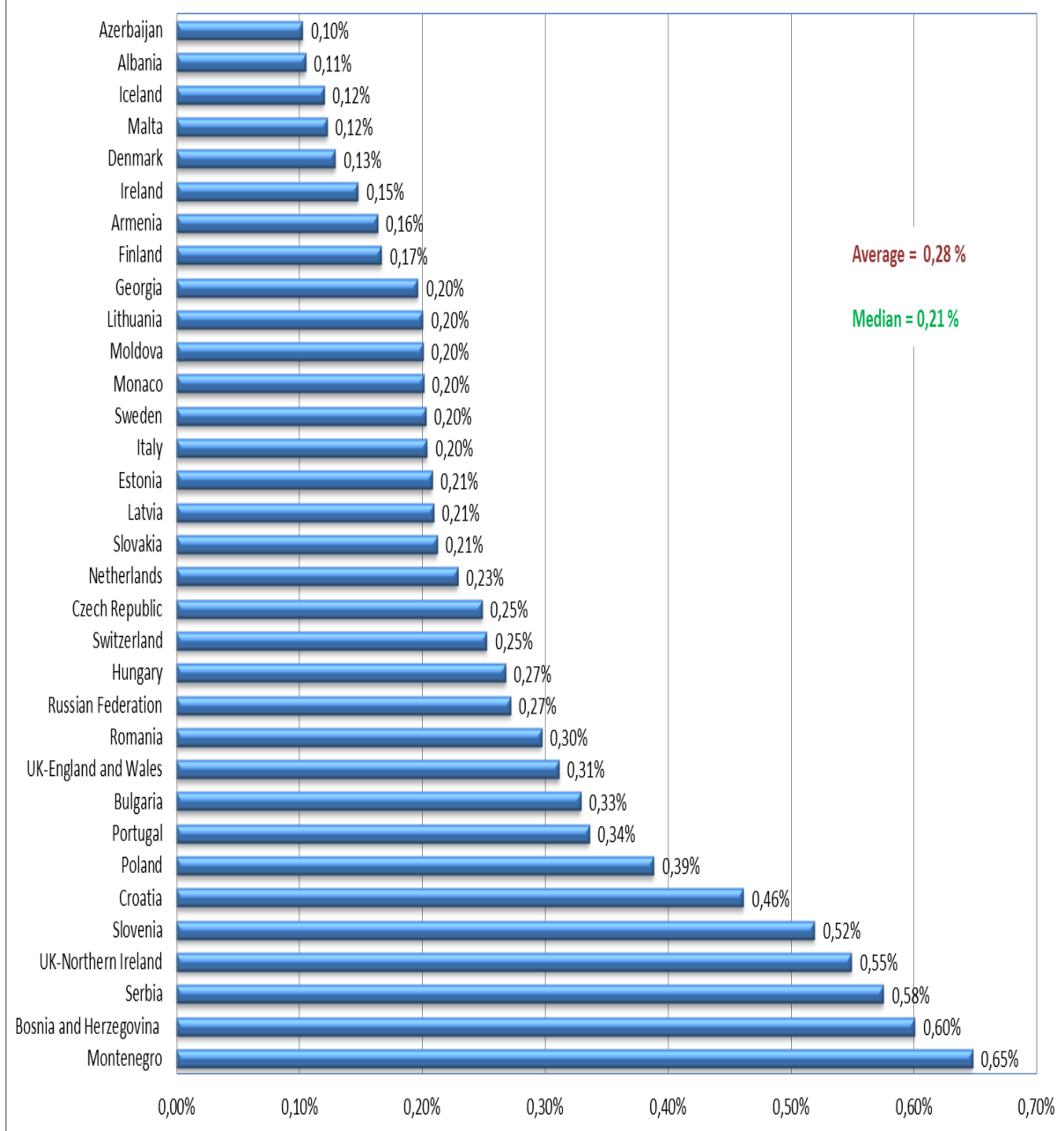
**Figure 2.28 Total annual budget allocated to all courts and legal aid
(without public prosecution) per inhabitant in 2010, in € (Q6, Q12)**



In this analysis, 41,3 € is the average amount spent per inhabitant in Europe, excluding the public prosecution service. Once again, the median value is more relevant to stress: 32,4 €. The financial government commitment to courts and legal aid may again be related to the level of wealth of each state by calculating a ration including the GDP per capita.

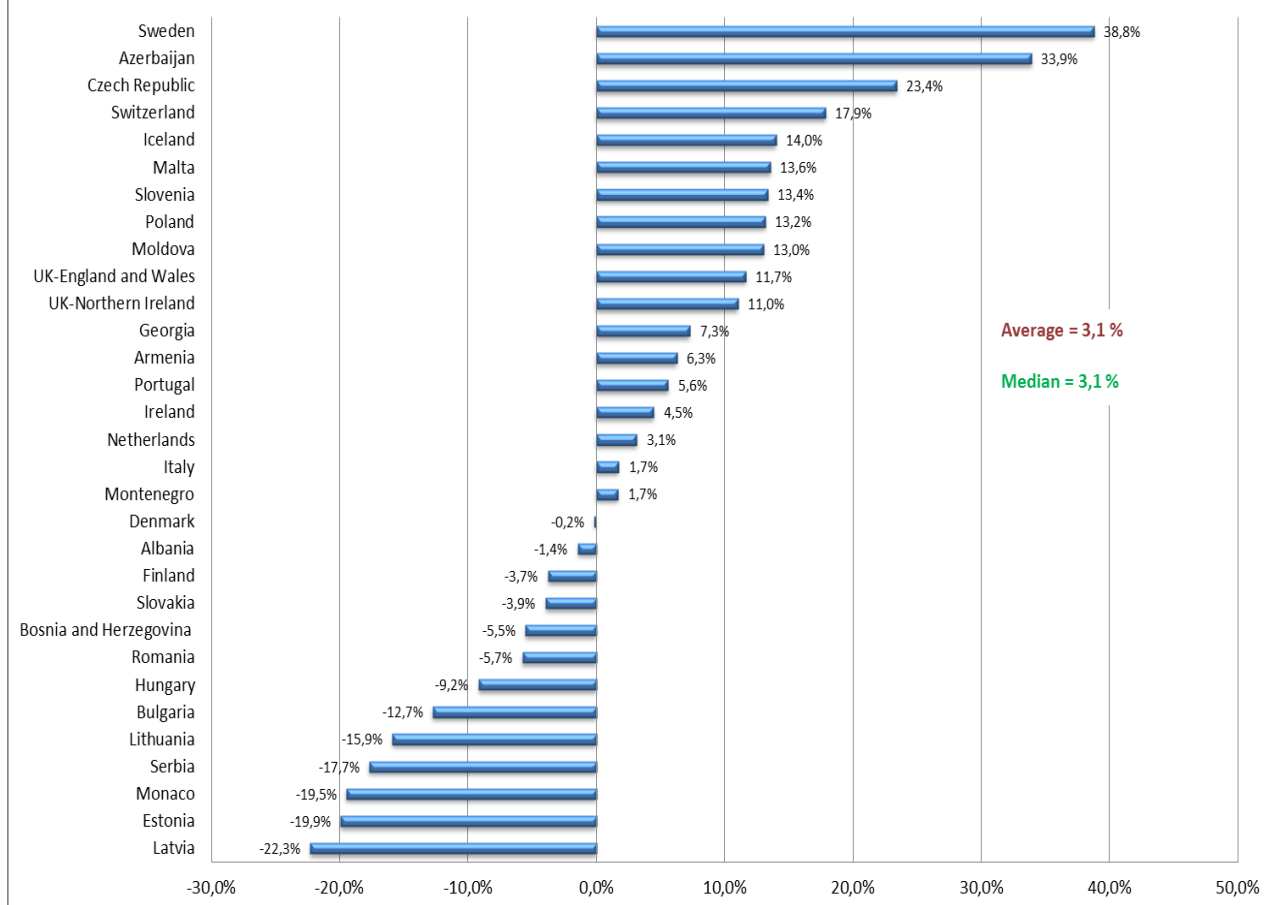
The analysis is similar to those completed above. States or entities that have developed positive legal aid systems are placed further forward: **Switzerland, UK-Northern Ireland, Netherlands, Sweden, UK-England and Wales, Finland, Denmark.**

Figure 2.29 Annual public budget allocated to all courts and legal aid (excluding prosecution services) as part (in %) of the GDP per capita, in 2010 (Q6, Q12)



The variation between 2008 and 2010 of such aggregated budgets follows the variation of the respective budgets of courts and legal aid analysed individually above (see chapters 2.2 and 2.4 above).

Figure 2.30 Average annual variation of the total annual budget allocated to all courts and legal aid (excluding public prosecution services) between 2008 and 2010 (Q6, Q12)

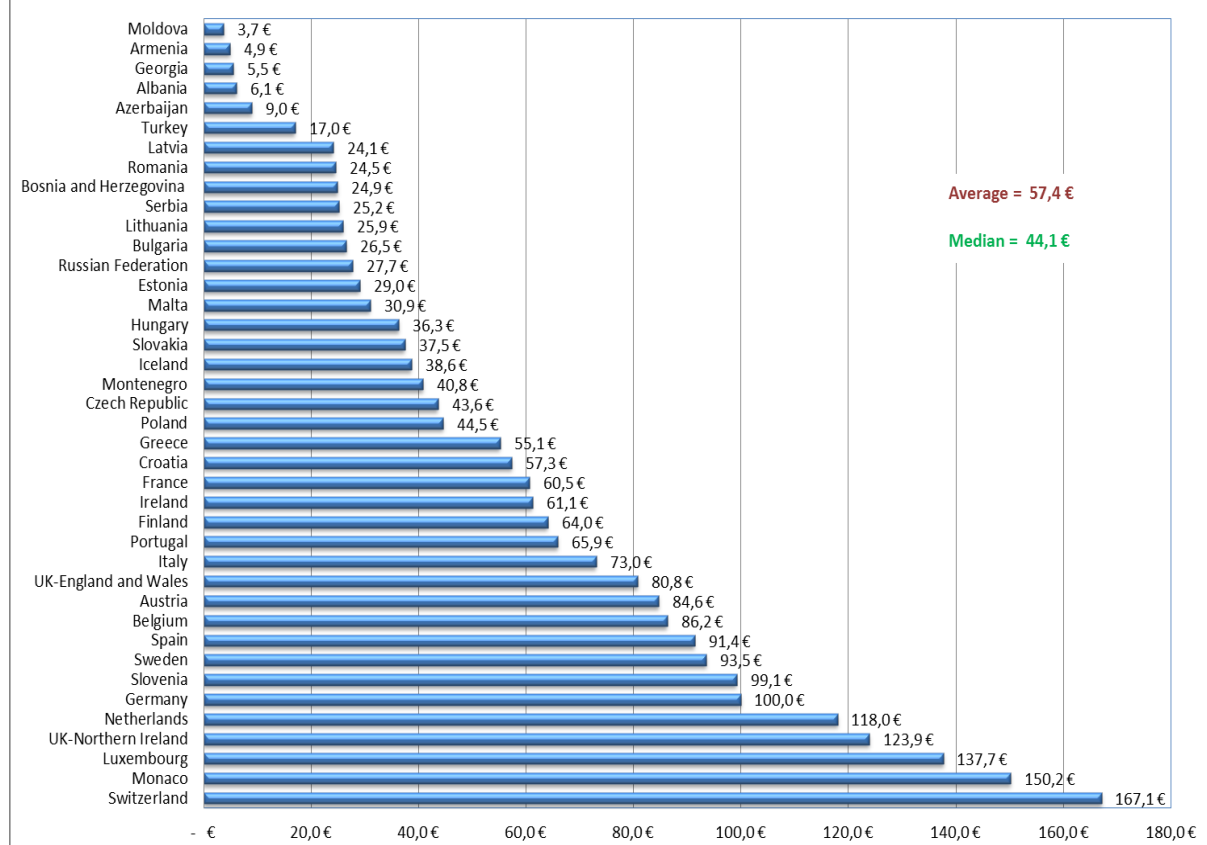


2.7 Public budget allocated to all courts, public prosecution services and legal aid

This part gives an overview of the budget allocated to the judicial system, when studying courts, legal aid and prosecution services together.

This global analysis allows for the evaluation of 40 on 48 states or entities participating in this report. Only the following countries are missing: **Andorra**, **Cyprus**, **Norway**, **San Marino**, **“the former Yugoslav Republic of Macedonia”**, **Ukraine** and **UK-Scotland**, which could not provide data on legal aid, and **Denmark**, which could not provide data on public prosecution services.

Figure 2.31 Annual public budget allocated to all courts, legal aid and public prosecution per inhabitant in 2010, in € (Q6, Q12, Q13)



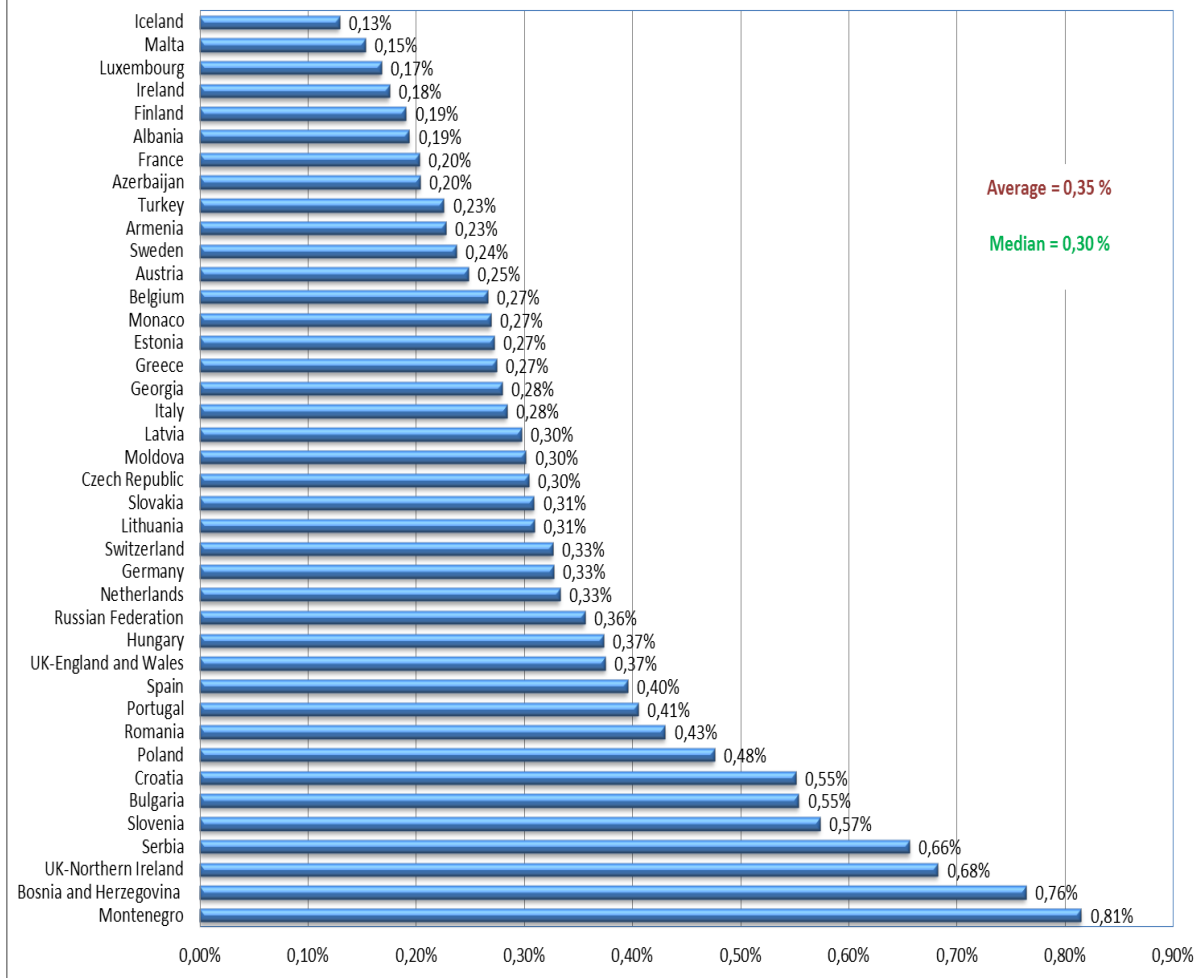
57,4 € per capita is the average amount of resources spent on the judicial system in Europe. Almost half of the European countries considered here are above the European average. Yet, in order to take into account “extreme” values, it is more appropriate to use within this analysis the median value for the budgetary commitment, that is 44,1 € per capita.

The same three geographical areas in Europe as those highlighted under chapter 2.5 above (budget of courts and prosecution service) can also be distinguished on the basis of the level of economic growth of the known states or entities: given their transitional economic systems, Eastern European States report the lowest budgets; Central European States, much of which have recently joined the European Union, stand at an intermediate level, though **Slovenia** and to a certain extent **Croatia** have joined the last group of the European countries (North and West of Europe) spending the largest budgets per capita in accordance with the state of their economy.

5 states spend less than 10 € per capita on the judicial system: **Republic of Moldova, Armenia, Georgia, Albania** and **Azerbaijan**. 6 states allocate 100 € or more per inhabitant: **Switzerland, Monaco, Luxembourg, UK-Northern Ireland, the Netherlands** and **Germany** (again, one must notice the reservation for using the ratio for micro-states with small populations; it must also be stressed that the exchange rate amplifies the result of **Switzerland**).

Similarly to previous analysis, it is interesting to compare raw data with the wealth of each state or entity by calculating the ratio including the GDP per capita. The budgetary commitments to judicial systems (with the frequent support of European and international funds) in **Montenegro, Bosnia and Herzegovina, Serbia, Bulgaria, Croatia, Poland, Romania, Hungary** are favourable and highlight the undergoing reforms of the judicial systems within these South-East European states as well as the Central European states that joined the European Union.

Figure 2.32 Total annual public budget allocated to all courts, public prosecution and legal aid as part (in %) of the GDP per capita, in 2010 (Q6, Q12, Q13)



Note to the reader: the data of the wealthiest states or entities must here be reported once more to the level of prosperity of the state; otherwise it might be wrongly interpreted that they allocate a little amount of budget to their judicial system, because of their high GDP. This is namely the case for **Norway, Luxembourg, Finland, France, Sweden, Monaco** and to a certain extent for **Austria** and **Belgium**. This fact must be taken into account if relevant comparisons between comparable states had to be drawn.

PER INHABITANT, IN €

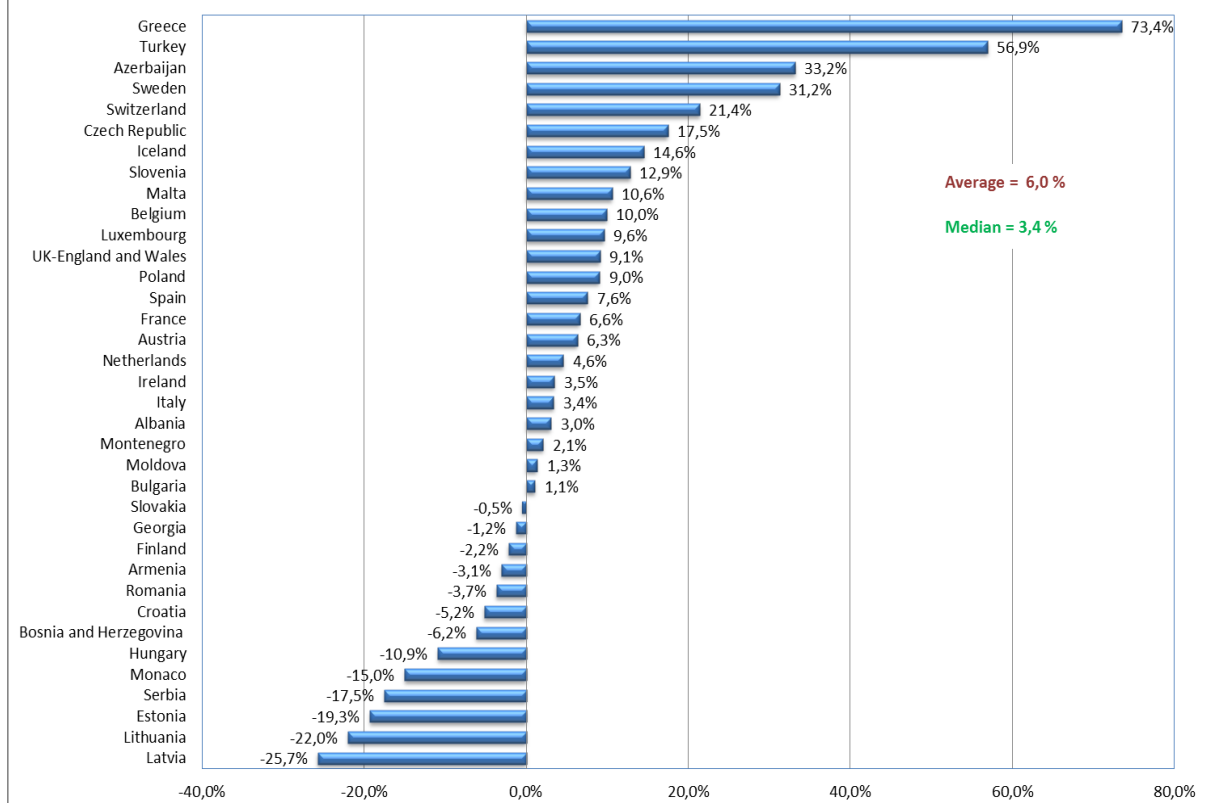
- Less than 10 €
- From 10 to less than 30 €
- From 30 to less than 50 €
- From 50 to less than 100 €
- 100€ and over

AS PART OF GDP PER CAPITA

€ zone non-€ zone

- Less than 0.15%
- From 0.15% to less than 0.3%
- From 0.3% to less than 0.45%
- 0.45% and over
- Data not supplied
- Not a CoE Member State

Figure 2.34 Average annual variation of the total approved public budget allocated to all courts, legal aid and public prosecution (in %) between 2008 and 2010 (Q6, Q12, Q13)



Comments

Greece: the budget voted by the Parliament was indicated, but it was not executed as such in 2010 because of the financial and economic crisis. The expenses were limited, in particular as regards salaries.

Turkey: contrary to the previous cycles, 2010 data includes the expenses made from the budget of the Prison Workshops Institution. On the other hand, in preparing the 2010 data, the amounts stated in the final account law (the budget which is prepared at the end of the year and is passed by the Parliament) were taken as basis. The increased importance attached by the authorities to the investments in the judicial field is also effective in that regard. In addition, there are also allocations provided by the Ministry of Finances to the Union of Turkish Bar Associations for legal aid.

It is possible to measure changes between 2008 and 2010 budgets aggregating the budget of courts, prosecutors and legal aid for 36 states or entities.

23 states concerned have increased their budget whereas 13 states have decreased it.

An average growth of 6% in Europe can be noticed as regards the evolution of the public budget allocated to the overall judicial system. Yet, this evolution must be tempered by variations in exchange rates that inflate artificially some data provided by countries outside the Euro zone (for instance **Azerbaijan, Iceland, Poland, Czech Republic, Sweden, Switzerland**).

Beyond the technical explanations mentioned above, the effects of the financial and economic crisis can be seen in some countries where the budgets of judicial systems have been decreased (**Bosnia and Herzegovina, Bulgaria, Finland, Hungary, Latvia** (mainly a reduction in the salaries), **Lithuania**). The case of **Greece** must be considered apart, as the budgets voted and indicated here (in significant increase compared with the previous report) were not executed as such because of the crisis.

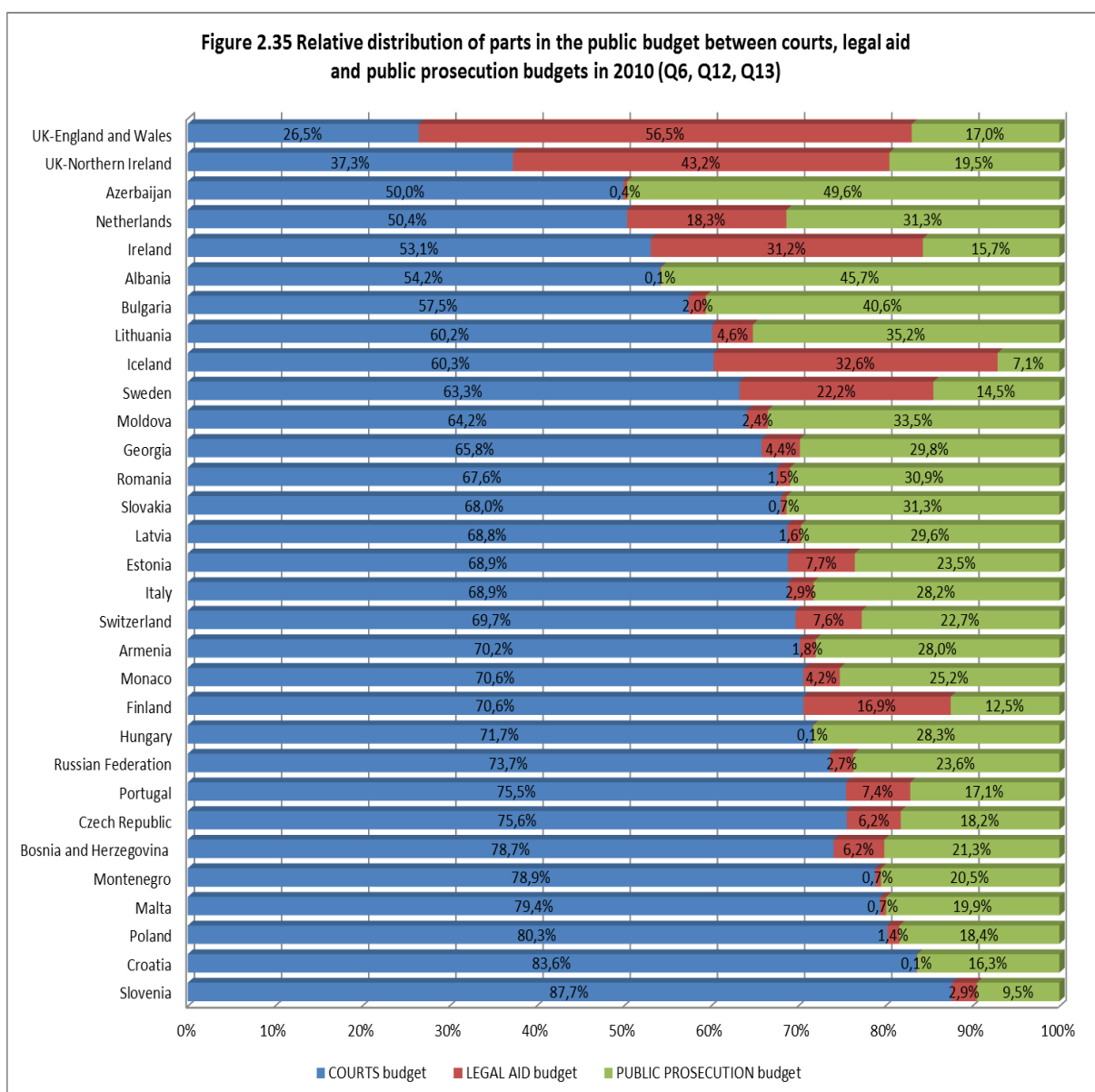
Indirect impacts of the crisis on the volume of cases can also be observed for judicial systems: commercial, bankruptcy and labour litigations are affected by the worsening economic situation. This increase in litigation provokes further costs for justice, as specified in particular by **France** and the **Netherlands**.

On the other hand, a majority of states have continued to increase the budget of their judicial system, though this increase is much more limited than in previous periods observed.

Some states that had launched major reforms on their judicial systems, often supported by international funds, have now entered into a “cruising speed” (**Montenegro, Republic of Moldova, Bulgaria**). On the contrary, other states have maintained a sustained rhythm (more than 10 % in two years) in the increase of their judicial budget (**Azerbaijan, Czech Republic, Slovenia, Malta**), and others have even accentuated the effort dedicated to their judicial system (**Turkey, Switzerland**). While being still valid, however, these considerations must be put into perspective because of the variations in the exchange rates, particularly for **Azerbaijan, Switzerland** and to a lesser extent the **Czech Republic** which had a favourable rate evolution between 2008 and 2010 (see table 1.3 above).

Other states have clearly inverted the trend from a decrease in the period 2006 – 2008 to an increase in their budget between 2008 and 2010 (**Sweden, Iceland**). Specific efforts for increasing the budget of judicial systems can also be noted in **Belgium, Luxembourg, Poland, Austria**. Other states have pursued the same increasing trend, though slowing down the rhythm (**Spain, France, Netherlands, Italy**). While being still valid, however, these considerations must be put into perspective because of the variations in the exchange rates, particularly for **Iceland, Poland, Sweden** which had a favourable rate evolution between 2008 and 2010 (see table 1.3 above).

Figure 2.35 Relative distribution of parts in the public budget between courts, legal aid and public prosecution budgets in 2010 (Q6, Q12, Q13)



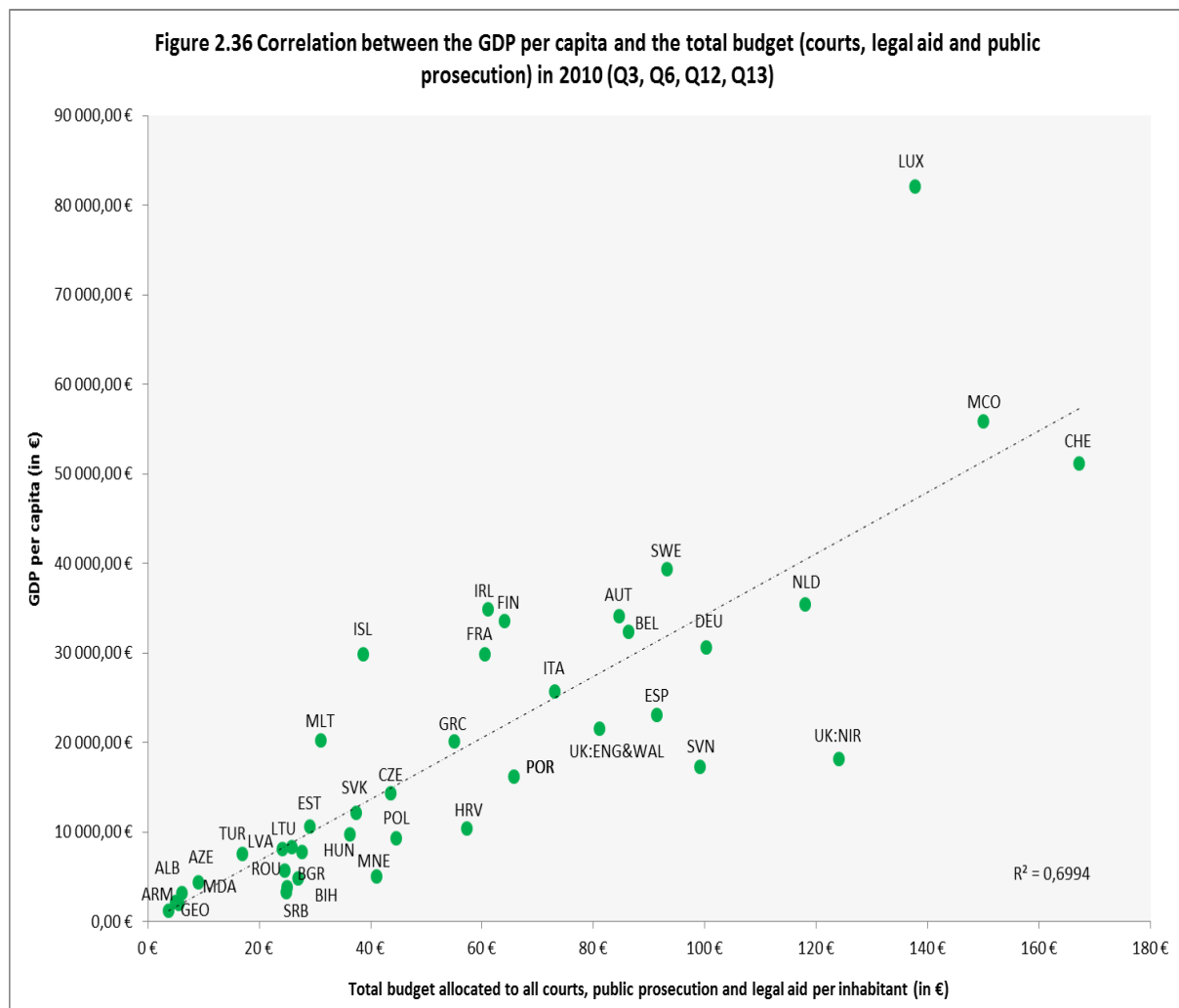
The distribution of the financial commitment to courts, prosecution services and legal aid have been established for 31 states or entities (are excluded the states or entities that are not able to isolate one of the three components of the budget of the judicial system). For these states, on average, 65 % of the budgets allocated to the judicial systems were devoted to the operation of courts, 25 % to the prosecution services and 10 % to the legal aid system.

This figure enables to distinguish priorities set by the states or entities within their budgetary commitment. Such priorities are indicative of fundamental policy choices made by the states to conduct their judicial policies and current evolutions in those systems.

Thus, in a system lead by the *Habeas Corpus*, the entities of the **United Kingdom** give priority to legal aid. This priority remains a significant characteristic of Northern European systems (**Finland, Iceland, Ireland, Netherlands, Sweden**). These same states or entities spend a smaller share of their budgets on the operation of courts, partly for the reason that the sum allocated to salaries is lower in *Common Law* systems, which allow for an important number of lay judges to sit (with the exception of **Ireland**). For the Northern European states, part of the explanation lies also in the tendency for society to be less litigious compared to the rest of Europe: part of the litigation is diverted from court proceedings (example: divorce, please see chapter 9 below) and assigned to administrative bodies.

Traditionally, prosecution services in some Eastern and South-eastern European states boast a strong position (more than 30 % of the budget) like in **Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Latvia, Lithuania, Republic of Moldova, Romania, Slovakia**, as well as in **UK-England and Wales** and in the **Netherlands**.

One can also observe that some countries have not allocated major priorities (less than 2 % of the budget) to legal aid yet (**Albania, Armenia, Azerbaijan, Croatia, Hungary, Latvia, Montenegro, Malta, Poland, Romania, Slovakia**).



This figure enables to compare clusters of countries which are comparable due to similarities as regards the level of wealth.

This analysis between the level of prosperity of states or entities and the budgetary commitment to the judicial system shows that there is a strong correlation between the GDP per capita and the level of resources allocated per capita to the operation of the judicial system. 65 % of this phenomenon can be

explained on the basis of these two variables only. One can assume that, when the GDP increases, the budget allocated to the judicial system will also evolve upwards.

Yet, even if this correlation is generally high, one must highlight the differences between the states and entities which GDP per capita is comparable (for example a group such as **Austria, Belgium, France, Finland, Germany, Netherlands and Sweden**).

This figure gives also additional explanations to previous figures. For example, it was observed that **Norway** had often the lowest budgetary parts (prosecution, legal aid) in the GDP per capita. The reason for this is explained by the high GDP per capita and not by the underfunding of certain parts in the judiciary budget.

2.8 Trends and conclusions

Concerning budget issues, it is noticeable that the proportion of replies which can be exploited is higher cycle after cycle. For the first time also, the CEPEJ is able to establish clearly a correlation between the European states' GDP per capita and their total budget for courts, legal aid and public prosecution. The scope of the observed states has never been wider. CEPEJ data influenced important policy decisions on major changes related to the increase in budgets and number of judges (**Azerbaijan**).

Between 2008 and 2010, the European trend is still increasing budgets for justice in general and the judicial system in particular (+ 6%). The development of the judicial system remains a priority for governments in Europe.

However, the disparities among the member states are higher than before and the number of member states where the budget is decreasing is more important now than in 2008 (from 4 to 9 states). Although the results observed in tables and figures must partly be tempered because of the variation of the exchange rate between national currencies and euro, some conclusions can be drawn as regards decreasing budgets of judicial systems: some states, which had carried out major economic and institutional reforms in the last decade, have now reached a level which explains that they are coming to a more regular and limited rhythm of expansion of their judicial system. Furthermore, the effects of the financial and economic crisis in Europe can be seen in such results: the budgets of judicial systems have been reduced, together with general reductions of public expenses (**Croatia, Bosnia and Herzegovina, Hungary, Serbia, Estonia, Lithuania, Latvia**). In the same time, the crisis has indirect impacts on the budgets: social, commercial and labour litigations are affected by the worsening economic situation (social litigations, bankruptcy, etc.). This increase in litigation provokes further costs for justice.

Different political choices - or structural ways for building justice organisation – can be highlighted in Europe: more than half the member states spend more resources to other areas of justice than the judicial system (prison system, etc.), while others direct public budgetary efforts mainly to court operation.

The analysis of the breakdown of the court budgets shows that the budgetary investments in the judicial system cover all the components of the judicial system, although from one country to another, specific effort can be focused on specific items. For instance, the common law states, which rely in particular on non-professional judicial staff (with the exception of **Ireland**) and hire a smaller number of judges (usually much experienced), devote a smaller share of their resources to salaries, while this part is the largest one in the budget of the continental law systems. Similarly, a larger budget is devoted to the prosecution system in states where prosecutors have traditionally occupied a prominent position in the functioning of justice. Systems that rely on a wide access to justice can be identified, with public policies of justice guided by the principles of Habeas Corpus and generous as regards legal aid, in particular in the entities of the United Kingdom and in the North of Europe.

The budget part devoted to salaries can be stressed. The trend is still an increasing one, but on a limited rhythm compared to previous studies (+5% between 2008 and 2010): some countries which used to make huge efforts to keep up with standard salaries for the judiciary in Europe have now entered into a "cruising speed". In addition, the effects of the financial and economic crisis can often hit (mainly the number of) human resources.

Computerization of the court system remains an increasing priority in Europe (+ 30 % between 2008 and 2010, representing 3 % of the court budget), in spite of disparities between the member states. An increase can be noted in the average budget allocated to judicial training in Europe (+ 15 % between 2008 and 2010), however the effort remains limited to 1 % of the court budget; judicial training should be a higher priority for European states (though some of them, taken individually have made major efforts).

Some countries have not allocated major priorities (less than 2 % of the budget) to legal aid yet, but the general trend is positive vis-à-vis the European Convention on Human Rights. An encouraging average increase of 18 % between 2008 and 2010 can be underlined in Europe. Some member states suffering from a decrease in the budget allocated to legal aid have clearly indicated that it is due to general budgetary cuts.

Chapter 3. Access to justice

Legal aid is essential to guaranteeing equal access to justice for all, as provided for by Article 6.3 of the European Convention on Human Rights regarding criminal law cases. Especially for citizens who do not have sufficient financial means, it will increase the possibility, within court proceedings, of being assisted by legal professionals for free (or at a lower cost) or of receiving financial aid.

Beyond the European Convention on Human Rights and the case law of the Strasbourg Court, the Council of Europe encourages its member states to develop legal aid systems, and it has adopted several Recommendations and Resolutions in this field: Resolution (76) 5 on legal aid in civil, commercial and administrative matters; Resolution (78) 8 on legal aid and advice; Recommendation No. R (93) 1 on effective access to the law and justice for the very poor and Recommendation Rec (2005) 12 containing an application form for legal aid abroad for use under the European Agreement on the transmission of applications for legal aid (CETS No. 092) and its additional protocol¹⁸.

Legal aid is defined in the explanatory note of the Evaluation Scheme as aid given by the State to persons who do not have sufficient financial means to defend themselves before a court (or to initiate court proceedings). In this definition, legal aid mainly concerns legal representation before the court. However, legal aid consists also in legal advice. In fact, not all citizens who face legal problems initiate judicial proceedings before the court. In some cases legal advice can be sufficient to solve a legal issue. Therefore, legal aid is made up of two components which might differ according to the states concerned: on the one hand, it is an aid for access to law (information and legal advice, aid for an alternative to a judicial hearing – alternative dispute resolution, or ADR), on the other hand, it is an aid to safeguard individual rights within the framework of a judicial proceeding, be it as a claimant or a defendant in a civil proceeding, or as an accused or a victim in a criminal proceeding.

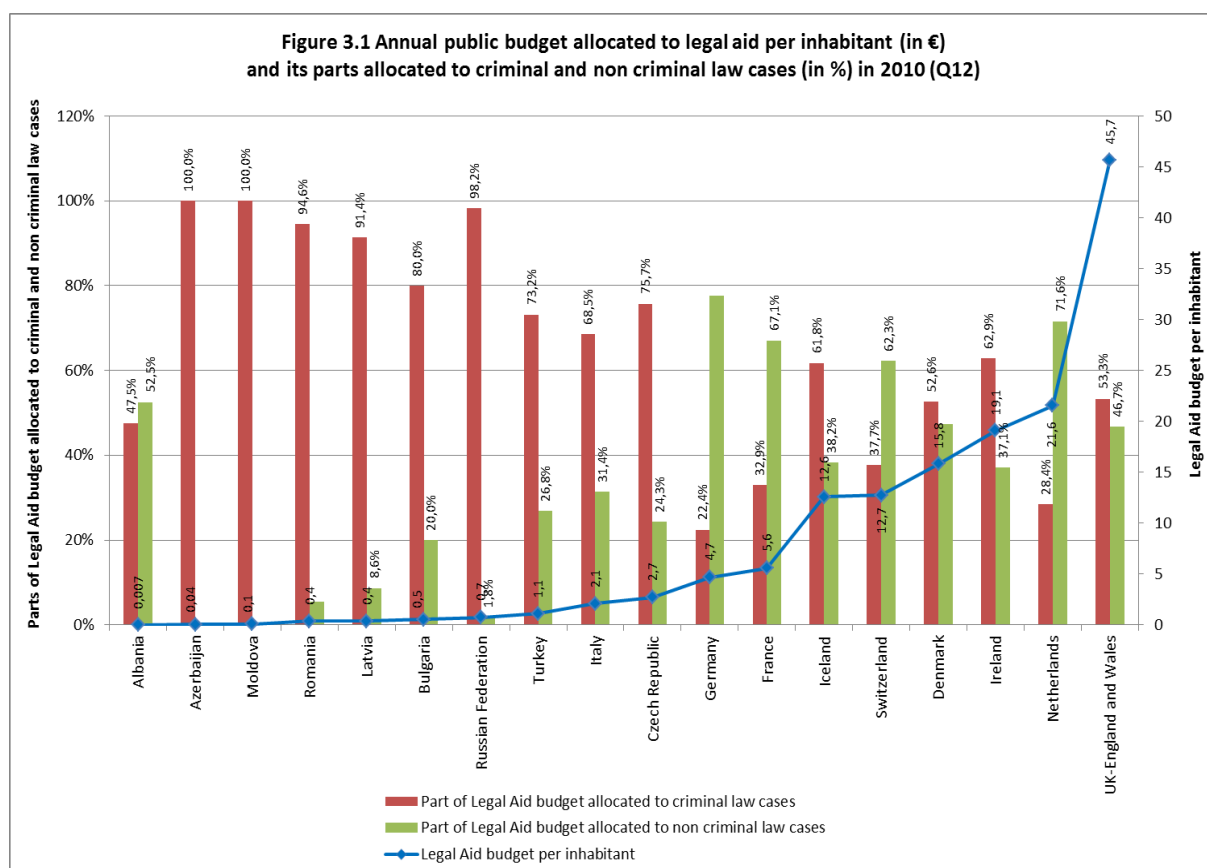
3.1 Various types of legal aid

All the member states provide legal aid both in criminal law and civil law fields, which is indeed welcome when considering the requirements and the spirit of the European Court of Human Rights.

However, in many central and eastern European states, legal aid remains mainly focused on the criminal law field (**Romania, Latvia, Bulgaria, Russian Federation, Turkey, Czech Republic**). Legal aid systems in the civil law field are often new in these states and should be further developed in the coming years. This is also the case for **Italy**. The allocation of legal aid is more balanced between criminal law and civil law in the north of Europe (**UK-England and Wales, Iceland, Denmark, Norway**) and in **Albania**. The amounts allocated to legal aid are unbalanced in favour of civil law cases in other member states (**Germany, France, Switzerland, the Netherlands**).

Legal aid is understood here in a broad sense and includes also, for example, the costs of legal aid structures, information policies regarding court users or mechanisms to support the parties in proceedings for preventing trials.

¹⁸ This Recommendation enables the use of forms common to the European Union and the Council of Europe which are in line with Directive 2003/8/CE of 27 January 2003 on legal aid.



Note: this figure includes only the states which were able to distinguish legal aid in civil and criminal law and which reported at least one of the two budgets for this system.

Comments

Albania: legal aid for non-criminal matters was introduced in 2010.

Czech Republic: only the public budget for legal aid is indicated – the Czech Bar Association also contributes to legal aid at its own cost.

France: the budget allocated to legal aid takes into account the budgetary amounts from the re-establishment of amounts coming from the recovery of 11,5 million €, and a tax expenditure regarding the application of a reduced VAT rate of 5,5% for services provided by lawyers and solicitors in legal aid. The procedure for re-establishing authorized amounts in terms of legal aid allows expenditure above the appropriations. In 2010, the amounts recovered were of 11,5 million €. Moreover, lawyers are paid by the funds of lawyers (CARPA) whose cash flow evolution (+10,8 million € in 2010) is an adjustment variable.

Russian Federation: in the previous evaluation cycle information was provided only about the budget for legal aid lawyers allocated to courts of general jurisdiction. In addition, the sum specified for the year 2010 includes the budget for the state-run legal bureaux and the budget for legal aid lawyers allocated to the bodies entitled to conduct criminal inquiries or investigations or participate in these. Legal aid at the expense of the state is not provided for in the system of commercial courts.

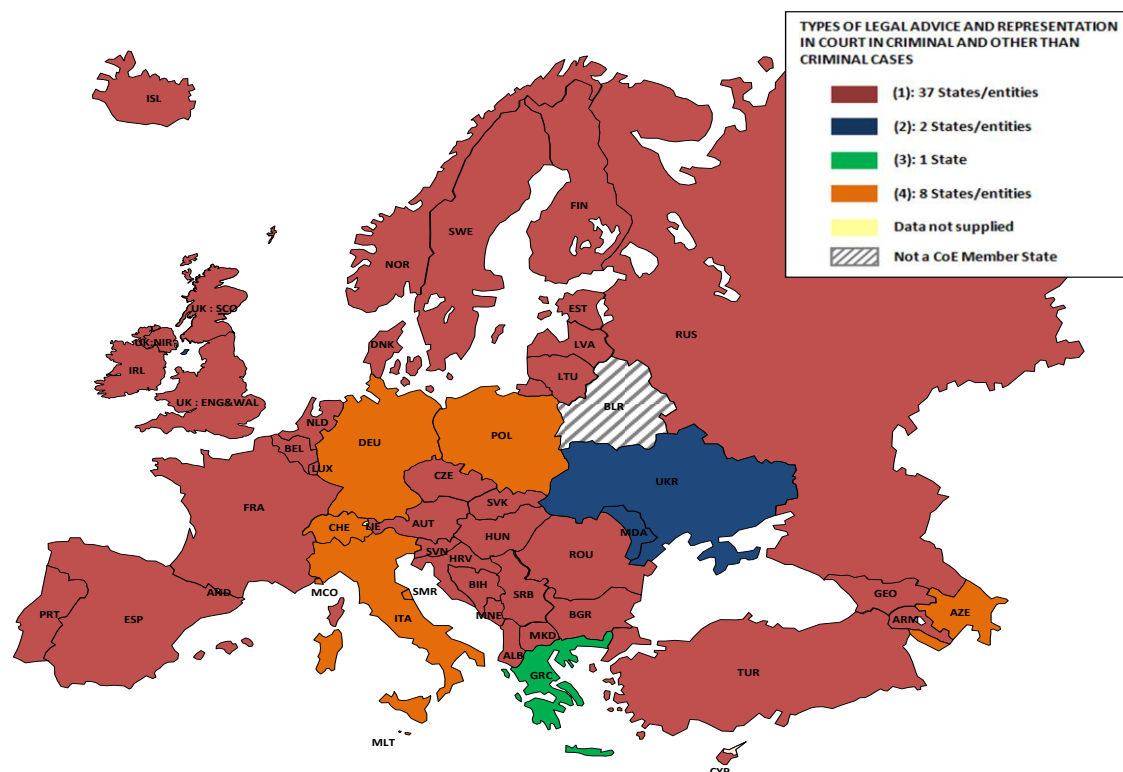
Switzerland: data extrapolated to the national level from the data provided by 20 cantons out of 26.

Turkey: there is a dual system of legal aid: in criminal law cases, only courts are authorized to provide legal aid, while in civil law disputes the bar can also provide legal aid. The amounts provided both by courts and by the bar have been indicated here.

In the majority of member states, legal aid is provided for legal representation, legal advice or other forms of (legal) assistance.

On the basis of the replies received, it is possible to arrange the member states in four distinct categories (from the lowest level – legal aid only in criminal matters, to the widest range of legal aid – legal advice and representation in criminal and non-criminal cases (including other forms of legal aid). The following figure and table lay out the categories.

Figure 3.2 Types of legal aid in criminal and other than criminal cases (Q16)



(1) [Representation in court + legal advice] in [criminal + other than criminal cases]. This category includes a large share of the states or entities (37 out of 48 which were able to provide information for this question). Thus, more than three quarters of the states or entities widely grant legal aid to cover the users' needs.

(2) [Representation in court + legal advice] in [criminal cases] + [representation in court] in [other than criminal cases]. 2 states (**Republic of Moldova, Ukraine**).

(3) [Representation in court] in [criminal cases] + [Representation in court + legal advice] in [other than criminal cases]. **Greece** is the only state where more types of legal aid are made available in other matters than in criminal matters.

(4) [Representation in court] in [criminal + other than criminal cases]. 6 states grant legal aid only for the representation in court, but both in criminal and non-criminal cases: **Azerbaijan, Italy, Malta, Monaco, Poland, San Marino, Switzerland**.

Legal aid can be restricted to particular categories of users. In **Greece**, for instance, legal aid is restricted to European Union citizens or citizens of third countries provided that the users are residents of a European Union member state (with some exceptions for certain administrative cases).

In criminal matters, legal aid can be limited to a specific public institution such as the State Advocate who can defend the accused persons (**San Marino**). It can also be more or less granted for the whole or a part of criminal procedure (legal aid can be granted for pre-trial investigation in **Estonia, Ukraine**, for instance) or for more or less broad categories of parties in the proceedings (for instance, legal aid can be granted to victims of offences in **France, San Marino or Sweden**). The state can also bear the costs of the proceedings when the accused person is acquitted (**Iceland**).

Outside the criminal law field, legal aid can be more or less granted according to the types of cases concerned. Several states grant legal aid in the main legal fields such as the civil law field or the administrative law field (**Estonia, France**). In some member states the scope of cases which can carry entitlement to legal aid is more limited: thus, for instance, legal aid is restricted to some administrative law cases involving mandatory psychiatric treatment or legal incapacity (**Georgia, Republic of Moldova**), or cases regarding media campaigns where public interests are at stake (**Albania**).

Table 3.3 Fees covered by legal aid (Q17, Q18)

States/entities	Legal aid includes the coverage of or the exemption from court fees	Legal aid can be granted for fees that are related to the enforcement of judicial decisions
Albania		
Andorra		
Armenia		
Austria		
Azerbaijan		
Belgium		
Bosnia and Herzegovina		
Bulgaria		
Croatia		
Cyprus		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Georgia		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Latvia		
Lithuania		
Luxembourg		
Malta		
Moldova		
Monaco		
Montenegro		
Netherlands		
Norway		
Poland		
Portugal		
Romania		
Russian Federation		
San Marino		
Serbia		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
The FYROMacedonia		
Turkey		
Ukraine		
UK-England and Wales		
UK-Northern Ireland		
UK-Scotland		
TOTAL	39 states / entities	30 states / entities

In most of the member states and entities, legal aid can take the form of an exemption from court fees. This exemption can be directly considered as part of the legal aid budget when it is financially counted within the state budget allocated to legal aid (**Finland**). In **the UK-England and Wales**, the system does not take the form of court fee exemption but consists in the effective bearing of court fees by the legal aid system. For the

other states, exemption from court fees is an aid which cannot be specifically valued; it is addressed in the chapter on court fees below (see chapter 3.5).

30 states or entities foresee the possibility of granting legal aid as regards the enforcement of judicial decisions.

Some systems enable granting legal aid within the framework of Alternative Dispute Resolution (ADR) or transactional procedures (**Bulgaria, France, the Netherlands, Portugal, Slovakia**)¹⁹.

Legal aid can also consist in bearing the fees of technical advisors or experts in the framework of judicial expertise (**Belgium, Slovenia, Spain**), preparing the documents that are needed to file a judicial proceeding (**Bulgaria, Estonia, Latvia, Lithuania, UK-Scotland**), or bearing (fully or partially) the cost of other legal professionals such as notaries, bailiffs (**Greece, Turkey**) or even private detectives (**Italy**). Travel costs can also be borne by the legal aid system (**Sweden**).

Finally, it is worth pointing out that in 2010 only 2 member states have provided free access to all courts: **France**²⁰ and **Luxembourg**. This generalised access to court must be kept in mind when comparing the legal aid budgets of these states with the budgets of other states which also draw revenues from court fees.

3.2 The budget for legal aid

In chapter 2, data are provided on the budget for legal aid in the member states in absolute figures, per inhabitant and as a percentage of per capita GDP. In addition to this information, it is useful to identify the number of cases (criminal and other than criminal cases) that are supported through legal aid. On this basis, the average amount of legal aid allocated per case can be calculated.

Only 21 states or entities were able to provide data on the number of cases where legal aid had been granted (versus 27 in the previous report, which can be noted as a disappointment for the CEPEJ). It is therefore possible to calculate the average amount of legal aid per case.

¹⁹ See Chapter 6.1.3 below.

²⁰ The legislation changed in 2011: a contribution to legal aid amounting to 35 € was established on 1 October 2011. This contribution aims to complete the funding of legal aid and ensure financial solidarity between users of public service of justice and enables additional funding as regards legal aid. A right has been established for the parties who wish to appeal, as part of the reform of the appeal procedure. It is accompanied by the removal of the obligation for the parties to have a solicitor (*avoué*).

Table 3.4 Number of legal aid cases per 100 000 inhabitants and average amount allocated in the public budget for legal aid per case in 2010 (Q12, Q20)

States/entities	Total number of cases granted with legal aid per 100 000 inhabitants	Criminal cases granted with legal aid per 100 000 inhabitants	Other than criminal cases granted with LA per 100 000 inhabitants	Average amount of legal aid allocated per case	Average amount of legal aid allocated per criminal case	Average amount of legal aid allocated per other than criminal case
Austria	213,1		213,1	1 029 €		
Azerbaijan	63,0	63,0		61 €	61 €	
Bosnia and Herzegovina	185,5	118,1	67,4	829 €		
Bulgaria	567,5	445,4	122,1	93 €	94 €	86 €
Croatia	74,6		74,6	70 €		
Finland	1557,2	697,5	859,7	694 €		
France	1402,3	606,1	796,2	396 €	302 €	468 €
Georgia	226,9	211,5	15,4	107 €		
Germany	862,4		862,4	542 €		421 €
Hungary	80,1	2,8	77,4	38 €		
Ireland	1412,4	1209,5	202,9	1 351 €	992 €	3 493 €
Italy	262,6	170,0	92,6	798 €	845 €	711 €
Lithuania	1452,9	1057,2	395,7	83 €		
Moldova	240,6	240,6		37 €	37 €	
Monaco	1964,8	1616,5	348,4	318 €		
Netherlands	3074,0	774,5	2299,5	701 €	791 €	671 €
Norway	512,8	470,9	41,9			
Portugal	1415,0			343 €		
Slovenia	469,1	68,1	401,0	607 €		
Turkey	127,9	117,2	10,7	855 €	683 €	2 734 €
UK-England and Wales	1286,2	1016,3	269,9	3 551 €	2 396 €	7 899 €
Average	831,0	522,7	397,3	625,1	688,9	2060,5
Median	512,8	445,4	208,0	469,2	682,8	691,2
Maximum	3074,0	1616,5	2299,5	3550,7	2395,7	7899,3
Minimum	63,0	2,8	10,7	36,7	36,7	86,0

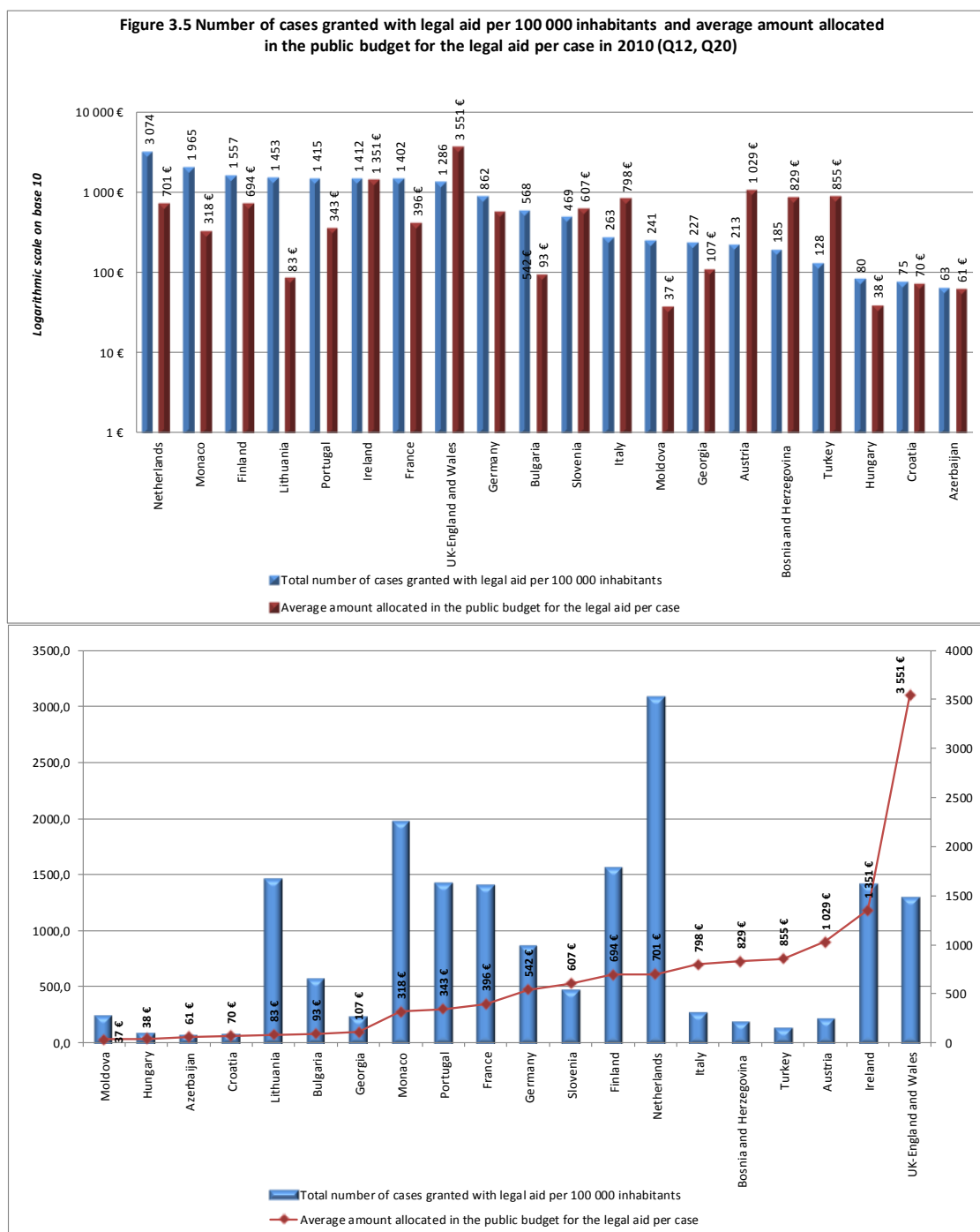
Comments

Austria: the figure for legal aid (8,4 million €) represents only the lump sum paid for legal representation. Court fees, fees for interpreters and experts are not included which are also covered by legal aid, but not indicated separately within the budget.

Finland: part of the expenses for legal aid comes from cases which are not heard before the courts.

Netherlands: part of the expenses for legal aid comes from cases which are not heard before the courts (Legal advice, stand by duty cases). The budget and cases of the Legal Counters (one of the modes of primary legal aid) are not included. The budgets and cases of stand by duty cases concerning the division into criminal and non-criminal law are estimated by assuming that the distribution of assignments between these types of cases is the same within the stand by duty cases.

Turkey: there is a dual system of legal aid: in criminal law cases, only courts are authorized to provide legal aid, while in civil law disputes the bar can also provide legal aid. The amounts provided both by courts and by the bar have been indicated here.



Note: in the figure above, the same data are presented in two various formats so as to enable various levels of analysis. The first figure highlights the number of cases granted with legal aid for 100 000 inhabitants, whereas the second figure stresses more the amount allocated per case concerned by legal aid. The results concern 20 states or entities.

Comments

Austria: the figure for legal aid (8,4 million €) represents only the lump sum paid for legal representation. Court fees, fees for interpreters and experts are not included which are also covered by legal aid, but not indicated separately within the budget.

The Netherlands: the interpretation of the calculated average amount for legal aid per case (= dividing the budget for legal aid in the widest sense by the rather limited number of court cases) should be handled with care for the Netherlands. The Netherlands has a legal aid policy which aims at solving judicial problems of citizens without people going to court. More expenditure for this so called primary legal aid (legal advice, stand by duty cases) contributes to fewer people going to court. As a result the average amount of legal aid per court case will increase. The average amount for a legal aid per court case is € 2.077, while the average amount per legal aid cases (including advice) is € 700. Calculating the total budget for legal aid per court case does not reflect the efficiency and effectiveness of the Legal aid system in the Netherlands.

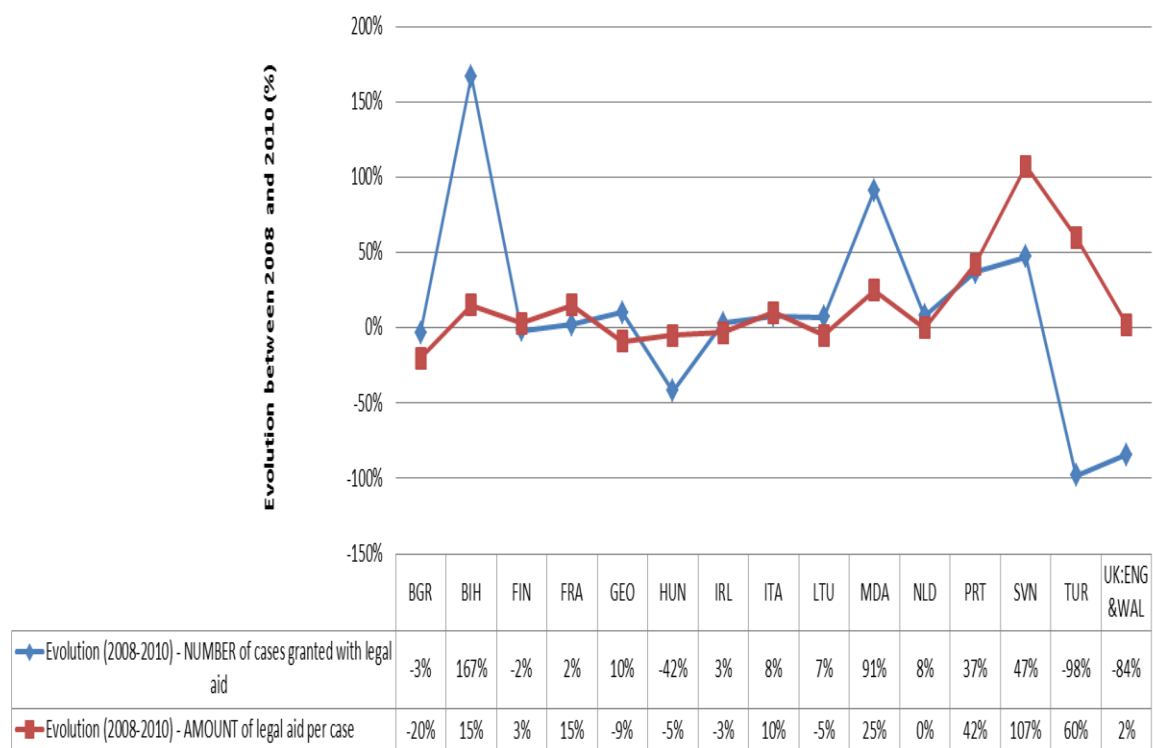
The global legal aid budgets increased by 18 % on average between 2008 and 2010 in Europe, but this increase is not indicative of the significant discrepancies between several groups of states or entities:

- **UK-England and Wales** grant an average of 3 551 € per case
- some other states allocate also a significant amount to legal aid (more than 1 000 € per case): **Ireland, Austria**
- in the group of states which grant 500 € and 1000 € per case **Germany, Slovenia, Finland, the Netherlands, Italy, Bosnia and Herzegovina** and **Turkey** can be named
- several states spend between € 300 and € 500 per case: **Monaco, Portugal, France**
- other states grant slightly more (**Georgia**) or less (**Republic of Moldova, Hungary, Azerbaijan, Croatia, Lithuania, Bulgaria**) than 100 € per case, but the evolution is positive in states where the legal aid systems are being developed since recently.

The amount allocated per case must be taken in conjunction with the level of wealth in the state concerned when analysing this issue more in-depth.

Furthermore, the amounts allocated per case can be fully understood only when considering the volume of cases concerned, which makes more evident the political choices of the states in terms of legal aid. Comparisons can be made on quantity (number of cases concerned) and quality (amount allocated per case). Some states have a low number of cases that can benefit from legal aid but allocate high amounts per case (**Austria, Turkey, Bosnia and Herzegovina, Italy, Slovenia**), whereas other states, on the contrary, have chosen to limit the amounts allocated per case but to open more widely the conditions for receiving legal aid (for example **France, Portugal, Monaco, Lithuania**). Other states are both generous as regards the amounts allocated per case and the number of cases which can benefit from legal aid (**UK-England and Wales, Ireland, the Netherlands, Finland**).

Figure 3.6 Evolution between 2008 and 2010 of the number of cases granted with legal aid and of the amount allocated in the public budget of legal aid per case, in % (Q12, Q20)



In some member states, significant efforts have been made towards the development of legal aid both in terms of quantity and quality: the number of cases granted with legal aid has significantly increased, while the amount of legal aid granted per case increased as well (**Bosnia and Herzegovina, Republic of Moldova, Portugal**), sometimes considerably (**Slovenia**). The same trend can be observed in a more limited way in **France** and **Italy**. In other states, the increase in the number of cases concerned has resulted in a decrease in the share of the budget allocated to a single case (**Georgia, Lithuania, Ireland**). In another group of states, quality has been given priority before quantity: the budget granted per case has increased while the number of cases concerned decreased (**Turkey, England and Wales (UK)**, and to a lesser extent, **Finland**). In **Bulgaria**, the legal aid system is on the decrease both as regards the quantity of cases concerned and the amount granted per case (the same can be noted for **Hungary**, but this is rather virtual as it is mainly due to the evolution of exchange rates).

3.3 Conditions for granting legal aid

For the types of cases eligible for legal aid, which vary according to the states or entities (see paragraph 3.1 above), there are, as a rule, conditions for granting legal aid, which depend on the financial situation of the applicant concerned and/or on the merits of the case.

3.3.1 The merits of the case

The merits of the case or whether the case is well grounded in order to be granted legal aid are irrelevant for criminal law cases. In non-criminal matters, in 11 states it is not possible to refuse legal aid for lack of merit of the case. For the member states of the European Union, Directive 2003/8/CE provides that it is in principle possible to refuse legal aid in other than criminal cases for lack of merit, although **Bulgaria** and **Portugal** seem not to have changed their procedure so far.

The decision to grant or refuse legal aid on the basis of the merit of the case is usually taken by the court (11 states or entities) or by an external authority (15 states or entities), or by a court and/or an external authority (11 states or entities) or by a mixed body composed of judges and non-judges (9 states or entities). The Bar association may be entrusted with such decisions (**Croatia, Turkey**). Prosecutors or the police have such power for the cases in which they have jurisdiction in **Estonia**.

Figure 3.7 Authority in charge to take the decision to grant or refuse legal aid (Q25)

States/entities	Court	Authority external to the court	Mixed decision-making authority (court and external bodies)
Albania			
Andorra			
Armenia			
Austria			
Belgium			
Bosnia and Herzegovina			
Bulgaria			
Croatia			
Cyprus			
Czech Republic			
Denmark			
Estonia			
Finland			
France			
Georgia			
Germany			
Greece			
Hungary			
Iceland			
Ireland			
Italy			
Latvia			
Lithuania			
Luxembourg			
Malta			
Moldova			
Monaco			
Montenegro			
Netherlands			
Norway			
Poland			
Portugal			
Romania			
San Marino			
Serbia			
Slovakia			
Slovenia			
Spain			
Sweden			
Switzerland			
The FYROMacedonia			
Turkey			
Ukraine			
UK-England and Wales			
UK-Northern Ireland			
UK-Scotland			
TOTAL	22	26	9

Comments

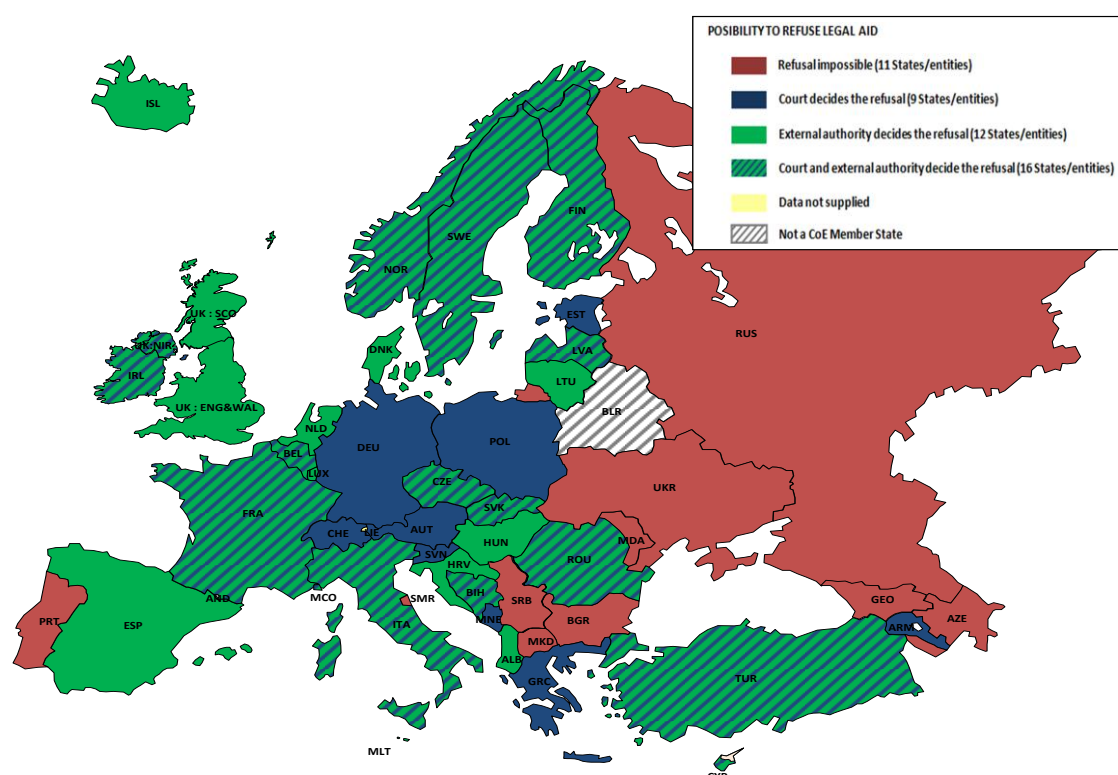
Cyprus: when legal aid is requested, a report is prepared by the welfare office in which the socio-economic status of the applicant is stated. There is no specific amount above which legal aid is refused. However, according to the fund for investors law, legal aid is granted to investors to file an action for the purchase of shares, where their family income does not exceed 20000 Cyp. This aid is not given by the court but is provided from a fund, and is given exclusively to investors.

France: the request for legal aid is studied by the legal aid offices established at each district court, the *Conseil d'Etat*, the Court of cassation and the national Court of asylum rights. These panels are chaired by active or honorary judges and are composed of civil servants and auxiliaries of justice (including at least one lawyer) and one person appointed on behalf of court users. Their decisions are decisions of a judicial administration and can be challenged. Where legal aid had not been granted but the judge decided that the case was well-founded, the court fees and expenses are reimbursed up to a limit of the amount which would have been granted within the framework of the legal aid system according to the level of the applicant's resources.

The Netherlands: the Legal Aid Council is responsible for granting or refusing legal aid.

Switzerland: the specific criteria for the refusal of legal aid is that the action or remedy has no chance of success

Figure 3.8 Possibility to refuse a request for legal aid for lack of merit in other than criminal cases, and authority responsible for granting or refusing legal aid (Q24, Q25)



3.3.2 The level of resources of the parties

In criminal matters as in non-criminal, legal aid is usually granted according to the level of resources of the parties. In the great majority of states and entities, the level of resources is examined on a case-by-case basis (namely in **Bulgaria, Estonia, Malta, Montenegro, Poland, Switzerland, UK-Northern Ireland**). The law can determine the level of legal aid resources to be granted, wholly or partly, (**Belgium, France, Norway, the Netherlands, Romania, Spain, UK-Scotland**) or define specific methods for assessing or calculating the level of resources (**Republic of Moldova, Slovakia, Slovenia**) which can, for instance, depend on the minimum living wage in the country or in a given entity (**Russian Federation**). The level of resources can be assessed by an *ad hoc* body (often the body entrusted with the decision regarding the merit of the case submitted for legal aid; see paragraph above), the court clerk's office or the court (see paragraph above). The maximum level is determined by the Bar association in **Croatia**. In **Turkey**, court users can be granted legal aid upon presentation of a social certificate. The examination of the level of resources can depend on the type of legal aid concerned: in **Latvia**, for instance, there is an examination of resources only for the purpose of granting legal advice but not for that of granting representation in court in criminal matters.

Some states or entities determine the categories of persons who are eligible for legal aid without prior examination of the means of the individuals concerned: categories of socially vulnerable persons (**Andorra, Belgium, Finland, Luxembourg, Turkey, UK-Scotland**), minors or victims of some offences (**France**). Some states do not require preliminary assessment of the financial situation of the parties for specific types of proceedings, such as serious criminal law cases or cases having a serious impact on the integrity of persons (**Norway**), in urgent situations such as police custody (**France, Republic of Moldova**), in the disciplinary field or as regards solitary confinement in prison (**France**). Several states grant access to legal aid without conditions as regards access to their territory (**Belgium**).

In **UK-England and Wales**, where the legal aid system is quite comprehensive, various modalities can be combined: definition of categories of beneficiaries, maximum levels of resources and case-by-case assessment of the circumstances.

More general exceptions can in some instances be required. Thus, legal aid can be granted to persons without taking into account the maximum level of resources, due to case merits or foreseeable costs of the procedure (**France**) or, for member states of the European Union (Directive 2003/8/CE) for cross-border civil and commercial law cases where the parties can prove that they cannot bear the court costs because of the differences in the living conditions in the two states concerned.

In the systems where the state shares the financial and managerial burden of legal aid with the Bar association, when legal aid is refused by the court the parties can turn to the Bar and request the *pro bono* assistance of a lawyer (**Croatia, Czech Republic**).

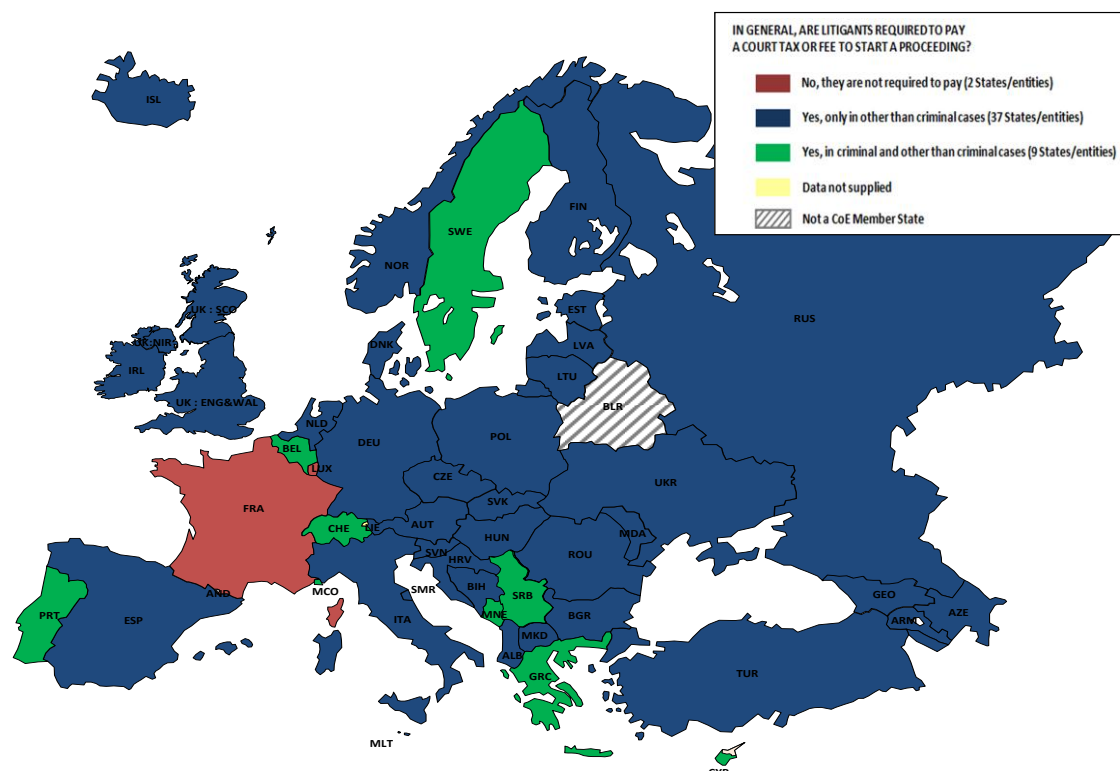
3.4 Court fees, taxes and reimbursement

In almost all the states or entities (42), the parties must pay court taxes or fees to initiate non-criminal law proceedings. Even for some criminal law proceedings, in some states or entities parties must pay court taxes or fees: **Belgium, Cyprus, Portugal, Serbia, Switzerland, UK-Northern Ireland**.

In 2010, only 2 member states provided for a free access to all courts: **France**²¹ and **Luxembourg**. This policy, which aims to facilitating a wide access to courts, must be taken into account when analysing the legal aid policy in these states.

²¹ The legislation changed in 2011: a contribution to legal aid amounting to 35 € was established on 1 October 2011. This contribution aims to complete the funding of legal aid and ensure financial solidarity between users of public service of justice and enables additional funding as regards legal aid. A right has been established for the parties who wish to appeal, as part of the reform of the appeal procedure. It is accompanied by the removal of the obligation for the parties to have a solicitor (*avoué*).

Figure 3.9 General requirements to pay a court fee or tax to initiate a proceeding before a court of general jurisdiction (Q8)



Comments

Greece: free access to all courts applies only to those who have been granted legal aid.

Hungary: fees must be paid in a criminal law case only when there is a private prosecution or for a civil claim.

Portugal: the “assistente”, i.e. the parties claiming damages, have been included in the circle of persons allowed to start proceedings before a court in accordance with the Portuguese Code of Criminal Procedure.

Switzerland: in criminal matters, advance on fees is generally requested at the second-instance level only.

One development facilitating access to justice in European states is related to the growth of private legal expense insurance. Citizens can insure themselves for covering the costs of legal advice, the costs related to court proceedings or obtaining the assistance of a lawyer.

In 34 states or entities the citizens can take out insurance for the cost of judicial proceedings, representation in court or legal advice. The system of private insurance for legal costs does not exist in 14 European states. In this last group, taxes and fees are requested only in non-criminal matters.

Several states indicate that they establish a direct link between the granting of legal aid and the existence of private insurance covering court fees. Public legal aid is not granted when the insurance covers court fees, or only takes into account the part not covered by the insurance (**Denmark, Finland, France, Lithuania, Sweden**).

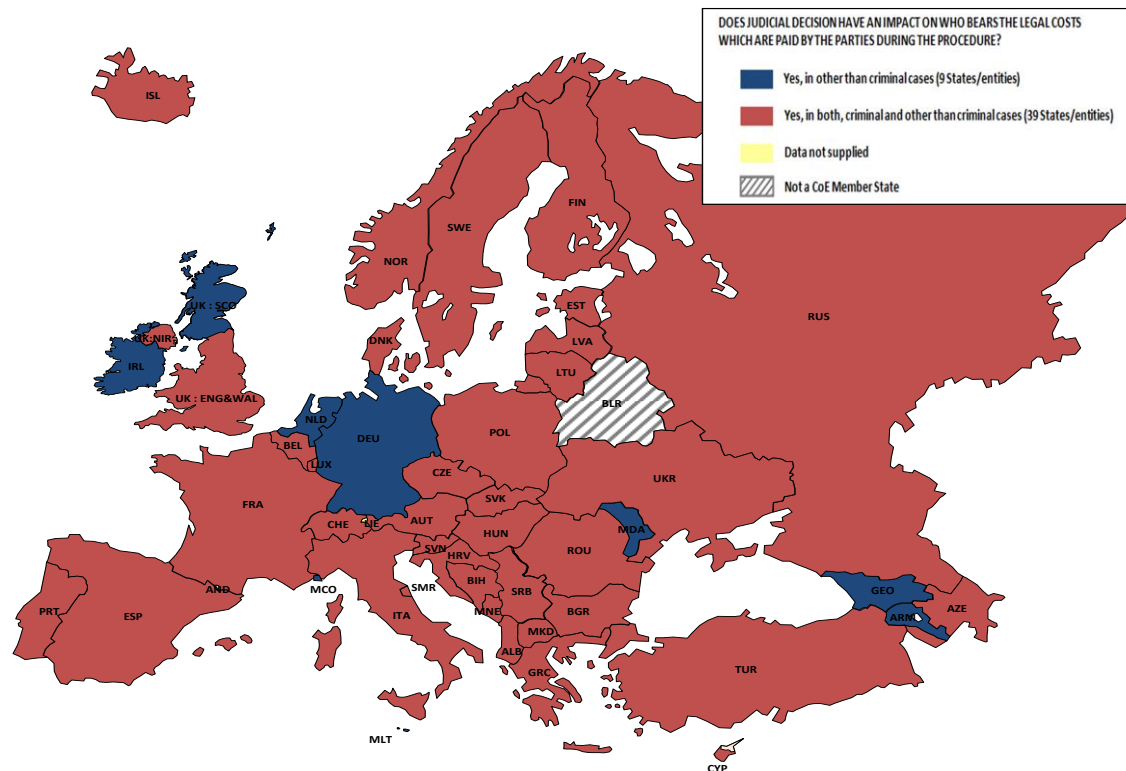
Table 3.10 Private system of legal expense insurance enabling individuals to finance court proceedings (Q26)

Yes (34 States/entities)	No (14 States/entities)
Albania	Armenia
Andorra	Bosnia and Herzegovina
Austria	Bulgaria
Azerbaijan	Ireland
Belgium	Latvia
Croatia	Malta
Cyprus	Moldova
Czech Republic	Montenegro
Denmark	Romania
Estonia	Russian Federation
Finland	San Marino
France	Serbia
Georgia	The FYROMacedonia
Germany	Turkey
Greece	
Hungary	
Iceland	
Italy	
Lithuania	
Luxembourg	
Monaco	
Netherlands	
Norway	
Poland	
Portugal	
Slovakia	
Slovenia	
Spain	
Sweden	
Switzerland	
Ukraine	
UK-England and Wales	
UK-Northern Ireland	
UK-Scotland	

The costs of judicial proceedings do not only consist of the costs of legal representation, legal advice, court fees/court taxes, but may also include costs to be paid by the losing party. This can include compensation, costs related to the damage caused or all the legal costs that were engaged by the successful party.

The court costs must usually be reimbursed by the losing party or when the criminal court decides that the party is not guilty. In all the responding states or entities (48), the decision of the judge has an impact on who bears the legal costs in cases other than criminal. The judicial decision does not have any effect on the liability for the costs in criminal cases in: **Armenia, Georgia, Germany, Ireland, Malta, Republic of Moldova, Monaco, the Netherlands, UK-Scotland.**

Figure 3.11 Impact of the judicial decision on who bears the legal costs paid by the parties during the procedure (Q27)



3.5 The revenues of the judicial system

With the exception of the 2 states which apply the principle of free access to courts (**France**²², **Luxembourg**), a part of the budget of the judicial system in all states and entities comes from court fees and taxes, in varying proportions.

²² The legislation changed in 2011: a contribution to legal aid amounting to 35 € was established on 1 October 2011. This contribution aims to complete the funding of legal aid and ensure financial solidarity between users of public service of justice and enables additional funding as regards legal aid. A right has been established for the parties who wish to appeal, as part of the reform of the appeal procedure. It is accompanied by the removal of the obligation for the parties to have a solicitor (*avoué*).

Table 3.12 Annual amount of court fees (or taxes) received by the state and the approved allocated budget for the courts (Q6, Q9)

States/entities	Total annual approved budget allocated to the courts	Annual income of court fees (or taxes) received by the State	Share of court fees (or taxes) in the court budget
Albania	10 552 685	1 593 407	15,1%
Andorra	5 803 340	NA	
Armenia	11 285 536	NAP	
Austria	NA	779 840 000	
Azerbaijan	40 315 230	779 988	1,9%
Belgium	NA	34 408 250	
Bosnia and Herzegovina	75 206 736	26 576 744	35,3%
Bulgaria	112 211 184	58 354 136	52,0%
Croatia	211 304 301	25 168 311	11,9%
Cyprus	33 546 827	9 802 960	29,2%
Czech Republic	346 497 809	37 452 793	10,8%
Denmark	216 795 693	95 933 236	44,3%
Estonia	26 797 340	12 909 414	48,2%
Finland	243 066 350	31 284 003	12,9%
France	NA	NAP	
Georgia	16 214 854	NA	
Germany	NA	3 515 706 357	
Greece	NA	141 950 000	
Hungary	259 501 133	11 217 800	4,3%
Iceland	7 413 547	NAP	
Ireland	148 722 000	47 325 000	31,8%
Italy	3 051 375 987	326 163 179	10,7%
Latvia	36 919 820	17 650 016	47,8%
Lithuania	50 567 945	6 950 880	13,7%
Luxembourg	NA	NA	
Malta	10 260 000	6 702 000	65,3%
Moldova	8 472 063	NA	
Monaco	3 805 800	NA	
Montenegro	19 943 898	6 239 721	31,3%
Netherlands	990 667 000	190 743 000	19,3%
Norway	207 841 410	21 736 632	10,5%
Poland	1 365 085 000	530 161 000	38,8%
Portugal	528 943 165	217 961 874	41,2%
Romania	355 246 737	46 177 039	13,0%
Russian Federation	2 912 743 823	426 511 157	14,6%
San Marino	5 420 165	2 700 390	49,8%
Serbia	111 016 635	85 137 114	76,7%
Slovakia	138 493 788	57 661 794	41,6%
Slovenia	178 158 919	50 858 000	28,5%
Spain	NA	173 486 000	
Sweden	557 260 358	4 469 274	0,8%
Switzerland	916 146 809	276 870 194	30,2%
The FYROMacedonia	28 541 751	10 100 403	35,4%
Turkey	NA	525 138 372	
Ukraine	264 262 150	9 174 192	3,5%
UK-England and Wales	1 182 000 000	394 600 000	33,4%
UK-Northern Ireland	83 154 000	34 556 372	41,6%
UK-Scotland	146 420 820	26 681 850	18,2%
Average			28,3%
Median			29,7%
Minimum			0,8%
Maximum			76,7%

The amount of these court fees and taxes can vary according to the complexity of the case and the disputed amount.

Most of the states and entities provide for exemptions on court fees. In many states or entities, such exemption is automatic for those persons entitled to legal aid (**Czech Republic, France, Luxembourg,**

Monaco, Norway, "the former Yugoslav Republic of Macedonia", UK-Northern Ireland) (see chapter 3.1 above). Exemptions from court fees can concern categories of vulnerable persons such as those in receipt of welfare support/social benefits (**Andorra, Belgium, Croatia, Finland, Turkey, UK-Scotland**), disabled persons, invalids and war victims (**Bosnia and Herzegovina, Croatia, Estonia, Ukraine**), or minors, students, foreigners – subject to reciprocity (**Bosnia and Herzegovina**). Public bodies can be exempted (**Bulgaria, Croatia, Estonia, Lithuania**) as well as NGOs and humanitarian organisations (**Bosnia and Herzegovina, Croatia, Portugal, Ukraine**) such as the Red Cross (**Bulgaria**).

In the majority of member states, the exemption from court fees is also aimed at specific cases, for instance some civil procedures (**Albania**), procedures related to the defence of constitutional rights and values (**Portugal**), administrative law (**Bulgaria, Estonia**), labour law and/or social law (**Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Italy, Lithuania, Republic of Moldova, Poland, Romania, Slovenia, Switzerland**), family or juvenile law (**Finland, Ireland, Italy, Lithuania, Republic of Moldova, Norway, Spain, Poland, Portugal, Romania**), civil status (**Spain**), agriculture (**Italy**), taxes (**Portugal**), electoral law (**Romania**) or as regards house rentals (**Switzerland**).

Some states require that court fees be paid only at the end of the proceedings (**Finland**). Exemption from court fees can also take the form of free notices in legal journals (**Spain, Turkey**).

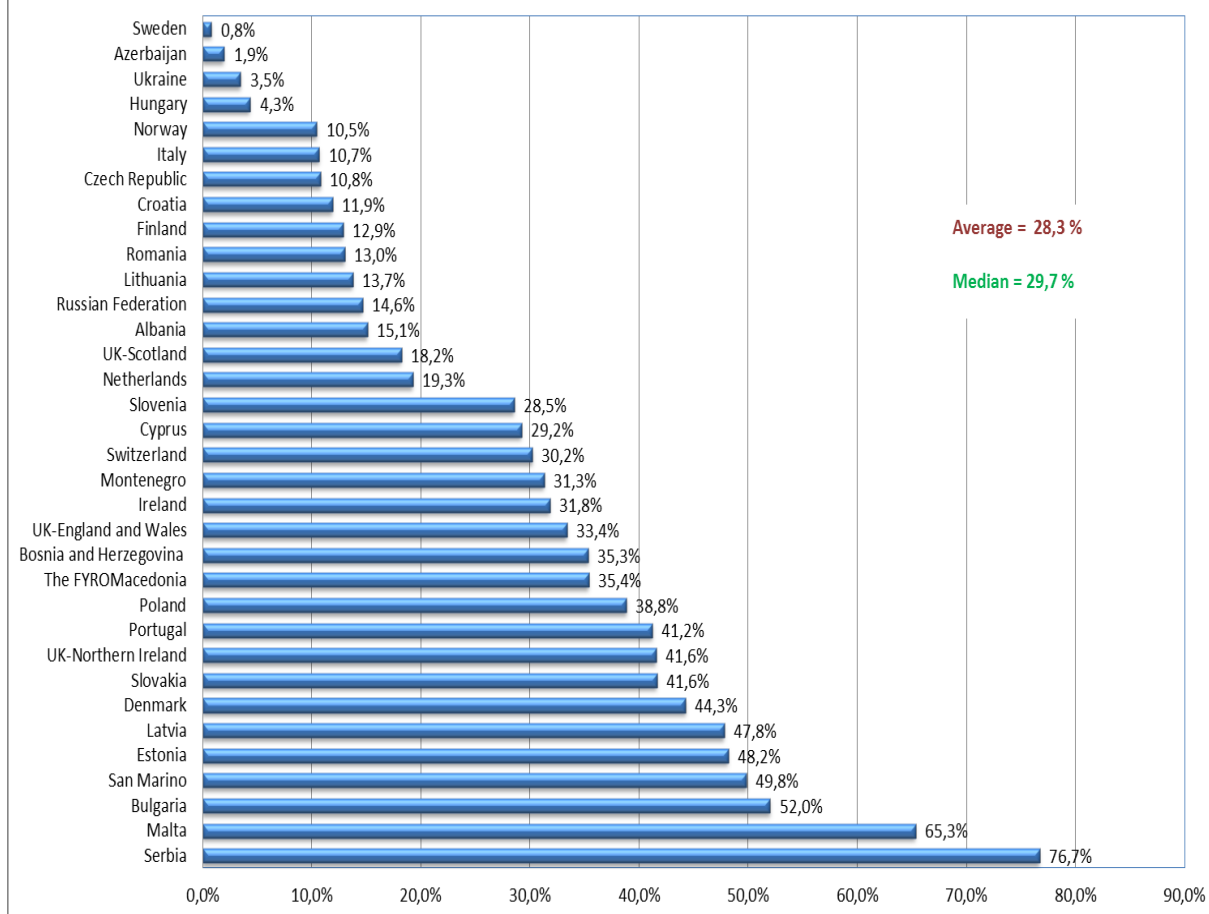
In certain states or entities, court fees or court taxes are used to cover the operational costs of courts. These states or entities have chosen to generate a certain level of income for the courts. When the annual revenue from court fees or court taxes received by states or entities is compared with the budget allocated to courts, it can be noted that in some member states or entities this revenue is almost equal to (**Portugal, UK-Northern Ireland, Slovakia, Denmark, Latvia, Estonia, San Marino**) or even exceeds (**Bulgaria, Malta, Serbia**) a half of the budget allocated to courts. In other member states this revenue represents around one-third of the court budget (**Slovenia, Cyprus, Switzerland, Montenegro, Ireland, UK-England and Wales, Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Poland**). However, in the majority of states where court fees or court taxes are applied, these receipts are not "earmarked" for the payment of the costs related to the operation of courts but are defined as general revenue for the state or regional budget.

To a large extent, the high level of court fees can be explained by the fact that courts are responsible for the land registers. Fees are charged for retrieving information from these registers or for recording modifications. In three of such states (**Austria, Germany and Poland**), revenues are also generated through business registers. For **Italy** and **the Netherlands** there is no clear relationship between court fees and registers. It is possible that in these states – and in other states as well – court fees are only connected with judicial proceedings (and not with registration tasks).

In **Austria**, generally, court users have to pay a certain fee for most of the judicial services. The level of court fees depends on the type and complexity of a case as well as on the value of the claim. The corollary of this system is the existence of a developed legal aid system: accessing justice and court registries has a cost, but if the users do not have proper financial means to do so, access to courts is not denied to them owing to legal aid.

A high degree of standardization and computerization of the judiciary and the use of "Rechtspfleger", especially in the branches with a high numbers of cases (land registry, business registry, family law, enforcement cases, and payment orders), enable courts to keep the costs low and allow the revenue (derived from court fees) to be distributed to other parts of the court system (for example, criminal proceedings).

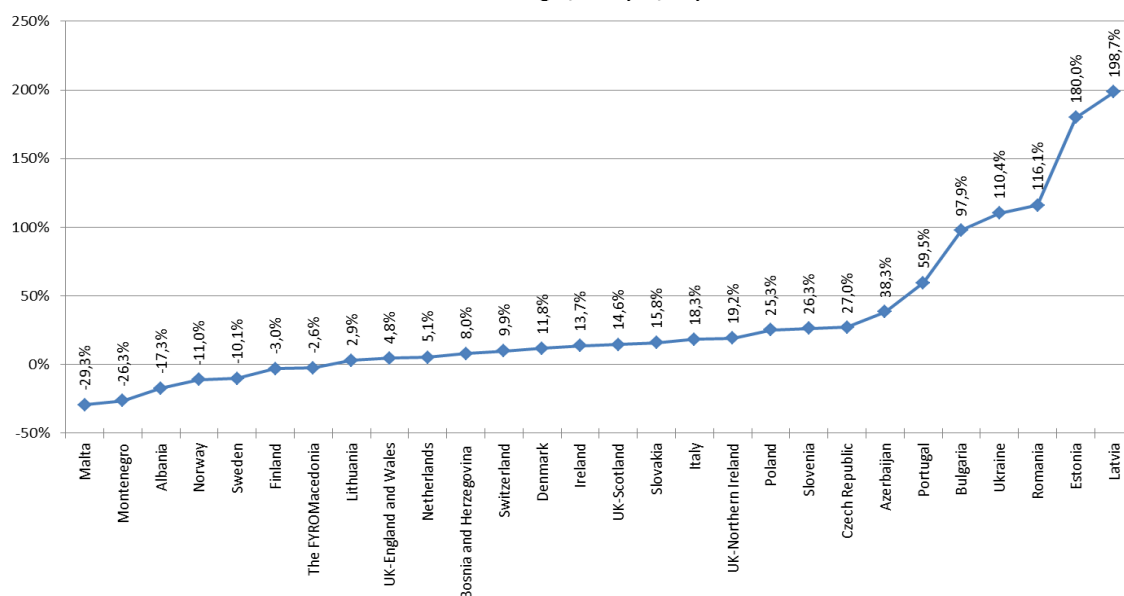
Figure 3.13 Share of court fees (or taxes) in the court budget (as receipts) in 2010 (Q6, Q9)



Comments

Courts in **France** and **Luxembourg** do not generate revenue from court fees, as they apply in 2010 the principle of free access to court.

Figure 3.14 Evolution between 2008 and 2010 of the share of court fees (or taxes) in the court budget, in % (Q6, Q9)



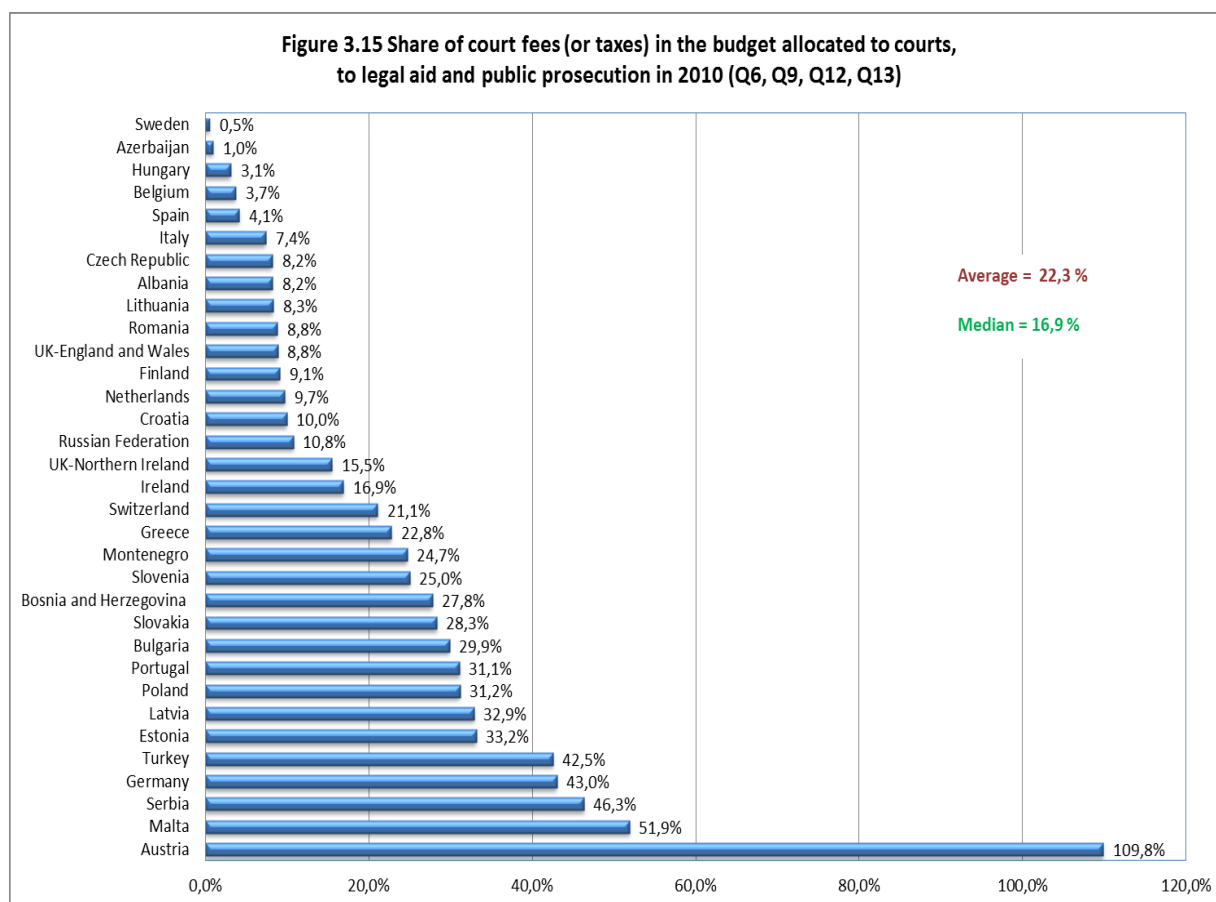
Comments

Latvia: the increase in the annual income from taxes or fees received by the state is due to the fact that number of court cases increased, especially during 2009-2010.

Slovenia: the difference in the annual income from taxes or fees received by the state is the consequence of the increase in the number of incoming cases and the change in the Court Fees Act (some court fees are set in accordance with the disputed value).

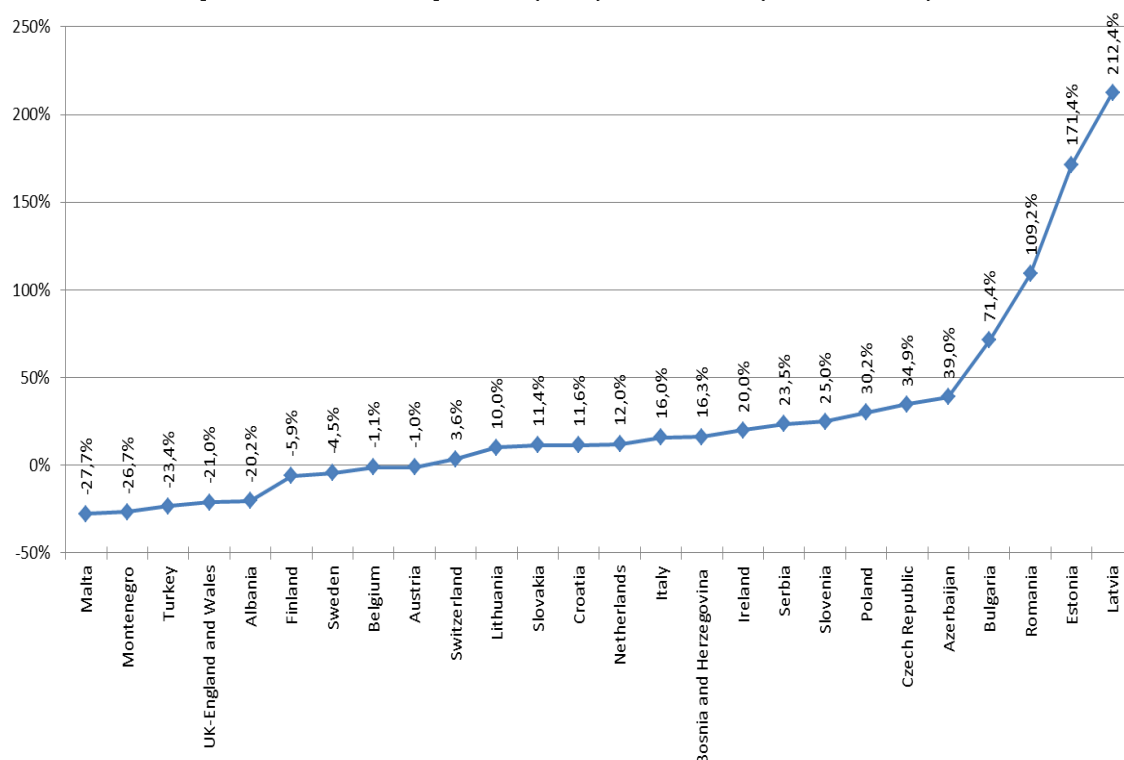
The analysis of the evolution of the courts' financial receipts resulting from court fees shows an increasing trend in the majority of states or entities (21) for which data is available (28). The fluctuation of the exchange rates vis-à-vis the euro can certainly technically account for a part of this phenomenon in **Azerbaijan, Czech Republic, Poland**. However the increase in the number of incoming cases also explain such variations (for instance in **Latvia, Slovenia**), as well as changes in the legislation (**Slovenia**) or variation of economic indicators to which court fees are attached (**Turkey**). But generally speaking, it can also be noted that this trend was a negative one in the previous periods analysed. Therefore it could be thought that confronted with the economic and financial crisis, more and more states have chosen to review the way they distribute this burden between court users (who are requested to participate more in the funding of the system) and tax payers. This is in particular true for **Latvia, Estonia, Romania, Ukraine** and **Bulgaria** which have more than doubled the participation of the court users in the financing of the justice system since 2008. This strong European trend can be confirmed by the fact that only few states experienced a decreasing trend in the revenues perceived by the judicial system from court fees: **Malta, Montenegro, Norway, Sweden, Finland, "the former Yugoslav Republic of Macedonia"** (the decrease observed for Albania is due to the fluctuation of the exchange rate), and in a limited way compared to the increases.

Assuming that revenues perceived by the state from taxes and other judicial fees can be used to fund the judicial system beyond the sole operation of the courts, the CEPEJ has chosen to observe the same phenomenon reported in the total budget of the judicial system (court operating, legal aid and public prosecution services).



In addition to the observations outlined above which remain relevant, it may be noted here that **Austria** (which has not been able to isolate the court budget and therefore is not included in the analysis above) more than self-finances its judicial system through the fees collected from users: it makes a profit.

Figure 3.16 Evolution between 2008 and 2010 of the share of court fees (or taxes) in the budget allocated to courts, legal aid and public prosecution, in % (Q6, Q9, Q12, Q13)



3.6 Trends and conclusions

For a relevant analysis of the legal aid policies implemented, a (non-exhaustive) set of elements should be considered that constitute the system of access to justice:

- *The level of fees and taxes linked to judicial proceedings.*

Payment of court fees is now characteristic of the whole Europe, since **France** has chosen to abandon the system of free access to courts as from 2011.

For a majority of European states and entities, and ever more, the court fees constitute a significant financial resource, allowing some to cover a major part of the court operating costs, or even to generate a net profit. Such a system, if accompanied by an effective legal aid system for enabling access to court to litigants who would not have sufficient means otherwise, is part of the current strong trend of public policy aimed at partly balancing the costs of public services borne by the users and the tax payers.

However, in this regard, it is important to distinguish, on the one hand, fees for obtaining information, making or modifying entries in land or commercial registers, and, on the other hand, the costs of judicial proceedings. Regarding this last aspect, it is important for ensuring an effective access to justice that the court fees do not become an obstacle for citizens for initiating judicial proceedings.

The level of fees may be directly related to the overall costs of judicial proceedings or the type of case (for instance, in **UK-England and Wales**, the level of court fees is linked to the operational costs of court proceedings). Land and commercial registries can be part of the public service falling within the courts' responsibility. But again, the levels of fees required to access land (or commercial) registers should not represent an obstacle for the citizens requiring these services.

- *The amount of public legal aid allocated per case and the number of cases eligible for legal aid (limited either by the legal matter or the procedure concerned or by elements attached to the quality or the level of means of the court users).*

All European states implement public policies aimed at supporting the access to court for the users that otherwise would not have the necessary resources. This applies universally to criminal cases, and a positive trend is observed as regards non-criminal cases: on the whole, the budgets allocated to legal aid in Europe are on the increase (+ 18 % since the previous exercise).

Another positive trend can be highlighted over the two last years, despite the fact that in each member state taken separately there are significant differences in the quantitative and qualitative development of the legal aid. With regard to all European states scrutinised, the budget allocated to legal aid per case increased, while at the same time the number of cases concerned decreased. All in all, in the member states there seems to be a tendency to grant more aid to a smaller number of users: to help less frequently but to help better in some way.

- *The existing arrangements for facilitating access to court out of public assistance (pro bono systems provided by the bar associations, private insurance covering the costs of proceedings).*

The practice of facilitating access to justice in Europe through developing the system of private insurance for covering the costs of judicial proceedings seems to be developing.

- *Statistical data on the number of cases concerned by legal aid and on the budgetary amounts allocated to such legal aid.*

In order to improve the access to justice, it is important that member states of the Council of Europe are in the position to provide accurate information regarding the number of cases concerned by legal aid and the amount of budget allocated to such legal aid.

The number of states or entities that were able to provide such data has decreased compared to the previous study. Member states or entities should be encouraged to develop their statistical systems in this direction.

Chapter 4. Users of the courts: rights and public confidence

The justice system is entrusted with a public service mission to serve the interests of the citizens. Thus the rights of court users must be safeguarded. These rights can be protected and improved in various ways.

One of the means of doing so is to provide them with information not only about relevant legal texts, case law of higher courts, electronic forms and courts, but also concerning the foreseeable timeframes of judicial proceedings as well as assistance and compensation programmes for victims of crimes (Item 4.1).

When court proceedings are introduced, facilities can be provided for certain categories of citizens, in particular vulnerable people such as victims, minors, minorities, disabled persons, etc. (Item 4.2.)

The prosecutor can also play a specific role in protecting the rights and assisting the victims of crimes (Item 4.3).

In criminal proceedings, a compensation procedure can enable a victim of crime or his/her relatives to be compensated (Item 4.4).

Dysfunctions may occur within the courts. Therefore court users must be entitled to means of redress (for instance the possibility of appealing or seeking review or filing a complaint and/or to initiating a compensation procedure) (Item 4.5).

Furthermore, courts may have already introduced a quality control system within their organisation. As a part of this system, court user satisfaction surveys can be conducted (Item 4.6).

This chapter describes the means and procedures implemented by the public services of justice to protect and improve court users' rights.

4.1 Provisions regarding supply of information to the court users

General information

Information is essential for effective access to justice. With the ever-expanding possibilities of the internet, it is very easy to obtain information regarding laws, procedures, forms, documents and courts, from official websites.

Every state or entity has established websites, referencing national legislation, within the Ministry of Justice, Parliament, Official Journal, etc. These websites, such as those providing case law of the higher courts, are often used by practitioners.

Users seeking practical information about their rights or the courts, or directly the forms enabling them to enforce their rights, will make more use of specific websites offered by the relevant courts or those created in their interest by the Ministry of Justice. These "practical" websites are being developed in Europe but currently do not exist in **Andorra, Cyprus, and Romania**. These are mainly small states where it is easy to move directly to the court to gather information.

For additional information on all existing official websites concerning legal texts, high courts' case-law and other documents which can be accessed by the general public, free of charge, see Table in Appendices.

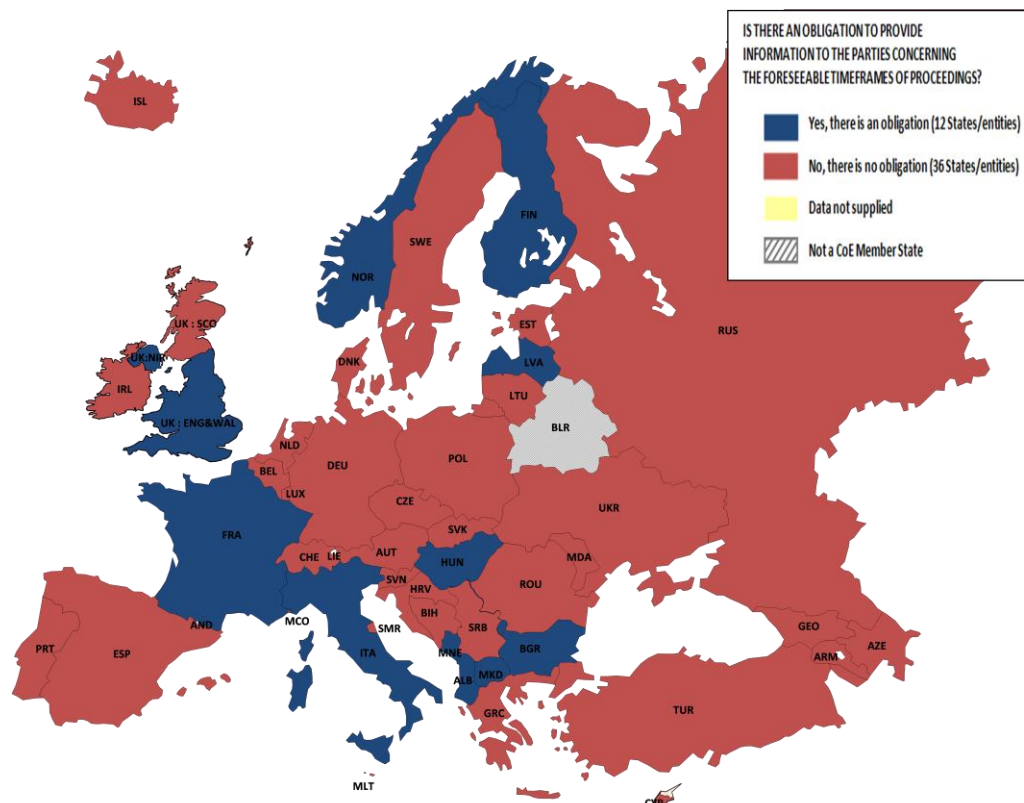
Information on timeframes of proceedings

It is not only important to provide general information on the rights and proceedings via the websites, but also to provide court users with information, in accordance with their expectations, concerning the foreseeability of procedures, i.e. the expected timeframe of a court procedure. This specific information, provided in the interests of the users, but not yet general across Europe, can only be given by states which have experienced an efficient case management system within their jurisdictions.

Factors such as increases in the court case load, the complexity of issues which may require expert opinions and commitment of significant court resources to a case, make this requirement difficult to meet: indeed, it is not easy for the court to provide the parties with a detailed timetable of the proposed procedure or a specific and reliable date for the final hearing. More and more member states (even if the number is still low) are obliged to provide this information. This table illustrates the efforts made by some states to inform the users,

and therefore increase their confidence, rather than the means implemented to limit the lengths of proceedings.

Figure 4.1 Obligation to provide information to the parties concerning the foreseeable timeframes of the proceedings (Q29)



There is no obligation to provide information to the parties concerning the foreseeable timeframes of proceedings in **Andorra, Malta, Monaco and San Marino**.

The 12 states or entities (6 in the previous exercise) which stated having an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings are: **Albania, Bulgaria, Finland, France, Hungary, Italy, Latvia, Montenegro, Norway, UK-England and Wales, UK-Northern Ireland and "the former Yugoslav Republic of Macedonia"**. Some member states also indicate that ongoing reforms are planning to introduce this requirement. This is the case for **Romania**, in the new Civil Procedure Code and the new Criminal Procedure Code, and for **Serbia** in the new Code of Civil Procedure.

This obligation is not necessarily applied the same way in every member state. In **Hungary**, it is only applied to criminal cases. In **Norway**, the procedural rights of victims have been strengthened so that police and prosecutors must provide such information, and especially to certain types of victims (such as of sexual offenses, serious violence, domestic violence, forced marriage, trafficking in human beings or genital mutilations).

This information requirement may also take different forms. **Latvia**, for example, set up since November 2008 a new electronic service called "track court proceedings" free of charge and available online, on which one can follow any Latvian legal procedure. Information is provided, notably on the scheduled hearings.

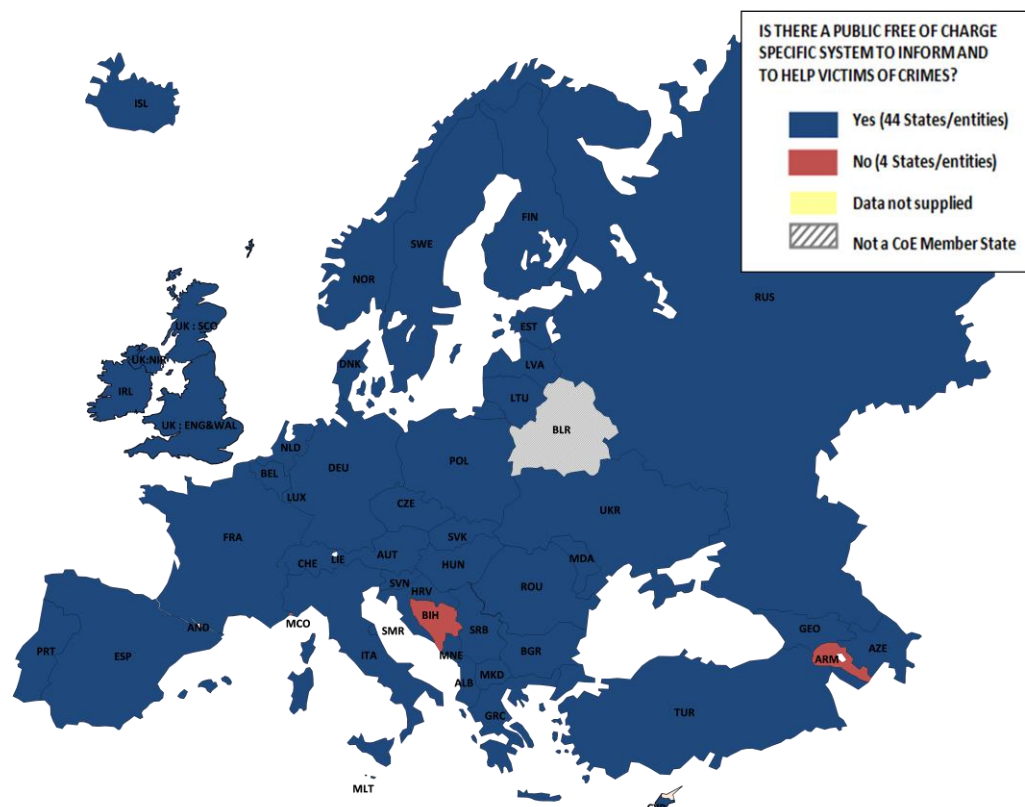
In some states, the obligation to provide information does not exist. However, sometimes they do offer of information on foreseeable timeframes of proceedings. For example, in **UK-Scotland** there is no specific rule or obligation; nevertheless it is usual to do so. **Azerbaijan** set up a unified web-portal (www.courts.az) including all the courts of the country and consisting of detailed information necessary for court users, in particular as regards the foreseeability of judicial timeframes.

Information for victims of crimes

Victims of crime form a category of court users that requires special attention. For victims of criminal offences, the state should establish structures which are known to the public, easily accessible and free of

charge. They should be able to find (practical) information about their (legal) rights and adequate remedies. Most of the member states or entities (43) have set up such structures.

Figure 4.2 Free of charge specific system to inform and to help victims of crimes (Q30)



Andorra and Monaco: No; **Malta and San Marino:** Yes.

There are 4 states (9 in the previous exercise) which have not yet set up a public free of charge specific system to inform and to help victims of crimes: **Andorra, Armenia, Bosnia and Herzegovina and Monaco.**

Such mechanisms, whether set up for victims in general or by categories (victims of rape, victims of domestic violence, children and juveniles, etc.), tend to provide various information (mainly legal advice, psychological counselling or a social support) directly or indirectly by guiding victims to other services or specialized NGOs (for instance in **Belgium, Croatia, Denmark, Finland, France, Portugal**). In concrete terms, member states have set up free telephonic structures (for instance in **Croatia, France, Ireland, Republic of Moldova, Romania**), distribute information leaflets (for instance in **Iceland and Turkey**) or encourage and/or conduct awareness raising campaigns for specific victims (for instance in **Greece, Republic of Moldova and Romania**). Numerous states indicate having established assistance websites or information areas dedicated to victims on ministries' website (in particular **Albania, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Romania, Russian Federation, Slovakia, Sweden, Turkey, Ukraine, UK-Northern Ireland, UK-Scotland**).

4.2 Protection of vulnerable persons

For vulnerable persons (victims of rape, terrorism, children witnesses/victims, victims of domestic violence, ethnic minorities, disabled persons, juvenile offenders), special mechanisms may be used to protect and to strengthen their rights during court proceedings. There are different ways to do so, for example, by introducing specific information mechanisms (telephone hotlines, websites, leaflets, etc.) for the various vulnerable groups. Another possibility is the use of special hearing procedures. For example, minors can be protected by holding *in camera* court sessions. Victims of certain crimes can be protected during a court hearing by making use of a one-way screen. Specific procedural rights can also strengthen the status of vulnerable persons. For ethnic minorities this can be related to the use of court interpreters and the possibility to speak in their own language.

Table 4.3 Special favourable arrangements applied during judicial proceedings to certain categories of vulnerable persons (Q31)

The table presented above is based on the following color code:

Victims of rape
Victims of terrorism
Children (witness/victims)
Victims of domestic violence
Ethnic minorities
Disabled persons
Juvenile offenders
Other

States/entities	Information Mechanism								Special hearing modalities								Other special arrangements								Total (cumulated possibilities)	
Albania																										16
Andorra																										7
Armenia																										8
Austria																										24
Azerbaijan																										16
Belgium																										12
Bosnia and Herzegovina																										9
Bulgaria																										16
Croatia																										16
Cyprus																										16
Czech Republic																										4
Denmark																										8
Estonia																										16
Finland																										11
France																										17
Georgia																										18
Germany																										8
Greece																										7
Hungary																										6
Iceland																										21
Ireland																										10
Italy																										7
Latvia																										10
Lithuania																										6
Luxembourg																										9
Malta																										10
Moldova																										10
Monaco																										12
Montenegro																										8
Netherlands																										18
Norway																										16
Poland																										11
Portugal																										15
Romania																										22
Russian Federation																										8
San Marino																										7
Serbia																										16
Slovakia																										21
Slovenia																										10
Spain																										15
Sweden																										8
Switzerland																										6
The FYROMacedonia																										15
Turkey																										18
Ukraine																										5
UK-England and Wales																										13
UK-Northern Ireland																										8
UK-Scotland																										11
Total number of countries	31	19	36	31	17	22	28	16	45	26	47	31	22	36	43	18	16	10	23	15	8	14	19	8		Average : 12 possibilities

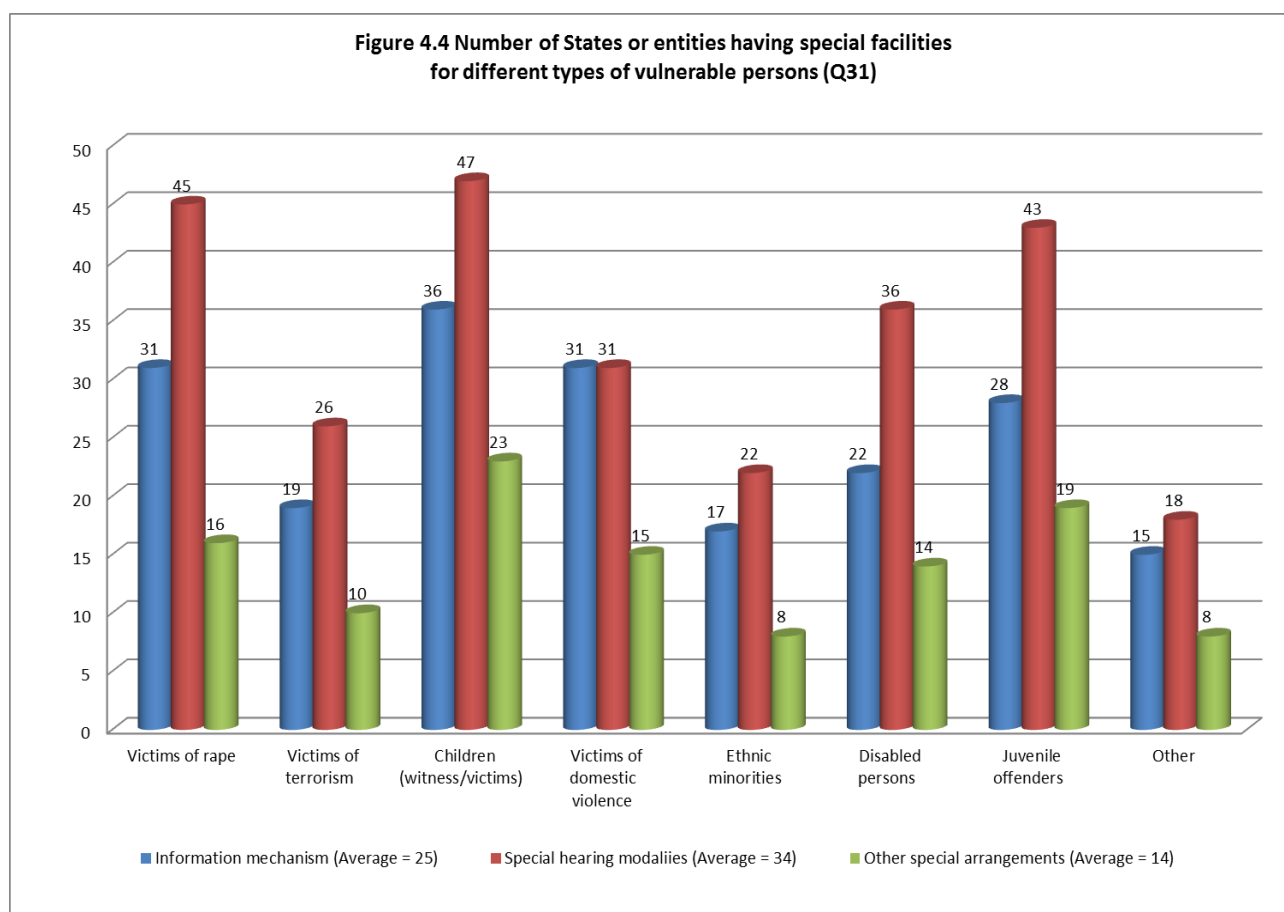
This table gives a comprehensive picture of all existing specific rules during legal proceedings according to categories of vulnerable persons for all the states involved in this cycle.

There has been a global increase in favourable and particular procedures applicable during judicial proceedings for vulnerable persons. The measure that is the most used for vulnerable persons concerns the manner in which hearings are conducted, especially for children victims (every member state having participated in the evaluation exercise have such procedures), victims of rape and juvenile offenders. Information mechanisms are also more and more used, although some states indicate that they have no specific information mechanisms at all: **Bosnia and Herzegovina, Italy, Lithuania, Republic of Moldova, Montenegro, Russian Federation, Sweden, Ukraine and UK-Northern Ireland**. Moreover, these states, except **Italy** and **Bosnia and Herzegovina**, indicate having no other specific devices for vulnerable persons.

States or entities having indicated the most specific devices (information mechanisms, special procedures and other information) for vulnerable persons are: **Albania, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Estonia, France, Georgia, Iceland, Netherlands, Norway, Romania, Serbia, Slovakia and Turkey**. On the contrary, states having few specific devices for vulnerable persons are: **Andorra, Armenia, Czech Republic, Denmark, Germany, Greece, Hungary, Italy, Lithuania, Montenegro, Russian Federation, San Marino, Sweden, Switzerland, Ukraine and UK-Northern Ireland**.

States or entities which take into account the greatest number of categories of vulnerable persons to establish specific mechanisms (mechanisms for information and/or special procedures for hearing and/or others) are: **Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Estonia, France, Georgia, Iceland, Montenegro, Netherlands, Norway, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Sweden, "the former Yugoslav Republic of Macedonia", Turkey and UK-Northern Ireland**, with at least one specific mechanism planned for 7 or 8 categories of vulnerable persons.

Finally, a group of states or entities have few special devices for categories of vulnerable persons and victims: **Andorra, Czech Republic, Greece, Luxemburg, San Marino, Switzerland and UK-Scotland**, with the consideration of four or even less categories of vulnerable persons.



Almost all the different mechanisms (information mechanism, particular hearing modalities and others) are widely applied to cases involving children (witnesses and victims) for juvenile offenders and for victims of rape. Several information mechanisms are made available for victims of domestic violence. Particular hearing modalities tend to be developed for disabled persons. Fewer arrangements are planned for victims of terrorism and ethnic minorities. Several states indicate that they do not recognise this last category.

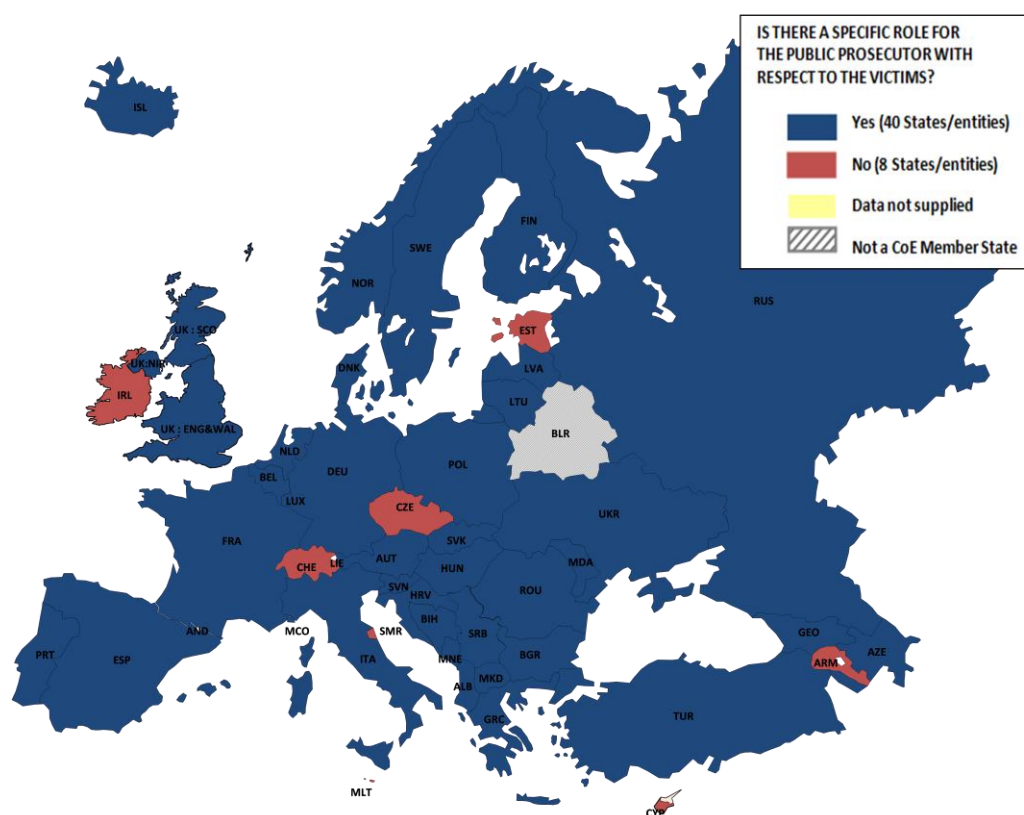
Information mechanisms for all the different categories of vulnerable persons are applied on average in 24 states or entities. The highest average concerns the categories of particular hearing modalities (33 states or entities).

4.3 Role of the public prosecutor in protecting the rights or assisting the victims of crimes

Even if the public prosecutor's role is primarily to represent the interests of society, rather than the interests of victims, the public prosecutor can play a specific role in the protection and assistance of victims during criminal proceedings:

- the public prosecutor can provide victims with information about their rights, in particular to receive compensation (for example in **Austria**, in **Azerbaijan** or in **Portugal**) or information on certain stages of the procedure such as the final decision or the moment when the defendant is released (for example in **Austria** and in **Norway**);
- in many cases, the role of the public prosecutor also includes supporting or introducing civil claims on behalf of the victims (for example in **Andorra**, in **Finland**, in **Spain**), in particular when the victim is not able to do so (for example **Bulgaria**, **Romania**), or making sure the victim receives compensation (for example the **Netherlands**);
- the public prosecutor may also use victims support associations (as in **France**) or have the duty to inform other services (such as social services in **Serbia**).

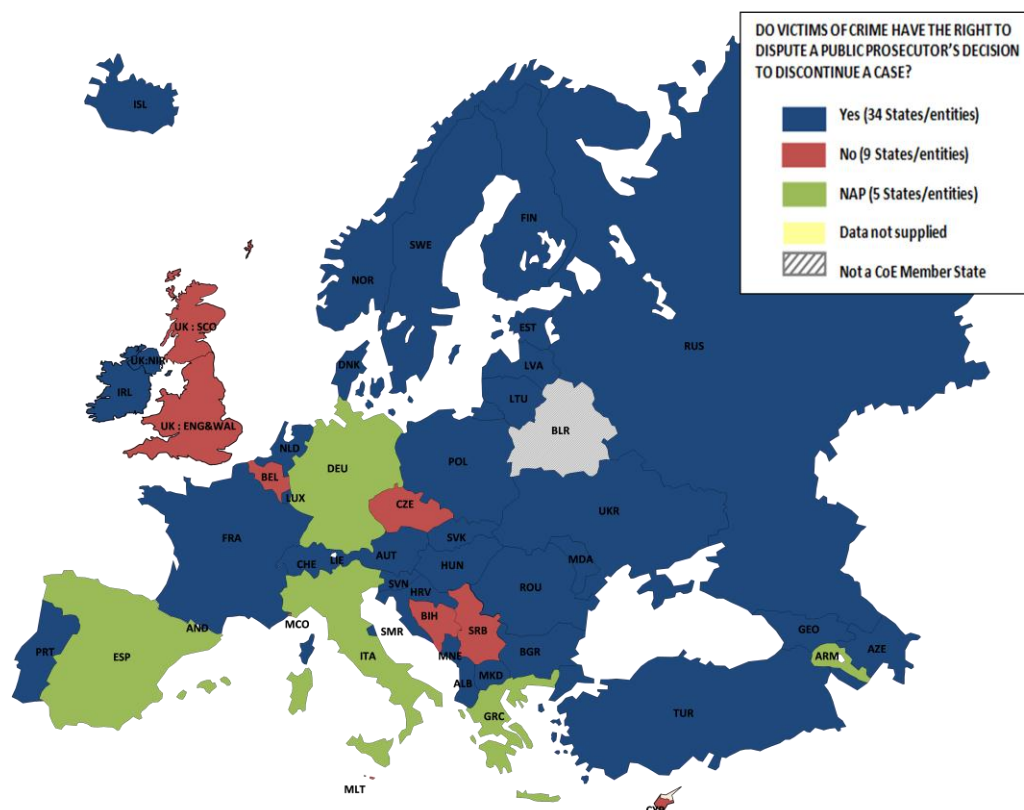
Figure 4.5 Specific role of the public prosecutor with respect to the protection and assistance of victims of criminal offences (Q35)



Andorra and Malta: Yes; **Monaco and San Marino:** No.

40 states or entities have indicated that the public prosecutor has a specific role in relation to victims. This large majority may appear so clearly, as it is difficult to argue that the prosecutor does not have to be concerned about protecting the victims. In comparison with the previous edition of the Report, **Croatia**, **Georgia**, **Germany**, **Montenegro**, **Serbia**, **Slovakia**, and **Ukraine** have indicated a specific role for public prosecutors towards victims. In total, 8 states or entities have indicated that the prosecutor has no specific competences in respect of victims of crime.

Figure 4.6 The right to dispute the public prosecutor's decision to discontinue a case (Q36)



Andorra and **Malta**: No; **Monaco** and **San Marino**: Yes.

Comment

Andorra: the Code of Criminal Procedure does not allow public prosecutors to discontinue a case. There is no principle of discretionary prosecution in this model. However each victim can appeal directly to a judge.

Sometimes, public prosecutors can decide to discontinue a case and to stop criminal investigation procedures: for the states where public prosecutors are free to act as described, there should be a possibility for a victim of crime to contest the decision of public prosecutors (34 states or entities replied that there is a possibility to contest a decision of a public prosecutor to discontinue a case); in the states where such a possibility does not exist, the right of victims to have their case heard is often guaranteed in different ways (for example **Bosnia and Herzegovina** reported the possibility to file a complaint against a prosecutor - in many other countries this is also possible). **Hungary** and **Serbia** mention the possibility (after closing the procedure) of a private request for prosecution. In many states or entities, the victim may also bring a legal action against the responsible if the prosecutor decides to discontinue the case without judgment (in **France**, **Monaco** and **Slovenia** for instance). Finally, in the states where prosecutors do not have the power to discontinue a case without judgment, the victim is often given the right to contest the decision by the judge to discontinue a case (for example in **Spain**).

4.4 Compensation procedures

In criminal proceedings, a compensation procedure can enable a victim of crime or his/her relatives to be compensated. Sometimes there is a special public fund for which a judicial intervention is not requested. In other cases, a judgment is necessary to benefit from such public funds. Only one state (**Greece**) indicates that there is both a private and public mechanism and that sometimes a court decision is required to get compensation.

The table below provides a classification of the states according to whether the compensation procedure consists of private funds, public funds or result from a judicial decision (or a combination thereof). A column is also provided for the states which do not provide compensation procedures: **Andorra** and **Malta** (for this state, a compensation procedure does exist but it cannot be linked to a defined category). These states are an exception at the European level.

Table 4.7 Compensation procedures for the victims of criminal offences (Q32, Q33)

Public fund, Private fund & damages to be paid by the responsible person (decided by a court decision) 1 State	No compensation 2 States/Entities	Damages to be paid by the responsible person (decided by a court decision) 8 States/Entities	Public fund 10 States/Entities	Public fund & damages to be paid by the responsible person (decided by a court decision) 27 States/Entities
Greece	Andorra	Armenia	Azerbaijan	Albania
	Malta	Bosnia and Herzegovina	Finland	Austria
		Croatia	Germany	Belgium
		Georgia	Lithuania	Bulgaria
		Montenegro	Luxembourg	Cyprus
		San Marino	Poland	Czech Republic
		Serbia	Slovenia	Denmark
		Ukraine	Switzerland	Estonia
			The FYROMacedonia	France
			UK-Scotland	Hungary
				Iceland
				Ireland
				Italy
				Latvia
				Moldova
				Monaco
				Netherlands
				Norway
				Portugal
				Romania
				Russian Federation
				Slovakia
				Spain
				Sweden
				Turkey
				UK-England and Wales
				UK-Northern Ireland

Out of the 48 states or entities which replied, 46 indicated that they have a compensation procedure for victims. Among them, 27 countries or entities have indicated that compensation procedures are based on public funds and require a court decision. Ten states or entities have compensation procedures based on public funds without the need for a court decision. Compensation procedures of 37 states or entities are then provided from public funds.

Studies have been undertaken in 8 states or entities (among the 46 where a compensation procedure exists) to assess the rate of recovery of damages: **Denmark, Finland, France, Hungary, Netherlands, Norway, Poland, and Sweden**. Most of the studies do not specify the exact level of recovery. In **Denmark**, the recovery rate is 2% for 2010. However in **Norway** and the **Netherlands**, a recovery rate of 90% is common (but only in criminal cases, and within three years after receipt by the agency in charge of the compensation for the **Netherlands**). **Switzerland** indicates that 100% of the victims received the sum that the state owed them. In **France**, statistics on the activity of the compensation commissions for victims make it possible to estimate that victims collect almost the entire compensation granted to them. They also show that 40% of the amount owed to victims has been paid in advance.

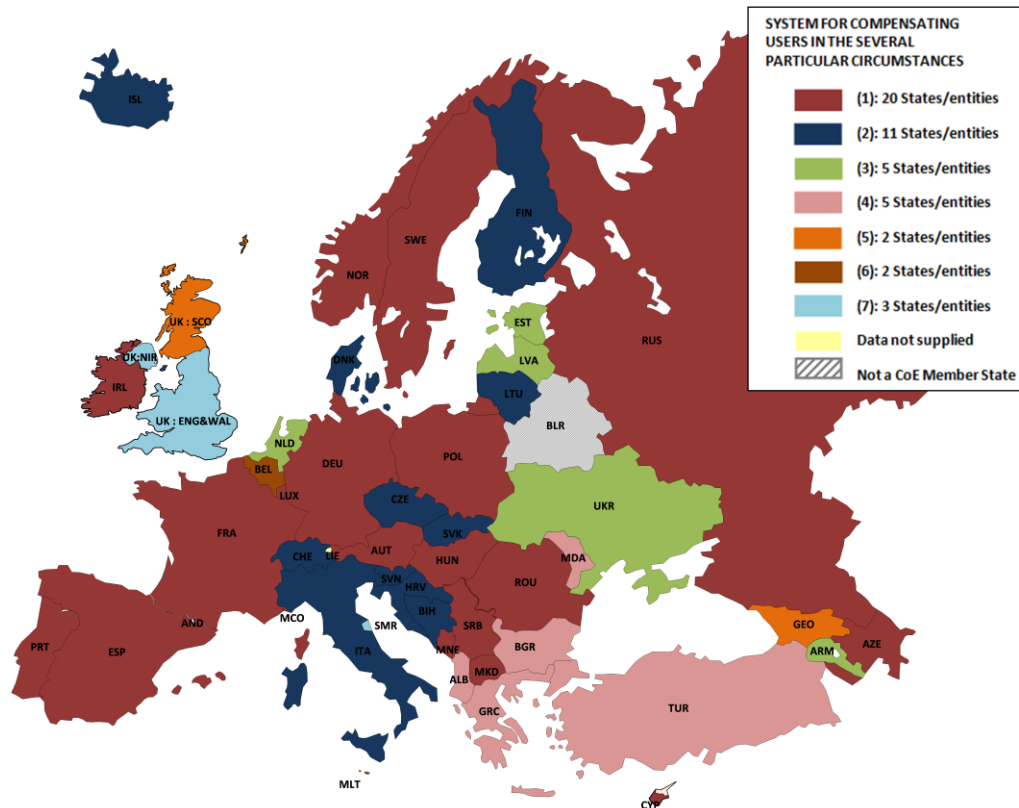
4.5 Compensation of the users for dysfunction of the judicial system and complaints

All court users should have the right to apply to a national court for compensation for the damage he/she has suffered due to a dysfunction of the judicial system. This dysfunction may consist in excessive length of proceedings, non-enforcement of court decisions, wrongful arrest or wrongful conviction.

All the responding states and entities have a compensation mechanism in case of dysfunctions of justice, excepted **UK-Northern Ireland** and **UK-England and Wales**. All have a procedure for wrongful arrest or conviction (excepted, for this last case, for **Belgium, Georgia, Malta** and **UK-Scotland**). Thirty-three states or entities report having compensation procedures for excessive length of proceedings and 25 for the non-execution of court decisions.

Therefore, in case of dysfunctions of the judicial system, several particular circumstances give right to compensation. The table below classifies the states by coloured category depending on whether or not they have taken these circumstances into account.

Figure 4.8 System for compensating users in several particular circumstances (Q37)

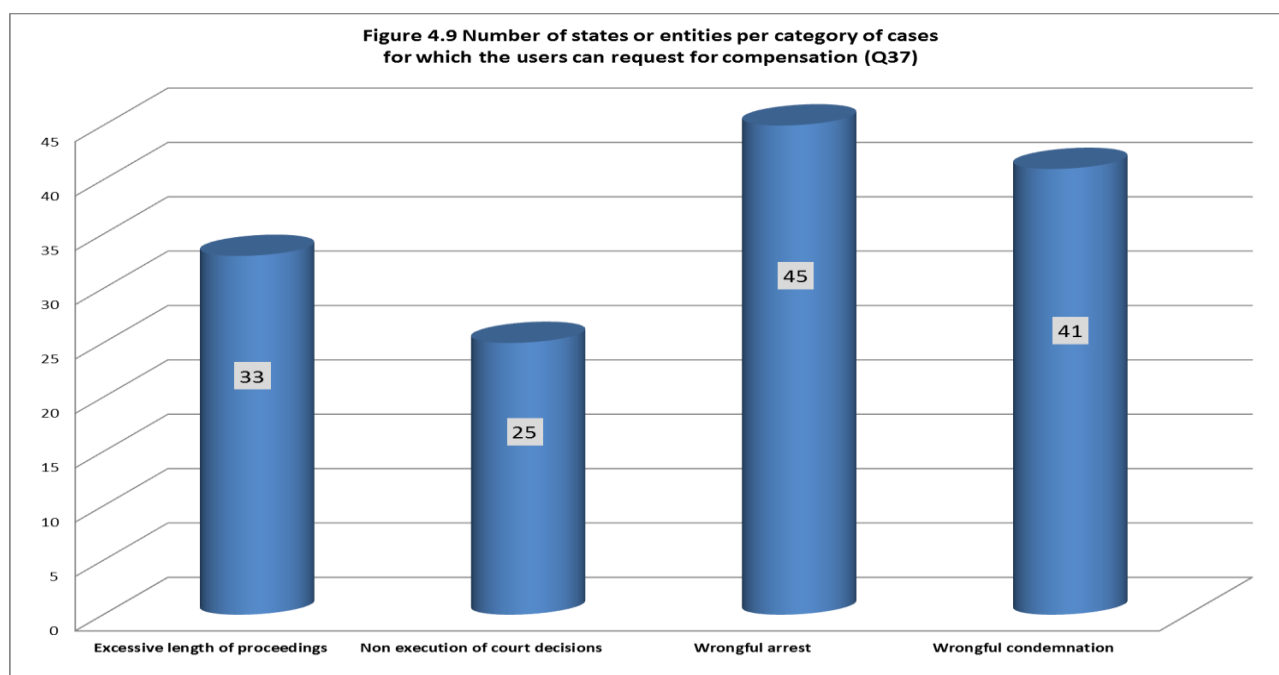


Categories represented according to the colours on the map:

- 20 states or entities have set up a compensation procedure for the **4 circumstances** contained in the questionnaire (a) excessive length of proceedings, (b) non-execution of court decisions, (c) wrongful arrest and (d) wrongful conviction: **Andorra, Austria, Azerbaijan, Cyprus, France, Germany, Hungary, Ireland, Luxembourg, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Spain, Sweden, "the former Yugoslav Republic of Macedonia"** (in dark red on the map).
- 11 states have set up a compensation procedure for the **3** following **circumstances** only (a) excessive length of proceedings, (c) wrongful arrest and (d) wrongful conviction: **Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Finland, Iceland, Italy, Lithuania, Slovakia, Slovenia and Switzerland** (in dark blue on the map).
- 5 states have set up a compensation procedure for the **2** following **circumstances** only (c) wrongful arrest and (d) wrongful conviction: **Armenia, Estonia, Latvia, Netherlands, and Ukraine** (in green on the map).
- 5 states have set up a compensation procedure for the **3** following **circumstances** only (b) non-execution of court decisions, (c) wrongful arrest and (d) wrongful conviction: **Albania, Bulgaria, Greece, Republic of Moldova and Turkey** (in pink on the map).
- In **Georgia** and **UK-Scotland**, the only compensation available is in the category of (c) wrongful arrest (in orange on the map).
- In **Belgium** and **Malta**, compensation is available for the two following categories: (a) excessive length of proceedings and (c) wrongful arrest. In **Belgium**, there is also a possibility to claim compensation for a wrongful pre-trial detention (in brown on the map).
- It was impossible to establish the categories for which compensation is possible in **San-Marino, UK-Northern Ireland** and in **UK-England and Wales** (in light blue on the map).

Comment

Montenegro: before initiating the procedure, it is mandatory to try to conclude with the party concerned an Agreement on the compensation for damages.



The majority of states or entities apply compensations for wrongful arrest and wrongful conviction and close to two thirds for excessive length of proceedings. In almost half of the states or entities, compensation is planned for non-execution of court decisions.

In addition to the possibility of a compensation procedure, in almost all of the responding states or entities (45) there is a national or local procedure for complaining about the functioning (for example the handling of a case by a judge or length of proceedings) of the judicial system. Only in **Ireland**²³, **Monaco** and **UK-Scotland** does such a facility not exist.

Various organs or authorities can be entrusted with the examination and processing of the complaint. It might be the court concerned, a higher court, the Ministry for Justice, the Judicial Council or another external body, such as the ombudsman.

Generally, there are always several bodies to which it is possible to address complaints. In the majority of cases, a court of higher instance is responsible. Specialised courts, the Ministry of Justice or a Council for the Judiciary may also be responsible for dealing with such complaints. The shared configuration of the complaint (a mixed configuration between 2 and 5 authorities) is a recurrent feature.

It is relevant to know if this competent body is also given a timeframe in order to reply to the complaint, as well as to process the complaint. 32 among the 41 states or entities which set up a national complaint system are given a timeframe to reply to the complaint. Apart from **Albania**, **Armenia**, **Croatia**, **Estonia**, **Montenegro**, **Norway**, **Portugal**, **Serbia** and **Sweden**, these states or entities are also given a timeframe to process the complaint. However **Georgia**, **Hungary** and **UK-England and Wales** indicate the existence of timeframes to process with the complaint, but no timeframes for replying.

It is not always easy for a court user to understand whom he/she should contact to complain about dysfunctions of the judicial system. In addition, imposing deadlines to the relevant bodies to reply to the complaint enables dissatisfied users to know that they have been heard. It would also be useful to analyse what are the outcomes of these complaints in order to perform a realistic analysis of the effectiveness of redress procedures with respect to such users.

²³ Draft legislation has recently been published in Ireland (August 2010) which would establish a complaint procedure concerning judicial misconduct.

Table 4.10 Time limits given to the authorities responsible for responding to and dealing with complaints on the functioning of the judicial system (Q41)

Country	Time limit to respond					Time limit for dealing with the complaints					No time limit				
	Court concerned	Higher court	Ministry of Justice	High Council of the Judiciary	Other external bodies	Court concerned	Higher court	Ministry of Justice	High Council of the Judiciary	Other external bodies	Court concerned	Higher court	Ministry of Justice	High Council of the Judiciary	Other external bodies
Albania															
Andorra															
Armenia															
Austria															
Azerbaijan															
Belgium															
Bosnia and Herzegovina															
Bulgaria															
Croatia															
Cyprus															
Czech Republic															
Estonia															
Finland															
France															
Georgia															
Germany															
Hungary															
Iceland															
Italy															
Latvia															
Lithuania															
Luxembourg															
Malta															
Moldova															
Monaco															
Montenegro															
Netherlands															
Norway															
Poland															
Portugal															
Russian Federation															
Serbia															
Slovakia															
Slovenia															
Spain															
Sweden															
Switzerland															
The FYROMacedonia															
Turkey															
Ukraine															
UK-England and Wales															
TOTAL	22	22	16	18	17	18	19	11	18	12	6	8	6	5	3

4.6 Assessment of the satisfaction of users

Information on the level of court users' and court personnel (judges and staff) satisfaction (and trust) in the courts are relevant tools for the policies of quality of judicial systems. Within the framework of the CEPEJ working group on the quality of justice, a report and a model questionnaire and its subsequent guide of methodology have been prepared by Jean-Paul Jean and Hélène Jorjy²⁴. The use of these documents has been tested by the CEPEJ with its Network of pilot courts before being provided to the member states for their courts in 2011, together with a court coaching programme aimed at voluntary courts.

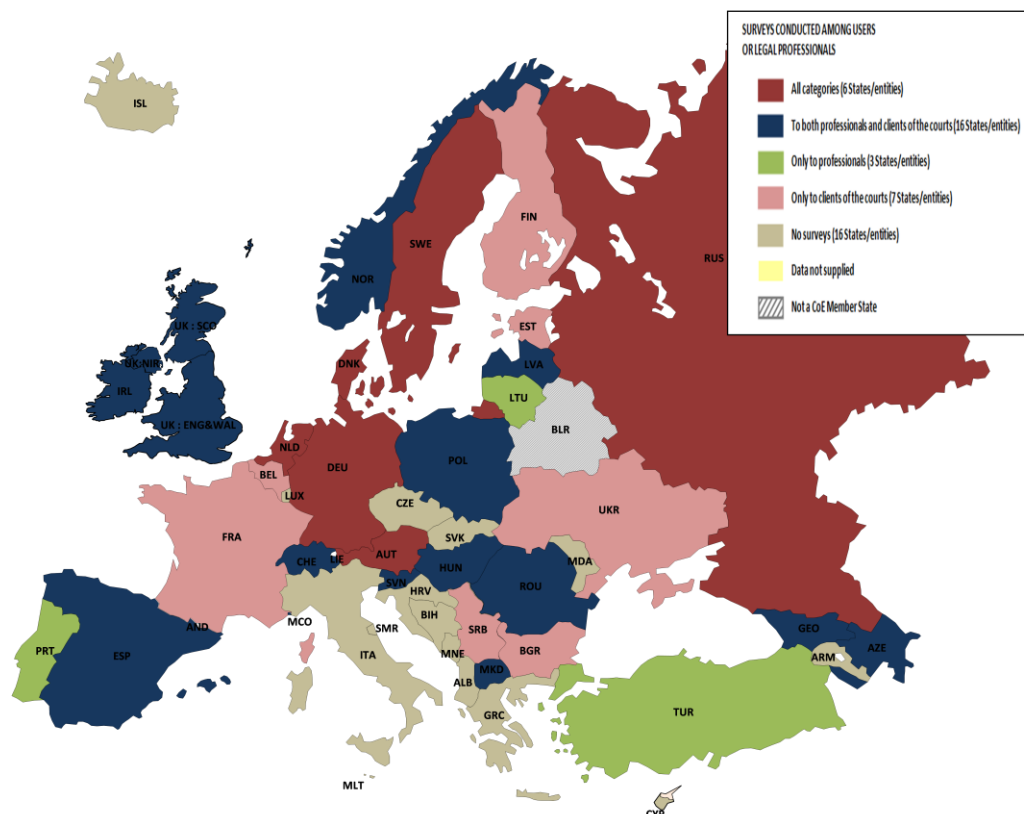
Surveys to measure the level of satisfaction are conducted with persons who have actually had contact with a court (litigants, victims, lawyers, other legal professionals - legal experts, interpreters, representatives of

²⁴ CEPEJ(2010)1 and CEPEJ(2010)2.

government agencies, etc.), and directly involved in the procedure (e.g. parties, victims). General surveys of opinion which measure only general representations of justice at a given time are not feasible. This also applies to satisfaction surveys conducted among court staff (judges and non-judge court) or the public prosecution system (prosecutors or non-prosecutor staff).

Thirty-three countries have indicated that they use such surveys aimed at court users or legal professionals. In 15 countries this is not the case (see next table). There is consequently an increase in the number of states or entities which perform such investigations (28 states or entities in the 2008-2010 exercise) and it is hoped that the spread of these investigations may still grow with the new tool set up by the CEPEJ, available to states and their courts. Small states do not often organise satisfaction surveys (**Andorra, Cyprus, San Marino**); this may be due to greater proximity between court users, professionals and the courts.

Figure 4.11 Surveys conducted among users or legal professionals to measure public confidence and/or satisfaction (Q38)

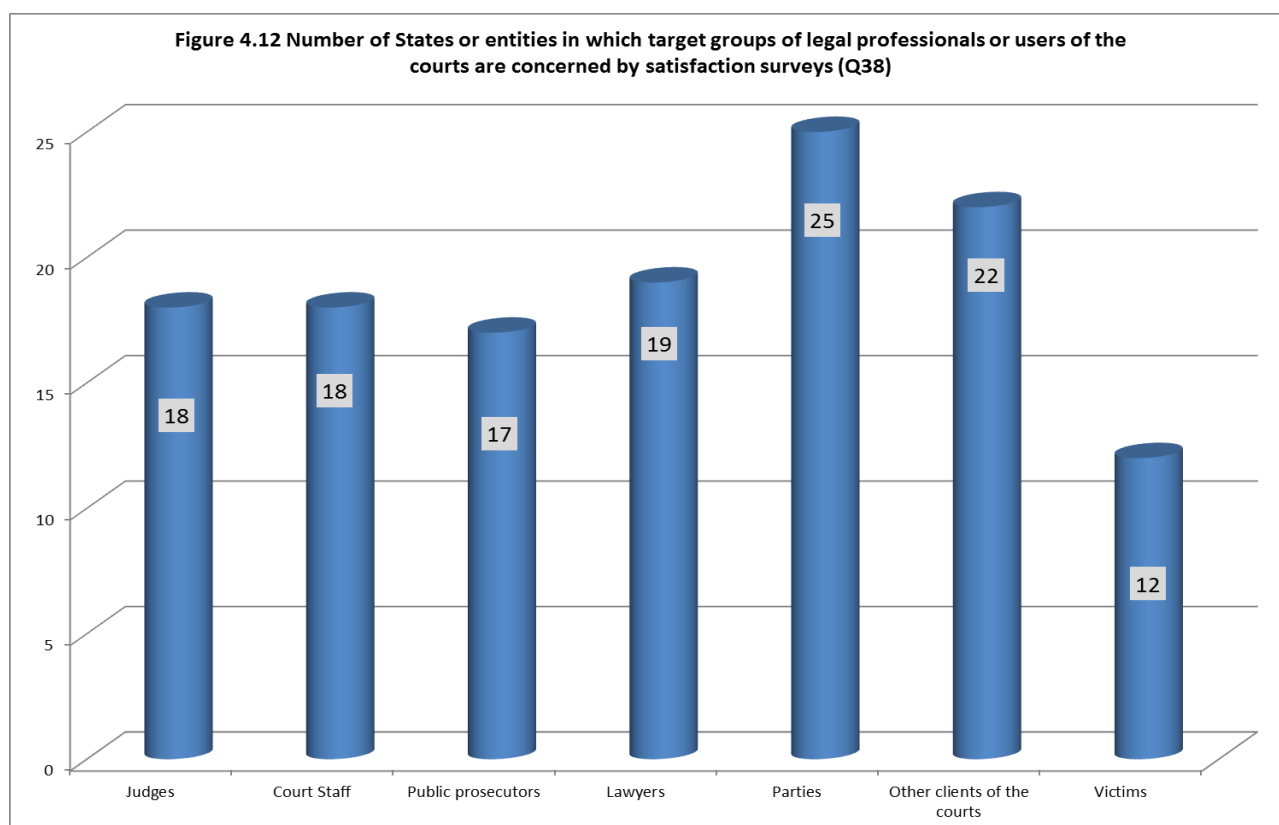


Andorra, Malta and San Marino: No surveys; **Monaco:** To both professionals and clients of the courts.

It may be noted that 6 states (**Austria, Denmark, Germany, Netherlands, Russian Federation, and Sweden**) have indicated that they organise surveys at all levels (court users, professionals, the public). This demonstrates their efforts to ensure that the service of justice is consistent with the expectations of users and those who work there daily.

In 7 countries (**Belgium, Bulgaria, Estonia, Finland, France, Serbia and Ukraine**) only users are involved in the investigations, while in 3 states (**Lithuania, Portugal and Turkey**) surveys are only for justice professionals.

The largest category of those who organise surveys are the states or entities that conduct surveys not only aimed at court users (parties, victims, other users) but also at the professionals who are "attached" to the court (judges, court staff) and those who may not be, such as lawyers and prosecutors (16 states or entities). These professionals involved in the surveys vary from state to state: **Lithuania and Turkey** (judges and prosecutors), **Austria, Denmark, Germany, Netherlands, Russian Federation and Sweden** (all professionals), **Spain** (judges and lawyers).



Comments

Italy: no surveys of this kind were carried out in 2010. However, in 2011 two satisfaction surveys were carried out in the Italian pilot courts of Turin (North Italy) and Catania (South Italy). They were aimed at court visitors (i.e. parties, victims, witnesses, interpreters, experts, relatives of the parties,...). At present these surveys are to be considered as 'occasional'. However, depending on the goodness of the results this kind of surveys might be extended to other courts across the Country. In Catania two additional surveys were carried out: one aimed at lawyers and one aimed at court staff.²⁵

Latvia: in 2010, a survey assessing the quality of court work was carried out by the Judicial Training Centre with the participation of the Marketing and Social Survey Agency. There were two different questionnaires addressed to two target groups of the justice users: 1) society - anybody who has been involved in litigation – parties, victims, witnesses and others and has participated in a court hearings during the period targeted and 2) lawyers and prosecutors. 8 courts participated in the survey. Questions regarding the following areas were included in the questionnaire: evaluation of courthouses and premises, evaluation of court documentation, work done by court staff, work done by judges in the court room, evaluation of the judgments (only to lawyers and prosecutors). The survey was supplemented with general questions on trust in the judiciary and satisfaction with the courts functioning in general. The same survey was carried out in the Supreme Court (in 2011).

In the table above, a balance can be found between the different groups of professionals or users covered by satisfaction surveys. The category of victims is the least concerned with user satisfaction surveys. Logically, parties are the most consulted. The professional group the least consulted is the group of prosecutors. This table gives no indication on the frequency of surveys, thus a state may appear in the table having completed only one survey occasionally, in the same category as other states which have conducted frequent surveys.

In the following table, the frequency and the level of surveys are presented. Only those states or entities conducting surveys are counted in the table (33 countries). Out of them, 18 states or entities always conduct surveys at a regular interval (at the national level, at the Court level, or both). 21 states or entities use surveys (at a national level, at a Court level, or both) occasionally.

Austria, Azerbaijan, Belgium, Estonia, the Russian Federation, Slovenia, Switzerland, Turkey and UK-Scotland conduct at the same time surveys both in a systematic and occasional way.

²⁵ Additional material on these surveys can be found at the following webpage:
http://www.giustizia.it/giustizia/it/mg_6_6_1.wp?contentId=NOL653602

Table 4.13 Frequency and level of the satisfaction surveys (Q39)

REGULAR SURVEYS			OCCASIONAL SURVEYS		
Both national level and court level	National level	Court level	Both national level and court level	National level	Court level
7 States / Entities	10 States / Entities	1 State	9 States / Entities	6 States / Entities	6 States / Entities
Austria	Azerbaijan	Switzerland	Austria	Estonia	Belgium
France	Belgium		Azerbaijan	Hungary	Italy
Georgia	Bulgaria		Finland	Latvia	Serbia
Netherlands	Estonia		Monaco	Spain	Slovenia
Russian Federation	Ireland		Norway	Turkey	Switzerland
Spain	Lithuania		Poland	Ukraine	UK-Scotland
UK-England and Wales	Slovenia		Portugal		
	Turkey		Russian Federation		
	UK-Northern Ireland		Sweden		
	UK-Scotland				

4.7 Trends and conclusions

Information to the courts' users is a growing trend in Europe. Easy access to such types of information seems to become, day after day, a European trend. Indeed, there is a trend in Europe by which citizens and legal professionals can retrieve information about relevant laws, courts and legal proceedings easily and free of charge via the internet. Specific information, intended to victims of crime, seems to be widespread since it is provided in 44 states or entities. Another trend is apparent: even if only a limited number of countries have already introduced them, specific arrangements are developing in Europe in order to inform the (potential) users of the courts on the foreseeability of procedures (i.e. the expected timeframes of a procedure) and/or on the efficiency of procedures.

With respect to vulnerable persons (even if the definition of vulnerability could be different among the states or entities concerned), victims of rape, children, and juvenile offenders are the categories which are the best protected in judicial proceedings. This is done mostly by providing these categories with special hearing arrangements, special procedural rights or support in terms of a specific supply of information adapted to their needs. In 40 states or entities (34 in 2008), public prosecutors have a role to play in assisting victims of crimes.

The majority of countries also have a compensation procedure for victims of crimes. Often a public fund is set up. A judicial decision is usually necessary to obtain compensation. As a part of the protection of the court users against dysfunctions of the courts, judicial systems may implement compensation procedures. In 33 countries or entities, there is a compensation mechanism for excessively long proceedings and in 25 countries or entities for non-execution of a court decision. Almost all the countries have provision for compensating a person in cases of wrongful arrest or wrongful conviction.

Due to the increasing attention paid to the needs and expectations of the court users, there is a growing trend in Europe for the introduction and use of specific tools, such as surveys, to evaluate the court users' level of satisfaction or public confidence in courts. In several European countries, it is common practice to conduct a survey at national level or court level on a regular basis. The model survey and the methodological guide provided by the CEPEJ facilitate future implementation of the surveys conducted among court users to improve the quality of the public service of justice (a training program by the CEPEJ is available for the courts, at their request to the Secretariat: www.coe.int/cepej).

Chapter 5. Courts

A *court* is defined in the explanatory note as a “body established by law and appointed to adjudicate on specific type(s) of judicial disputes within a specified administrative structure where one or several judge(s) is/are sitting, on a temporary or permanent basis”.

The major on-going or planned reforms of the court systems are listed in Chapter 17.

5.1 Court organisation

5.1.1 *1st instance courts of general jurisdiction and specialised 1st instance courts and geographic locations*

In this section, a difference is made between:

- *first instance courts of general jurisdiction (legal entities)*: these courts deal with all issues which are not attributed to specialised courts owing to the nature of the case,
- *first instance specialised courts (legal entities)*,
- *all courts considered as geographical locations*: these are premises or court buildings where judicial hearings take place. If there are several court buildings in the same city, they must be taken into account. The figures include the locations for first instance courts of general jurisdiction and first instance specialised courts, as well as the locations for High Courts and/or Supreme Courts.

Table 5.1 Number of 1st instance courts as legal entities and number of all the courts as geographic locations from 2006 to 2010 (Q42)

States/entities	1 st instance courts of general jurisdiction (legal entities)			Specialised 1 st instance courts (legal entities)			Total number of 1 st instance courts in 2010	% of specialised 1 st instance courts in 2010	All the courts (geographic locations)		
	2006	2008	2010	2006	2008	2010			2006	2008	2010
Albania	21	22	22	1	1	1	23	4,3%		31	33
Andorra	1	1	2	0	0	0	2	0,0%	1	1	3
Armenia	17	16	16	1	1	1	17	5,9%	21	20	27
Austria	153	154	154	7	7	7	161	4,3%	149	149	149
Azerbaijan	85	85	85	19	19	18	103	17,5%	112	112	111
Belgium	27	27	27	262	262	263	290	90,7%	320	320	288
Bosnia and Herzegovina	65	64	64	0	0	5	69	7,2%	93	93	98
Bulgaria	140	156	NA	5	33	34			153	182	184
Croatia	108	67	66	123	123	70	136	51,5%	256	190	154
Cyprus	7	7	6	11	11	11	17	64,7%	18	18	18
Czech Republic	86	86	86	NAP	NAP	NAP			98	98	98
Denmark	24	24	24	1	1	1	25	4,0%	30	30	29
Estonia	4	4	4	2	2	2	6	33,3%	22	22	22
Finland	58	51	27	11	11	11	38	28,9%	132	131	82
France	1 141	1 131	774	1 364	1 251	1 157	1 931	59,9%	773	900	630
Georgia	66	61	40	NAP	NAP	NAP			69	64	43
Germany	782		777	261		256	1 033	24,8%	1 136		1 126
Greece	435	435	462	4	4	4	466		435	435	462
Hungary	131	131	131	20	20	20	151	13,2%	157	157	157
Iceland	8	8	8	2	2	2	10	20,0%	9	9	10
Ireland	4	3	3	1	1	1	4	25,0%	180	130	119
Italy	1 231	1 231	1 231	87	87	87	1 318	6,6%	1 378	1 378	1 378
Latvia	34	34	34	1	1	1	35	2,9%	41	42	48
Lithuania	59	59	59	5	5	5	64	7,8%	67	67	67
Luxembourg	5	5	5	5	5	5	10	50,0%	8	8	8
Malta	1	1	1	2	2	3	4	75,0%	2	2	2
Moldova	46	46	46	2	2	2	48	4,2%	55	55	55
Monaco	18	18	18	6	6	6	24	25,0%	1	1	1
Montenegro	17	17	17	3	3	3	20	15,0%	22	22	22
Netherlands	19	19	19	2	2	2	21	9,5%	64	64	64
Norway	68	66	65	6	2	2	67	3,0%	71	75	74
Poland	360	364	365	27	30	28	393	7,1%	326	690	705
Portugal	231	231	217	116	95	109	326	33,4%	326	336	336
Romania	188	179	235	4	10	10	245	4,1%	249	246	246
Russian Federation	9 846	10 082	9 978	82	82	92	10 070	0,9%	NA	NA	NA
San Marino		1	1			1	2	50,0%		1	1
Serbia	138	138	60	17	17	62	122	50,8%	199	199	129
Slovakia	45	54	54	4	12	9	63	14,3%	51	68	64
Slovenia	55	55	55	5	5	5	60	8,3%	66	66	66
Spain	2 016	2 109	2 243	760	1 305	1 433	3 676	39,0%	703	743	749
Sweden	76	76	60	11	11	12	72	16,7%	135	134	95
Switzerland	302	295	259	93	82	81	340	23,8%	394	462	405
The FYROMacedonia	25	25	25	3	3	3	28	10,7%	33	33	34
Turkey	4 017	4 141	4 298	1 574	1 617	1 437	5 735	25,1%	5 767	5 758	750
Ukraine	679	726	720	54	54	NAP				783	768
UK-England and Wales	660	543	627	25	0	627	627	50,0%	595	573	630
UK-Northern Ireland	22	27	27	2		NA			19		NA
UK-Scotland	22	72	99	22	NA	NAP			50	76	64
TOTAL	23 543 ⁽¹⁾	23 596 ⁽²⁾	23 134 ⁽³⁾	5 013 ⁽⁴⁾	5 187 ⁽⁵⁾	5 889 ⁽⁶⁾	27 852 ⁽⁷⁾		14 786 ⁽⁸⁾	14 974 ⁽⁹⁾	10 604 ⁽¹⁰⁾
Average	501	492	502	111	124	137	663	24,1%	336	333	231
Median	65	61	59	6	7	7	66	16,7%	96	93	89
Minimum	1	1	1	0	0	0	2	0,0%	1	1	1
Maximum	9 846	10 082	9 978	1 574	1 617	1 437	10 070	90,7%	5 767	5 758	1 378

Comments

Armenia: there are in general 21 courts (legal entities). For question 42.3 the answer is 27 because the administrative court has seven court buildings in the territory (one in the capital and the six in regions).

Azerbaijan: as a result of on-going judicial-legal reforms, the number of courts has decreased due to the merging of regional military courts.

Croatia: the decrease of 43.9% in the number of first instance specialised courts between 2008 and 2010 is the result of judicial reform aiming to rationalize judicial network.

Finland: at the beginning of the year 2010, the number of district courts was reduced from 51 to 27.

Georgia: there was an institutional reorganisation of the judicial system in 2009-2010: 30 district (city) courts of first instance were merged, and 9 unified courts were established instead.

Poland: the main change in the number of geographic court locations between 2006 and 2008 is the result of a methodological mistake in the 2006 data. The number of court buildings remains relatively stable.

Russian Federation: since 2010, commercial cassational courts have been entitled to examine, as first instance courts, complaints lodged under the Federal law "On the compensation for the violation of the right to trial within reasonable time and the right to execution of judicial acts within reasonable time" (30 April 2010, no. 68-FZ).

Serbia: since 1 January 2010, a reform of the overall judicial system has taken place, resulting in a reduction in the number of courts and judges, as well as in the structure of the judiciary. Courts of general jurisdiction have been established (Supreme Court of Cassation, Courts of Appeal, High Courts and Basic Courts), as well as courts for

specialised jurisdiction (Administrative Court, Commercial Courts, Misdemeanour Courts and High Misdemeanour Court).

Slovakia: there has been a decrease of 25% in the number of first instance specialised courts between 2008 and 2010 and 3 military district courts have been abolished.

Turkey: the 2008 data included only the number of court buildings. However, the 2010 data is the total number of the judicial and administrative service buildings, as well as the buildings of high courts. The number of courts in 2008 was 5758 and 750 in 2010.

UK-England and Wales: the figures for 1st instance courts as legal entities in 2010 include: 330 Magistrates Courts, 219 County Courts, 1 High Court and 77 Crown Courts. The entry of 627 courts under the specialised 1st instance court heading counts the same courts considered as 1st instance courts of general jurisdictions.

UK-Scotland: in some situations, reference is made to specialist courts; however, such courts (for example, domestic abuse courts, youth courts) are under the jurisdiction of sheriff courts and specialised procedures.

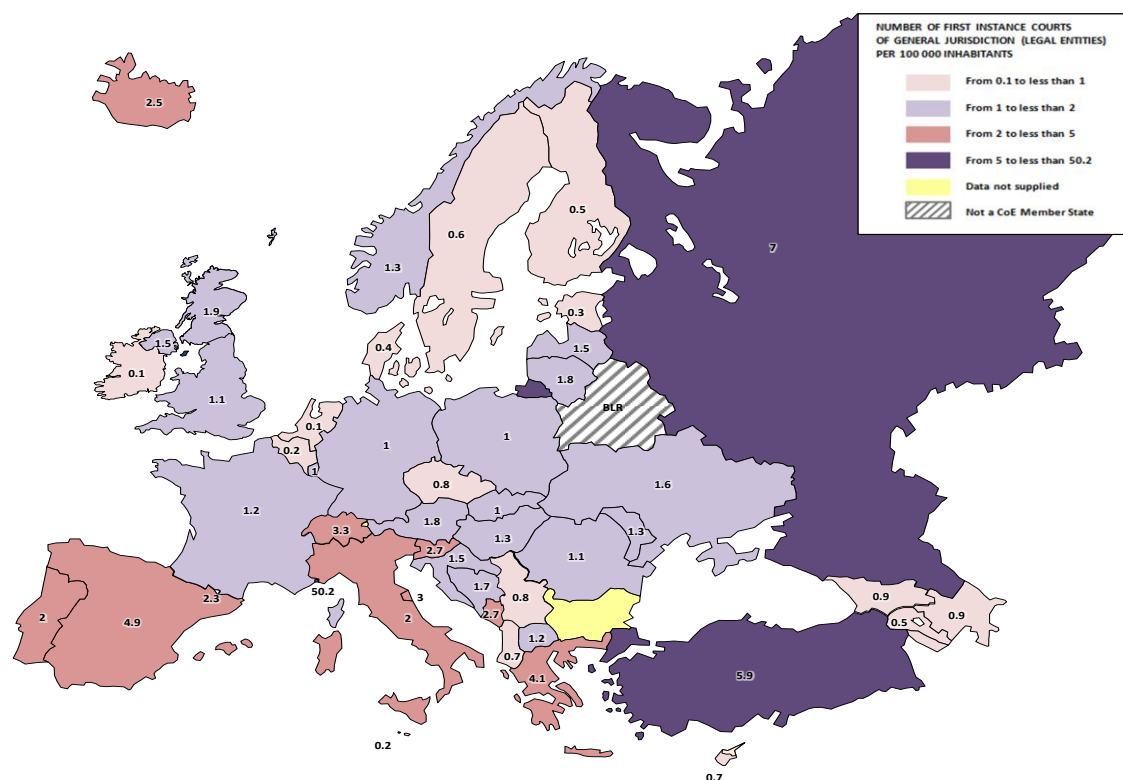
Courts perform different tasks according to the competences that are described in the law. In the majority of cases, courts are responsible for dealing with civil and criminal law cases, and possibly administrative matters. In addition, courts may have a responsibility for the maintenance of registers (land, business and civil registers) and have special departments for enforcement cases. Therefore, a comparison of the court systems between the member states or entities needs to be addressed with care, considering the actual jurisdictions.

Nearly all member states or entities have specialised courts, except **Czech Republic**, **Georgia**, **Greece** (since 2010), **Ukraine** (since 2010) and **UK-Scotland**. **Bosnia and Herzegovina** has specialised courts since 2010. Because of their small size, **Andorra** and **San Marino** have one single court. **UK-Northern Ireland** has not responded to the question.

As a European average, specialised first instance courts represent 24% of all the first instance courts considered as legal entities (19% of 2008). The court system with the highest percentage of specialised first instance courts considered as legal entities can be found in **Belgium**, with 90.7%. Most of these courts are related to the Justice of the Peace. **Malta** (75%), **Cyprus** (64.7%) and **France** (59.9%) have also a relatively significant number of specialised courts. For **Croatia**, the number decreased from almost 65% in 2008 to 51.5% in 2010. Conversely, in the **Russian Federation** (0.9%), **Latvia** (2.9%) and **Norway** (3%) there are only few specialised courts.

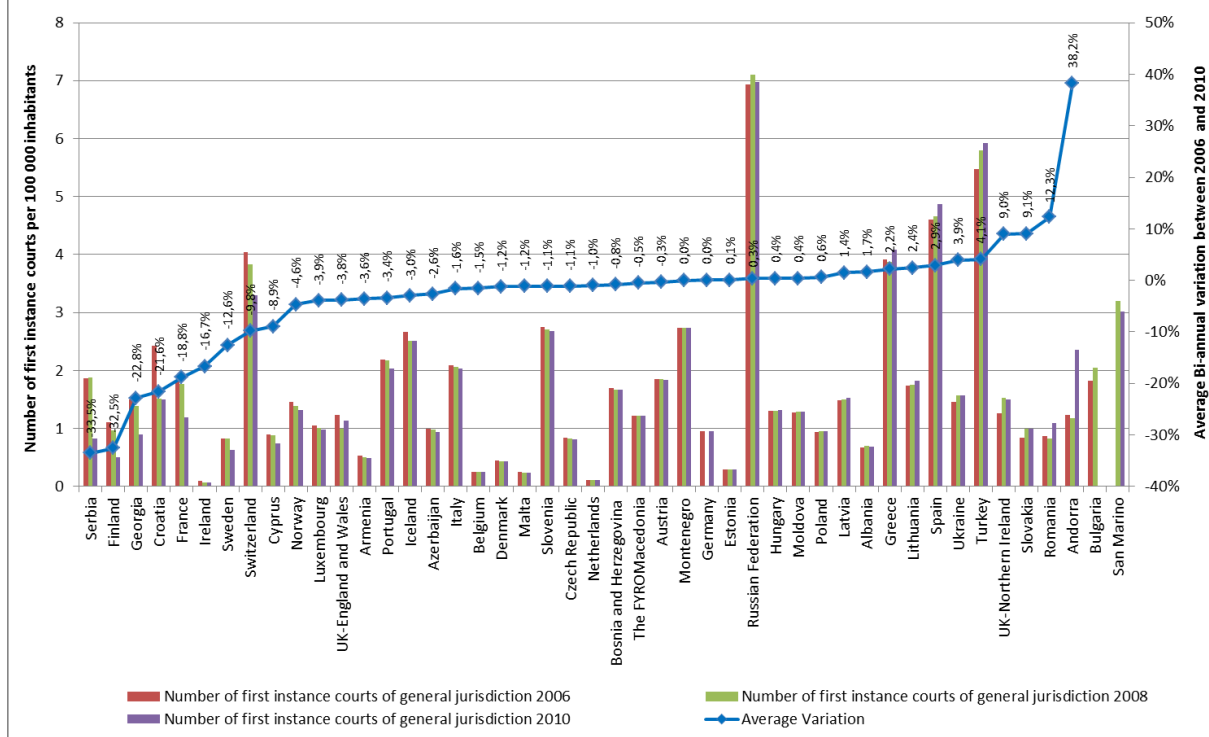
Specialised first instance courts deal with various matters. Most of the responding states or entities mentioned specialised administrative courts, commercial courts and labour courts. Several states or entities listed courts that deal with family, minors and wardship, insurance and social welfare, military, (specialised) criminal offences, enforcement of criminal sanctions and rent and tenancies. Particular courts exist for example in **Finland** (High Court of Impeachment: charges against Ministers), **Spain** (violence against women) and **Turkey** (civil and criminal intellectual property courts). In **Azerbaijan** there are regional specialised courts dealing with both administrative and economic cases. A process of specialisation of judges on these two types of cases is currently being implemented.

Figure 5.2 Number of first instance courts of general jurisdiction (legal entities) per 100.000 inhabitants in 2010 (Q42)



Most of the states or entities (19) have less than 1 first instance court of general jurisdiction per 100.000 inhabitants (only 11 in 2008). In 15 states, the rate is between 1 and 2 first instance courts per 100.000 inhabitants (24 in 2008). 13 states have more important rates, but of these, only **Turkey**, **Russian Federation** and **Monaco** have indicated more than 5 courts per 100.000 inhabitants. The figure reported by **Monaco** must be considered taking into account the small number of inhabitants, which has a distorting impact on ratios per 100.000 inhabitants.

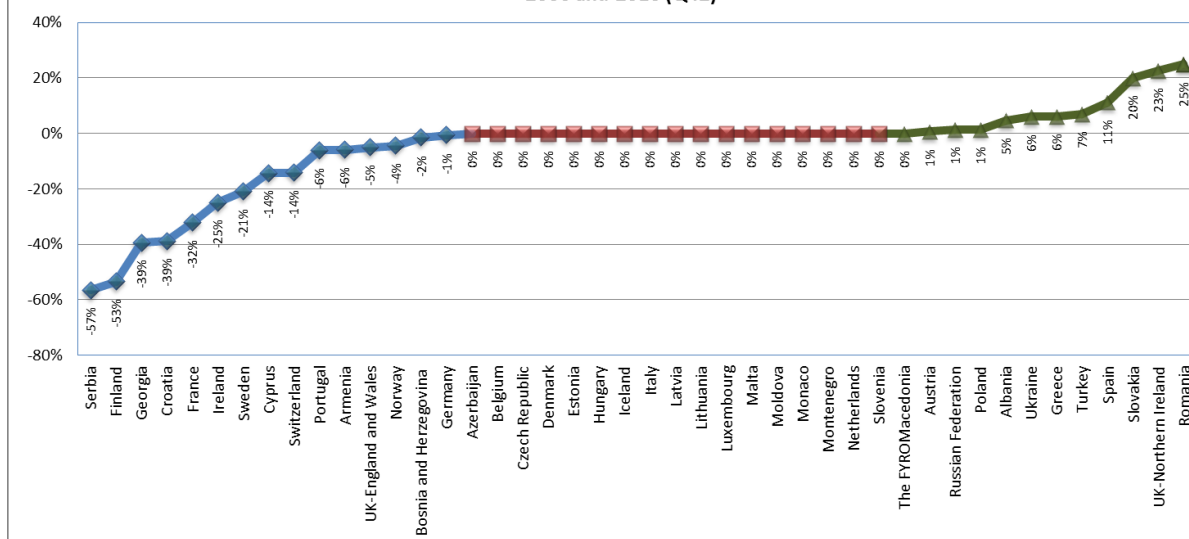
Figure 5.3 Number of legal entities of first instance courts of general jurisdiction in 2006, 2008 and 2010 per 100 000 inhabitants. Average bi-annual variation of the ratio of first instance courts vs 100 000 inhabitants between 2006 and 2010, in % (Q42)



Note: Monaco is not included in the figure above due to a very high ratio of first instance courts compared to the size of the population. The average variation on two years of the ratio of first instance courts per 100.000 inhabitants is -4.1%.

As the average variation in figure 5.3 shows, between 2006 and 2010, 7 states have decreased significantly (more than 10%) the number of first instance courts, in particular **Serbia** (-33.5%) and **Finland** (-32.5%), but also **Georgia**, **Croatia**, **France** and **Sweden**. In the same period, only **Romania** has increased the number of first instance courts by more than 10% (12.3%) – in addition to **Andorra**, which has increased the number of courts from 1 to 2.

Figure 5.4 Total variation of the absolute numbers of first instance courts of general jurisdiction between 2006 and 2010 (Q42)



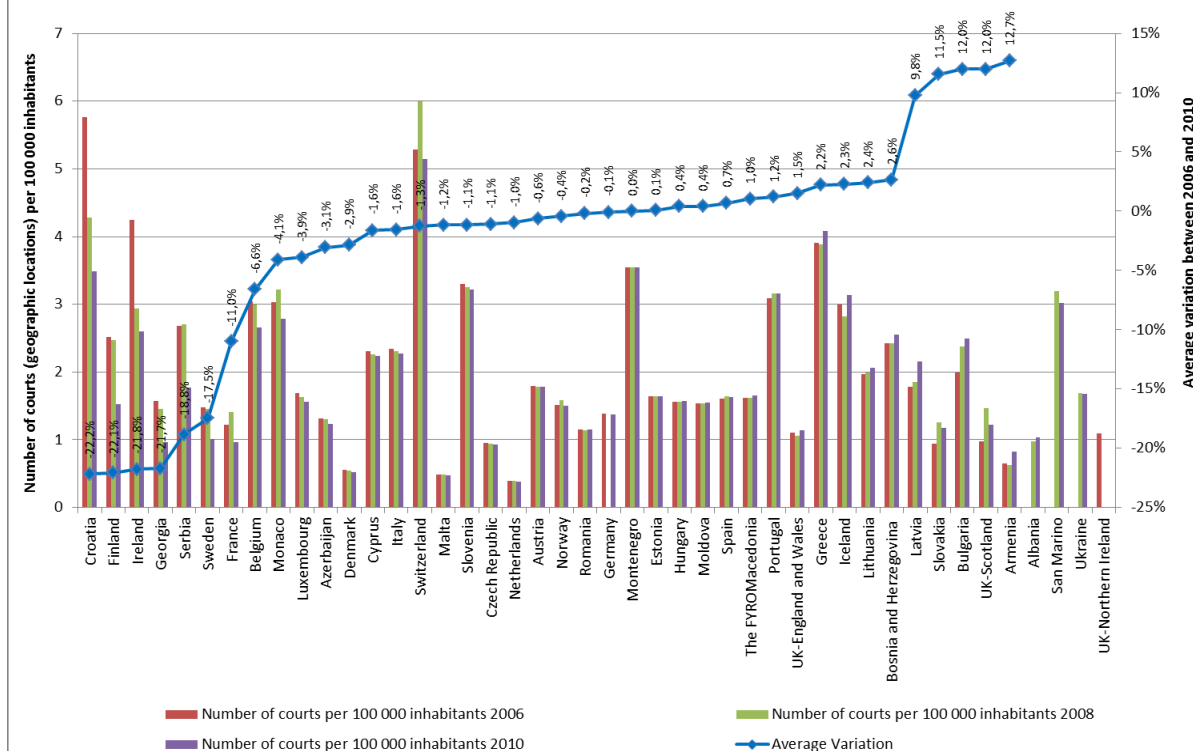
As shown in figure 5.4, between 2006 and 2010, there has been a reduction in first instance courts (legal entities) in 15 states or entities: **Armenia**, **Bosnia and Herzegovina**, **Croatia**, **Cyprus**, **Finland**, **France**, **Georgia**, **Germany**, **Ireland**, **Norway**, **Portugal**, **Serbia**, **Sweden**, **Switzerland**, **UK-England and Wales**. An increase can be noted in 13 states or entities: **Albania**, **Andorra**, **Austria**, **Greece**, **Poland**, **Romania**, **Russian Federation**, **Slovakia**, **Spain**, **Turkey**, **Ukraine**, **UK-Northern Ireland**, **UK-Scotland**. In 18 states

the number has remained the same: **Azerbaijan, Belgium, Czech Republic, Denmark, Estonia, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Slovenia, “the former Yugoslav Republic of Macedonia”**. For Bulgaria and San Marino data is missing.

Figure 5.5 Number of all courts (geographic locations) per 100.000 inhabitants in 2010 (Q42)

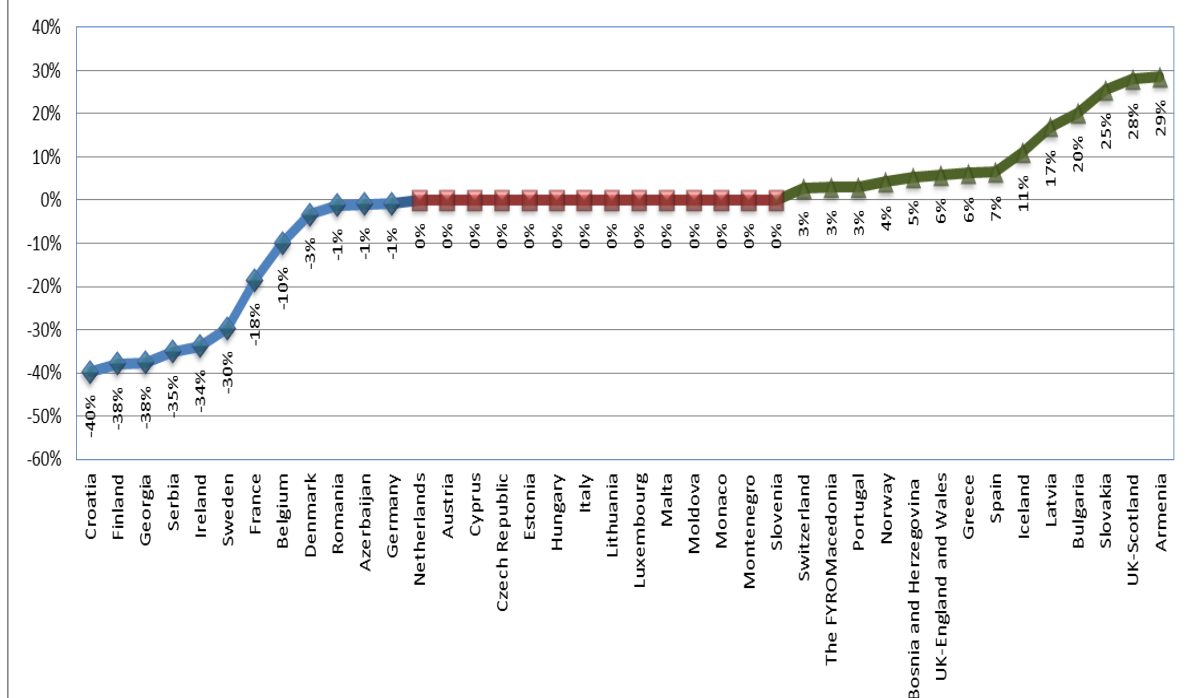
7 states: **Armenia, Czech Republic, Denmark, France, Georgia, Malta and Netherlands** have less than 1 court per 100.000 inhabitants. On the other hand, **Andorra, Croatia, Greece, Iceland, Montenegro, Portugal, San Marino, Slovenia** have between 3 and 5 courts per 100.000 inhabitants. The highest rate (5 courts or more per 100.000 inhabitants) can be found in **Switzerland**.

Figure 5.6 Number of all courts (geographic locations) in 2006, 2008 and 2010 per 100 000 inhabitants.
Average variation between 2006 and 2010, in % (Q42)



As shown by the average variation in figure 5.6, the highest decrease in the number of geographical court locations (more than 10%) between 2006 and 2010 can be observed in **Croatia, Finland, France, Georgia, Ireland, Serbia and Sweden**. A significant increase can be seen in **Slovakia, Bulgaria, UK-Scotland and Armenia**. Overall, the number of courts (geographic locations) decreased in 23 states or entities and increased in 17.

Figure 5.7 Variation of the [absolute] numbers of all courts (geographic locations) between 2006 and 2010 (Q42)



As shown in figure 5.7, only 14 out of the 40 responding states or entities have not experienced any change in the total number of courts (geographic locations) between 2006 and 2010. In two other states, **Azerbaijan**²⁶ and **Germany**, the change was minimal (less than 1%). Including those two countries, in 13 states, the number has decreased (more than 10% in **Ireland**, **Croatia**, **Finland**, **Georgia**, **Serbia**, **Sweden**, **France**) and in 14 states or entities it has increased (more than 10% in **Iceland**, **Latvia**, **Bulgaria**, **Slovakia**, **UK-Scotland**, **Armenia**).

5.1.2 First instance courts competent for small claims, dismissals and robbery cases

Table 5.8 Number of 1st instance courts competent for cases concerning: debt collection for small claims, dismissal and robbery (geographic locations) in 2010 (Q45)

States/entities	Debt collection for small claims		Dismissal		Robbery	
	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants	Absolute number	Per 100.000 inhabitants
Albania	22	0,69	22	0,69	22	0,69
Andorra	1	1,18	1	1,18	1	1,18
Austria	141	1,68	16	0,19	16	0,19
Azerbaijan	85	0,94	85	0,94	5	0,06
Belgium	187	1,73	21	0,19	27	0,25
Bosnia and Herzegovina	53	1,38	48	1,25	48	1,25
Croatia	73	1,65	66	1,50	82	1,86
Cyprus	6	0,75	1	0,12	10	1,24
Estonia	4	0,30	4	0,30	4	0,30
Finland	NAP	NAP	27	0,50	27	0,50
France	307	0,47	216	0,33	165	0,25
Germany	661	0,81	119	0,15	661	0,81
Hungary	111	1,11	20	0,20	131	1,31
Iceland	8	2,51	8	2,51	8	2,51
Ireland	117	2,55	NAP	NAP	115	2,51
Italy	846	1,40	385	0,64	385	0,64
Latvia	34	1,52	39	1,75	39	1,75
Lithuania	54	1,66	59	1,82	54	1,66
Luxembourg	3	0,59	3	0,59	2	0,39
Malta	2	0,48	2	0,48	2	0,48
Moldova	47	1,32	46	1,29	47	1,32
Monaco	1	2,79	1	2,79	2	5,57
Montenegro	17	2,74	15	2,42	17	2,74
Netherlands	54	0,32	54	0,32	19	0,11
Norway	66	1,34	66	1,34	66	1,34
Poland	320	0,84	213	0,56	365	0,96
Portugal	1	0,01	56	0,53	229	2,15
Romania	179	0,84	41	0,19	179	0,84
Russian Federation	7 525	5,27	2 438	1,71	2438	1,71
San Marino	1	3,02	1	3,02	1	3,02
Serbia	50	0,69	34	0,47	34	0,47
Slovakia	54	0,99	54	0,99	54	0,99
Slovenia	44	2,15	4	0,20	11	0,54
Spain	1 450	3,15	342	0,74	1561	3,39
Sweden	48	0,51	48	0,51	48	0,51
The FYROMacedonia	26	1,26	26	1,26	26	1,26
Turkey	854	1,18	939	1,29	259	0,36
UK-England and Wales	219	0,40	NA	NA	77	0,14
UK-Northern Ireland	7	0,39	NA	NA	20	1,11
UK-Scotland	NAP	NAP	NAP	NAP	49	0,94
Average		1,38		0,97		1,23
Median		1,18		0,66		0,97
Minimum		0,01		0,12		0,06
Maximum		5,27		3,02		5,57

Note: Armenia, Bulgaria, Czech Republic, Denmark, Georgia, Greece and Ukraine replied NAP to all categories of Q45, while for Switzerland the data is not available for all categories.

²⁶ To note that the court system re-organisation reforms have resulted in a very limited variation in the number of courts between 2006 and 2010.

Comments

Finland: the number of district courts changed at the beginning of 2010 from 51 to 27. All first instance courts are competent for dismissal and robbery cases.

Serbia: since 1 January 2010, Serbia has reformed its judicial system which resulted in a reduction in the number of courts and judges, as well as in a change of the structure of judiciary.

Small claims

The European average and European median being 1.38 and 1.18 courts, respectively, per 100.000 inhabitants, a relatively large number of first instance courts competent for debt collection of small claims (over 3 courts per 100.000 inhabitants) can be observed in the **Russian Federation** (5.27), **Spain** (3.15) and **San Marino** (3.02). A low number (less than 0.5 courts per 100.000 inhabitants) can be noted in **Estonia** (0.3), **Netherlands** (0.32), **UK-Northern Ireland** (0.39), **UK-England and Wales** (0.40) and **France** (0.47). However, this indicator is very sensitive to the definition of a small claim.

Indeed, there is a large variety between the states or entities with respect to the financial amount of the dispute. The lowest value is observed in **Lithuania** (≤ 72,41€), the highest in **Norway** (≤ 15 985 €). These differences may partly be due to the specific economic situation of the countries, the civil procedural rules that are applies and the level of specialisation of courts in this area.

Table 5.9 Monetary value of a small claim in 2010 (Q45)

States/entities	Monetary value of small claims	States/entities	Monetary value of small claims
Albania	≤ 144 123 €	Luxembourg	≤ 10 000 €
Andorra	≤ 1 200 €	Malta	≤ 3 494 €
Armenia	No definition	Moldova	No definition
Austria	≤ 10 000 €	Monaco	≤ 1 800 €
Azerbaijan	No definition	Montenegro	≤ 500 €
Belgium	≤ 1 860 €	Netherlands	≤ 5 000 €
Bosnia and Herzegovina	≤ 1 500 €	Norway	≤ 15 985 €
Bulgaria	No definition	Poland	≤ 2 525 €
Croatia	≤ 1 354 €	Portugal	≤ 15 000 €
Cyprus	No definition	Romania	≤ 2333,83 €
Czech Republic	No definition	Russian Federation	≤ 1 235 €
Denmark	No definition	San Marino	No definition
Estonia	≤ 2 000 €	Serbia	≤ 3 000 €
Finland	No definition	Slovakia	≤ 500 €
France	≤ 4 000 €	Slovenia	≤ 2 000 €
Georgia	No definition	Spain	≤ 6 000 €
Germany	≤ 600 €	Sweden	≤ 2 365 €
Greece	No definition	Switzerland	No definition
Hungary	≤ 3 586 €	The FYROMacedonia	≤ 2 945 €
Iceland	No definition	Turkey	≤ 3 492 €
Ireland	≤ 2 000 €	Ukraine	No definition
Italy	≤ 5 000 €	UK-England and Wales	≤ 5 878 €
Latvia	≤ 2 130 €	UK-Northern Ireland	No definition
Lithuania	≤ 72,41 €	UK-Scotland	≤ 2 564 €

Comments

Albania: there is no specific definition for small claims, but lawsuits that are worth 20 million ALL or less are adjudicated by 1 judge. For lawsuits that are worth more, if a party requests so in the preliminary hearing, the court adjudicates with a panel of three judges.

Belgium: the magistrate hears all requests where the monetary claim does not exceed 1.860 €, except those exempted by law within its jurisdiction.

Bosnia and Herzegovina: small claim disputes are those where the monetary claim does not exceed 1.500 €. Small claim disputes also include disputes which are not of pecuniary nature but for which the plaintiff has stated in the complaint that s/he will accept certain a monetary sum that does not exceed this amount.

Croatia: small claim disputes are monetary claims that do not exceed HRK 10.000. In the proceedings before commercial courts, the small value disputes shall not exceed the amount of HRK 50.000.

Cyprus: no definition of a small claim, but the Directive of 2008 on 'European procedure for solving small claims disputes' which incorporates the EU Regulation 861/07 states that small claims are for less than 2.000 €.

Czech Republic: no special definition for small claims, but applications will be inadmissible for appeal if the amount in dispute does not exceed 10.000 CZK (399€).

Estonia: there are several meanings for "small claims": 1. claims below 2.000 €. In this case, the court may adjudicate the case by way of simplified proceedings. All general courts are competent to solve these cases. 2. claims that can be

filed to the order of payment procedure (up to 6.391€). In 2008, they could be filed with any general court. Since 2009, these claims can only be filed electronically and are solved only in one courthouse.

Finland: small claims do not exist as a legal term. Undisputed civil matters can be dealt with in a summary proceeding.

France: a small claim does not exceed 4.000€ currently under the local jurisdiction ("*juges de proximité*") – 307 courts. Between 4.000 and 10.000€, the district court is competent (302 courts).

Ireland: small claims include business small claims and consumer small claims, provided that the amount of the claim does not exceed 2.000€.

Latvia: the definition for small claims is not applicable for statistical data in 2010. The legislation on small claims procedure exists only since 3 September 2011. It is a written procedure concerning monetary and maintenance claims not exceeding 2.130 € (1.500 LATS).

Lithuania: small claims are claims for which the sum does not exceed 250 litas (72,41€).

Malta: a small claim is considered to be a claim not exceeding 3.494€.

Monaco: a dispute not exceeding a monetary claim of more than 1.800€.

Montenegro: small claims concern cases where the request of the plaintiff is related to a monetary claim not exceeding 500€. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but a movable asset whose value does not exceed 500 €. Cases on immovable property, labour cases and cases for disturbing possession are not considered as cases of small value. In the proceeding in commercial disputes, cases of small value are cases in which the plaintiff's request is related to money claims not exceeding 5.000€. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but the plaintiff stated that he accepts, instead of fulfilling a certain request, an amount not exceeding 5.000€. Cases of small claims are also disputes in which the subject of the plaintiff's request is not money, but giving movable asset whose value is not exceeding 5.000€.

Netherlands: small claims are claims smaller than 5000 €. Small claims and dismissal cases are handled by the kanton sector of the 19 district courts; they preside in the 19 district court locations and 35 separate kanton locations (54 in total)

Norway: the Dispute Act of 2005 (enforced 1st January 2008) introduced a simplified procedure for small claims. Small claims are cases which do not exceed 125.000 NOK (14.850€).

Poland: small civil claims are property claims based on contracts and breach of contracts relations, with a total value not exceeding 10000 PLN, rent payment disputes in housing matters, court deposits.

Portugal: a small civil claims procedure applies whenever a party wishes to confer an enforceable status on a request for fulfilment of pecuniary obligations arising from contracts not exceeding 15.000 €. Portugal has only 1 court for debt collection of small claims because the debt collection has been centralised with the establishment of the Order for Payment "one stop shop" (*Balcão Nacional de Injunções*). The *Balcão Nacional de Injunções* is a General Secretariat with exclusive competence in electronic debt collection of small claims. The *Balcão Nacional de Injunções* deals exclusively with electronic debt collection, Portuguese first instance courts are competent for debt collection. However, the majority of small claims procedures are dealt by the *Balcão Nacional de Injunções* as the parties prefer the electronic debt collection.

Romania: there is no specific definition for small claims. Monetary claim not exceeding 23.33,83€ and under the competence of first instance courts. 1. those with a higher value are handed to trainee judges; 2. those with a value of up to 23.338,31€, in commercial matters, are given to other judges; 3. those with a value of up to 11.6691,56€, in civil matters, are given to other judges.

Russian Federation: in civil cases, the monetary value of small claims shall not exceed 50.000 Russian Roubles (1.235€), and they shall be heard in the first instance by justices of the peace. In commercial cases, the monetary value of small claims shall not exceed 20.000 or 2.000 Russian Roubles (494€ or 49€), depending on whether the debtor is a legal entity or an individual entrepreneur. Such cases shall be heard in the first instance by way of a simplified procedure by commercial courts of the federal entity level. Comparability note: in the previous evaluation cycle, a wrong figure was indicated for the number of courts competent to hear debt collection cases (it should have been 7.516 instead of 7.554).

San Marino: no definition is provided for small claims, but a distribution of functional competence is established between two offices: the *Law Commissioner* Judge and the Judge of Peace, if the value of the claim is less than or above 50.000€.

Serbia: small claims in civil proceedings are claims with a monetary value of not more than 3.000€ (this includes debt collection, damages, restitution of movable property). Small claims in commercial proceedings are claims with a monetary value not exceeding 30.000€.

Slovakia: a small claim is a claim that does not exceed 500€ at the time when the claim is filed at the court, excluding all interests, expenses and disbursements.

Slovenia: a small claim dispute shall denote a dispute on a monetary claim where the amount of the dispute does not exceed 2.000€, disputes on non-monetary claims in respect of which the plaintiff has declared his willingness to accept, instead of satisfaction of the claim, a sum of money not exceeding 2.000€, and disputes on claims for delivery of movable property where the stated amount in dispute does not exceed 2.000€. Small claim disputes do not include disputes relating to immovable property, disputes arising out of copyright, disputes relating to the protection and use of inventions and marks of distinctiveness or to the right to use a company title, disputes relating to the protection of competition, and disputes for disturbance of possession

Spain: oral proceedings concerning claims not exceeding 6.000€

Sweden: small claims are disputes where the value of the claim is less than one-half times the basic amount. The base amount is approximately 4.730€.

"the former Yugoslav Republic of Macedonia": the amount of the small claims cannot exceed 180.000 Denars (2.945€).

Turkey: small claims up to 3.492€ (7.230 TL) are considered as small claims, and can be heard by the civil courts of peace.

UK-England and Wales: there are three routes, called tracks (small claims track, fast track and multi-track): 1) small claims track – generally for lower value and less complex claims with a value of up to £5.000 (although there are some

exceptions); 2) fast track – claims with a value of between £5.000 and £25.000; and 3) multi-track – very complex claims with a value of £25.000 or more.

UK-Scotland: a small claim is an action for payment of up to £3.000 in value. Small claim cases are heard within the 49 Sheriff Courts; however the courts do not enforce the decrees or collect the debts.

Employment dismissal cases

A lower number of first instance courts are competent for employment dismissal cases. The European average and median for employment dismissal cases courts per 100.000 inhabitants are 0.97 and 0.66, respectively. The highest number of courts per 100.000 inhabitants can be found in **San Marino** (3,02) and **Monaco** (2,79) - both ratios are calculated using a very small number of courts and inhabitants and should therefore be considered with care -, **Iceland** (2,51), and **Montenegro** (2,42). **Cyprus** presents the lowest number (0,12) followed by **Germany** (0,15), **Austria**, **Romania**, **Belgium** (0,19) **Slovenia** and **Hungary** (0,20). A correlation between the number of courts competent for dismissal cases and the existence of labour courts cannot be analysed here, due to too little information available. In **Serbia**, for example, employment dismissal cases are under the competence of Basic Courts (Labour Dispute Department). In **Finland** all first instance courts are competent for dismissal cases. In **Turkey**, competence for cases of dismissal is under the 157 labour courts, and where there are no labour courts, such cases are heard by civil courts of general jurisdiction (figure 5.7 provides the overall number).

Robberies

The highest number of courts competent for robbery cases per 100.000 inhabitants can be found in **Monaco** (5,57; ratio calculated using a very small number of courts and inhabitants), **Spain** (3,39), **San Marino** (3,02; ratio calculated using a very small number of courts and inhabitants), **Montenegro** (2,74), **Iceland** and **Ireland** (both 2,51) and **Portugal** (2,15). On the contrary, **Azerbaijan** (0,06), **Netherlands** (0,11), **UK-England and Wales** (0,14), **Austria** (0,19), **Belgium** and **France** (both 0,25) present the lowest numbers of courts. Because of the lack of relevant information about specialised courts for less serious criminal offences, a comparison between the numbers of courts competent for robbery cases cannot be established.

Comments

Serbia: data concerning robberies under the jurisdiction of only the Basic Courts. However, there are several types of grand theft and robberies which fall under the jurisdiction of the Higher Courts.

Turkey: 2010 data covers only the number of high criminal courts (including the juvenile high criminal courts) dealing only with the cases of theft which involve an act of violence, and which are generally defined as robbery in the criminal law, as well as the number of high criminal courts having jurisdiction. Data provided in 2008, comprised all kinds of thefts, including those which do not involve an act of violence. Accordingly, criminal courts of peace and criminal courts of first instance were also included in the total number of courts.

5.2 Budgetary powers within courts

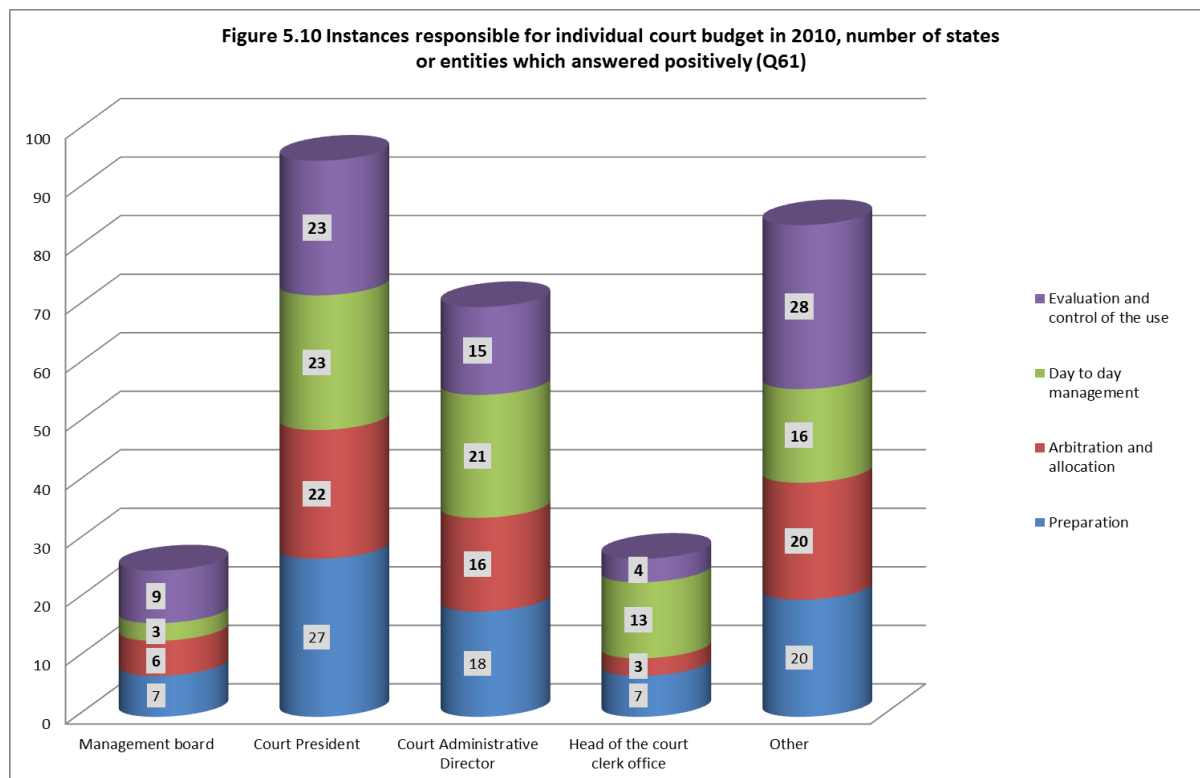


Figure 5.10 takes into account 48 states or entities.

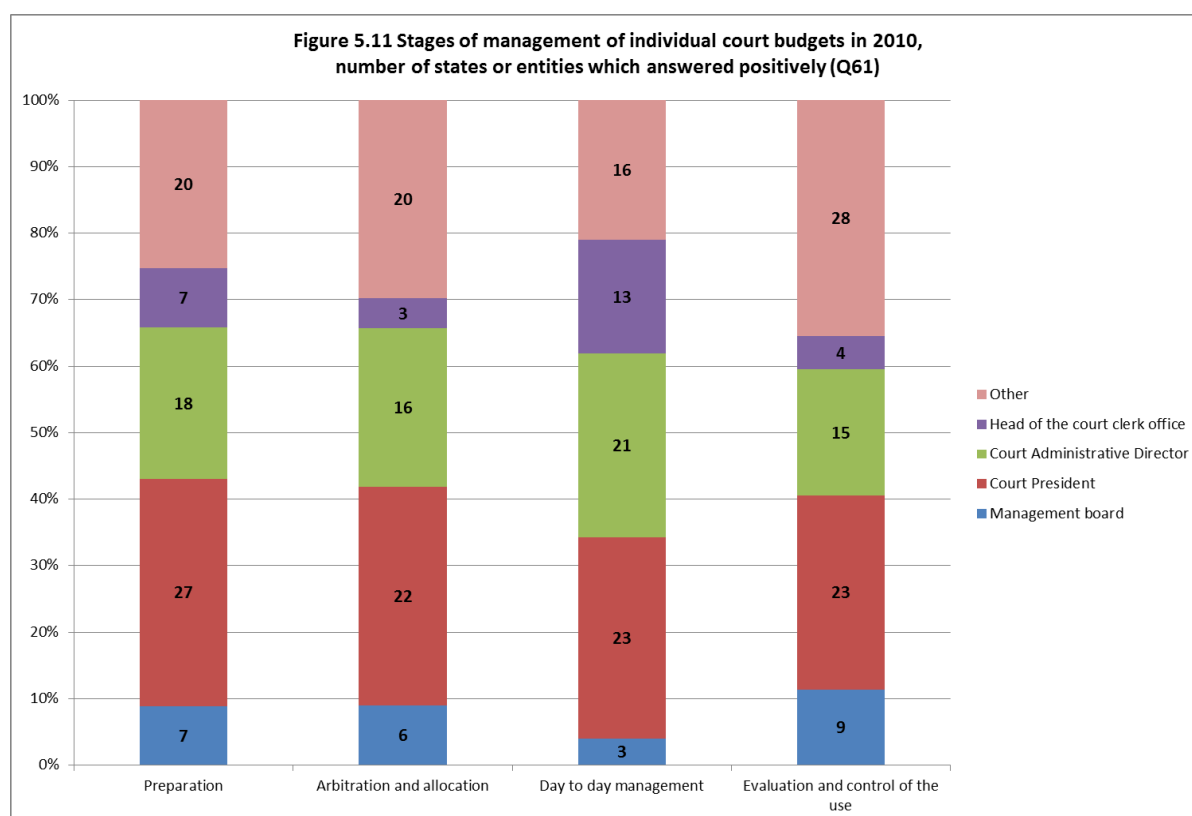
The organisation of the competence and responsibility for the budgets differs from one state or entity to another. When examining the role of each instance, it can be noted that the court president is the most involved authority in all the stages of the budget's management. In one third of the states or entities, the court president is responsible for the preparation, allocation, day-to-day management and also evaluation and control of the budget. In more than half of the states, she/he is involved in the preparation of the budget. In a little bit less than half of cases in the day-to-day budget management, the evaluation and control of the budget, the budget allocation. In one third of the states the court president is not responsible for any of such activities.

Amongst the "other" authorities that can be involved, it can be noted that the Ministry of Justice or one of its bodies (**Austria, Azerbaijan** for the budget for the 1st instance courts, **Belgium, Germany, Latvia, Luxembourg, Romania and Slovakia** except for the Supreme Court which governs its own budget, **Turkey, UK-England and Wales**), the Ministry of Finances (**Azerbaijan, Luxembourg, Monaco, Montenegro, Ukraine**), the Presidents of higher courts (**Austria, "the former Yugoslav Republic of Macedonia"**), a Supreme Court Management Board (**Estonia**) or Department (**Russian Federation**), the national court administration (**Azerbaijan, Denmark, Georgia, Ireland, Ukraine, UK-Northern Ireland, UK-Scotland**), a State Audit Office (**Latvia, Ireland, Malta, Montenegro, "the former Yugoslav Republic of Macedonia"**), the Office of the General Prosecutor (**Luxembourg, Turkey**) or court accountants (**Albania, Bosnia and Herzegovina, Cyprus** - Supreme court accounting department for the Supreme court budget, **Croatia, Germany, Lithuania, Russian Federation**).

In several states, the budget allocation, management and control for the Supreme Court is differentiated from that of the other courts (**Estonia, Slovakia**).

Where appropriate, the court administrative director is also often present during all the stages of the budget's cycle, especially in the day-to-day management (a little bit less than half of the states) and budget preparation (more than one third of the states). The head of the court clerk office, when involved with the budget, is often involved in its day-to-day management, while the management board, when involved, deals more with budget evaluation and control, preparation and allocation. Only in **Iceland, the Netherlands and UK-Northern Ireland**, the management board in charge of the day-to-day management of the court budget.

The budgetary process for the court may be arranged at different levels (from national level to regional or local level) and may be different for each instance. At each level and for each court instance, various actors are involved in the process.



At all the stages of the management of court budgets, the instances are involved in the same proportions, except for the greater role of the Head of the court clerk offices and court administrative directors in day-to-day management and of “other” actors in the evaluation and control of budget use. At all the stages, namely for the preparation, the court president is the most involved instance.

5.3 Information and communication technology (ICT) in the courts (e-justice and e-courts)²⁷

The use of information and communication technologies (ICT), ranging from end user applications such as smart phones, personal computers, tablet PCs, to information infrastructures, such as internet and the derived services, are taken more and more for granted. Introduced as a tool to improve performance, ICT is proving to be more than a technical element, changing the relations between individuals and between individuals and organisations, both in the private and the public sector.

It is no surprise, therefore, that the CEPEJ evaluation exercises have shown since 2004 with factual data that ICT is playing a growing role within the justice administration and the justice service provision. Examples range from the support of case and file management, to the use by judges of templates to support the formulation of judicial decisions, on-line access to law and jurisprudence databases, availability of web services, use of electronic filing, and exchange of electronic legal documents. ICT can be used to enhance efficiency, but also “to facilitate the user’s access to the courts and to reinforce the safeguards laid down in Article 6 ECHR: access to justice, impartiality, independence of the judge, fairness and reasonable duration of proceedings”.²⁸

However, as many empirical examples show, this endeavour is more complex than expected. This is because the nature of ICT and its action is not just technical, but also organisational and (especially in judiciaries), normative. In order to perform a technology must not just be technically functional, but also

²⁷ Detailed information is described in: Velicogna M. (2007), *Use of Information and Communication technology in European Judicial systems*, CEPEJ Study N° 7 (Strasbourg).

²⁸ Consultative Council of European Judges (CCJE), Opinion No.(2011)14 “Justice and information technologies (IT)” adopted by the CCJE at its 12th plenary meeting (Strasbourg, 7-9 November 2011).

normatively performative and institutionally sound²⁹ (i.e. it "should not compromise the human and symbolic faces of justice"³⁰). The data collection and analysis conducted by CEPEJ on the one hand allows to take stock of the efforts and changes that are taking place across Europe, and on the other hand support the sharing of positive and less positive experiences in order to allow judiciaries to learn from one another.

For the analysis of the installation of computer facilities within the European courts, three areas have been distinguished:

- *Computer facilities used for the direct assistance of judges and court clerks*: one of the "basic" applications concerns word processing/office facilities where a judge or staff member can draft his/her decisions or the preparation of a court case in an "electronic file". In the field of legal research, various tools and applications, from CD-ROMs to Intranet and Internet software, make it possible for a judge to gain access to statute law, appeal decisions, rules, court working methods, etc. Office applications, together with tools for jurisprudence, can be combined with facilities in the field of "standard-decisions" models or templates that can be used by judges to reduce their workload when drafting a judgment. Other computer facilities used for the direct assistance of judges and court clerks are electronic databases of jurisprudence, e-mail facilities and internet connections.
- *Systems for the registration and management of cases*: traditional court docket books and other registers are replaced by computerised databases with court records. These systems are not limited to registration of case information, but they introduce functionalities in the area of the management of cases. Fields of applications are: the generation of information concerning the performance of courts, financial management of courts and non-judicial case management support systems (for case tracking, case planning and document management).
- *Electronic communication and information exchange between the courts and their environment*: regarding court users one of the most common tools is a court website providing different information on the court activities (e.g. the follow-up of cases online) and organisation. Typically, it will offer downloadable forms or enable a claim to be submitted electronically. There also exists electronic registers such as business registers and land registers. Text-messaging can keep parties informed of the position of their case in the court list. Regarding technology in the courtroom, this includes a range of hardware and software made available to assist the parties in presenting their case to the court, including for instance video conferencing, electronic evidence presentation software, overhead projectors, scanning and bar-coding devices, digital audio technology and real-time transcription.

Table 5.12 is based on a point system and presents the use of different computer facilities for the three areas mentioned. Issues relating to the implementation of tools for audio and video recording in judicial proceedings or detailed information about other means of electronic communication have not been submitted to member states. However, it is relevant to mention that **Ireland** and **Slovenia** are the pioneers in these fields.

Reading keys for the table 5.12

The total number of points is provided only for information. It was calculated when the data were available for the totality of the categories, but also when only one category was missing per country.

The questionnaire allows only a very general categorisation (100%, >50%, <50%, >10%), therefore only a general overview can be applied. From a methodological point of view, no rigorous interpretation should be based on the analysis of national features.

100% (4 points)
>50% (3 points)
<50% (2 points)
<10% (1 point)
= 0% (0 point)

²⁹ On the subject see: Contini, F. and Lanzara, G.F. (eds) *ICT and Innovation in the Public Sector - European Studies in the Making of E-Government*, New York, Palgrave Macmillan, 2009.

³⁰ CCJE Opinion No.(2011)14 "Justice and information technologies (IT)" – see above.

Table 5.12 Computer facilities used within the courts for three areas of use (Q62, Q63, Q64)

States/entities	Direct assistance to judges and court clerks					Administration and management			Communication between courts and the parties										Total number of points
	Word processing	Electronic database of jurisprudence	Electronic files	E-mail	Internet connection	Case registration system	Court management information system	Financial information system	Videoconferencing	Electronic web forms	Website	Follow-up of cases online	Electronic registers	Electronic processing of small claims	Electronic processing of undisputed debt recovery	Electronic submission of claims	Videoconferencing	Other electronic communication facilities	
Albania																			50
Andorra																			24
Armenia																			48
Austria																			72
Azerbaijan																			59
Belgium																			35
Bosnia and Herzegovina																			51
Bulgaria																			45
Croatia																			59
Cyprus																			34
Czech Republic																			61
Denmark																			40
Estonia																			72
Finland																			68
France																			55
Georgia																			46
Germany																			53
Greece																			20
Hungary																			51
Iceland																			36
Ireland																			51
Italy																			53
Latvia																			57
Lithuania																			63
Luxembourg																			52
Malta																			72
Moldova																			34
Monaco																			45
Montenegro																			37
Netherlands																			56
Norway																			38
Poland																			49
Portugal																			72
Romania																			50
Russian Federation																			49
San Marino																			24
Serbia																			36
Slovakia																			49
Slovenia																			63
Spain																			51
Sweden																			46
Switzerland																			46
The FYROMacedonia																			48
Turkey																			50
Ukraine																			30
UK-England and Wales																			54
UK-Northern Ireland																			49
UK-Scotland																			60

Comments

Albania: in January 2010, the implementation of IT for court administration and case management was finalised. The introduction of the "Integrated Case Management Information System" (CCMIS/ICMIS) was financed by the European Community. The CCMIS/ICMIS project started in 2007. This new system includes case registration, lottery assignment of cases to judges, statistics, webpage etc. CCMIS/ICMIS will replace the existing Ark IT system, which is active in some courts for the moment and which facilitates the day to day work for all courts and court users.

Azerbaijan: the Government has invested consistently to further computerise the courts and, in particular, to complete the e-justice system, electronic case and documents systems, and to establish an e-network amongst courts.

Germany: preparations are currently being made for the introduction of electronic justice and electronic files. A schedule has already been drawn up.

Hungary: court registration proceedings and final settlement, company registration (change registration) is an electronic process operated by the court for business/ company registrations.

Ireland: electronic submission of small claims is a function allocated to the offices serving a single jurisdiction, namely the district court, and is available nationwide (more than 50% of court office locations).

Montenegro: is currently working on establishing a web portal for the judiciary that will allow the publishing of statements, decisions, case law and information to all courts.

Norway: the courts do not have a major role when it comes to registers. The Brønnøysund Register Centre is a government body controlled by the Ministry of Trade and Industry, and consists of several different national computerised registers.

Russian Federation: electronic submission of claims is only available in the commercial courts and case files in electronic form are used by judges and court clerks only in such courts.

Slovenia: all the registers kept by the court are in electronic form – the court register (for companies) (SRg) and the land register (eZK). An ICT application, the "Legal Enforcement Procedure for Money Claims" (CoVL) allows e-filing in cases for the enforcement of authentic documents. Paper filings (which are a minority) are converted to electronic form. The system also includes automatic checking and processing of enforcement proposals, IT supported decision-making and central printing, enveloping and dispatching services. The procedure is centralised: a Central department has been set up in the local court in Ljubljana to relieve other Slovenian courts. As a consequence of the new system, the work, previously done by around 350 court employees and judges in 44 courts, now involves just 4 judges and 62 support personnel³¹.

Spain: courts are implementing electronic submission of claims. With its strategic plan for modernising the justice system 2009-2012, Spain is developing a secure document exchange system (Lexnet) that facilitates communications between the courts and several legal actors (prosecutors, solicitors, court clerks, etc.). Approx. 22000 users currently access it. Furthermore, a judicial interoperability platform (EJIS) has been set up to allow court networking and real time data exchange on particular matters or persons. The implementation of both facilities is part of a new system, whose aim is to achieve a flexible and efficient justice system.

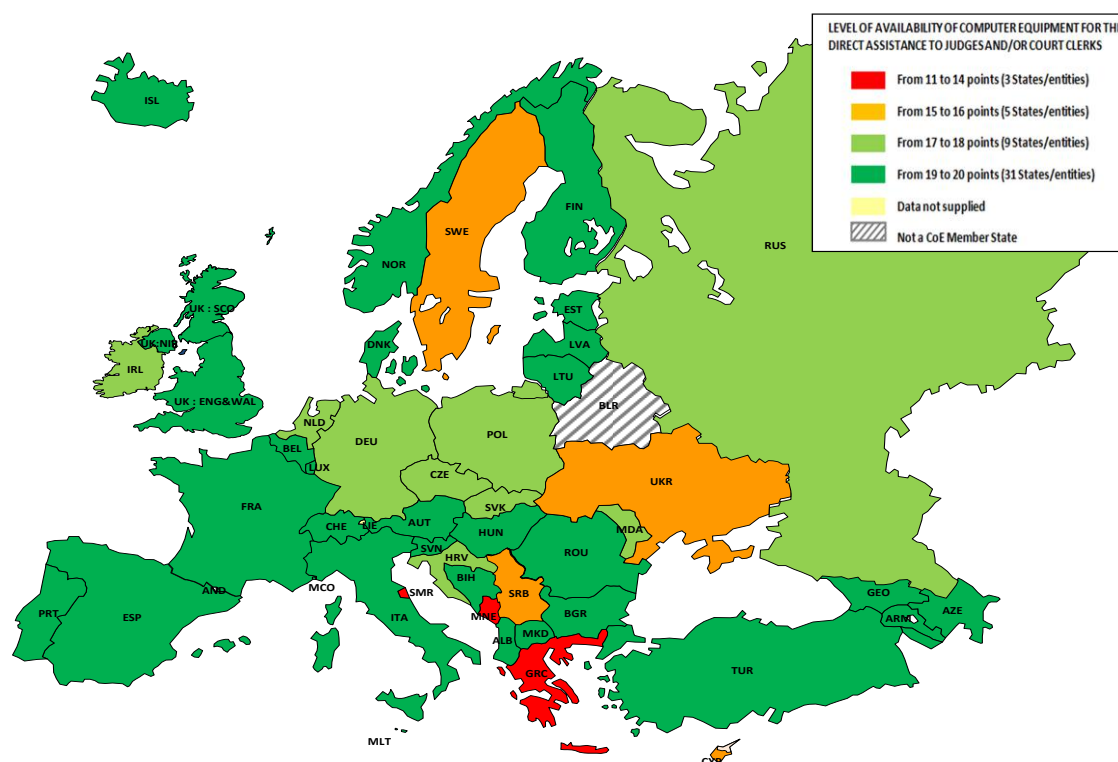
Sweden: beside the commercial tools, the Swedish national courts administration has recently developed a knowledge management system that can be used by courts. The knowledge management system is currently in use in a small number of courts. The aim, however, is to achieve a general adoption of the system in the courts. There are a number of different electronic register systems used by the courts, none of which are maintained by the national courts administration. As far as other electronic communication facilities are concerned, an increasing number of courts are using a service for sending text messages to cell phones. The number of courts using this service is expected to rise. In criminal cases, the judgment is transferred electronically to the police authority, which is administering the criminal records and to the Swedish national council for crime prevention. The courts have access to the national database of addresses managed by the national tax agency. Since some years there is an ongoing project concerning information management in the justice system. The government authorities throughout the justice system chain are working extensively to reduce the amount of paperwork and change over to providing information electronically. Case management – from police report to enforcement of judgment – can then be more efficient and of higher quality. These efforts also contribute to new knowledge that can be used in fighting crime and improving the possibilities of providing good service to the public.

There are 4 states or entities which have a 100% implantation of computer facilities in all the sectors listed in the questionnaire: **Austria, Estonia, Malta and Portugal**. 3 states (**Greece, San Marino, and Andorra**) reported a relatively low level of computerisation compared to other states or entities.

Generally speaking, the use of ICT in courts is constantly increasing in Europe. In some cases changes may not be measured anymore on a quantitative level, for example when hardware and software are being renewed. Many states or entities reported recent, on-going or planned reforms and ICT innovation projects (**Bosnia and Herzegovina, Bulgaria, Greece, Portugal, Serbia, "the former Yugoslav Republic of Macedonia"**; see also chapter 17 focusing on judicial reforms in the field of Information technologies). The matter that remains the least developed in Europe is communication between courts and the parties.

³¹ For a more detailed analysis of the Slovenian case see : Stojin, G. "COVL: Central Department for Enforcement on the basis of Authentic Document of the Slovenian Judiciary" Building Interoperability for European Civil Proceedings Online, Bologna, 15-16 June 2012, http://www.irsig.cnr.it/images/stories/biepc_documents/case_studies/COVL%20Slovenia%20case%20study%2012062012%20GST%20FINAL.pdf

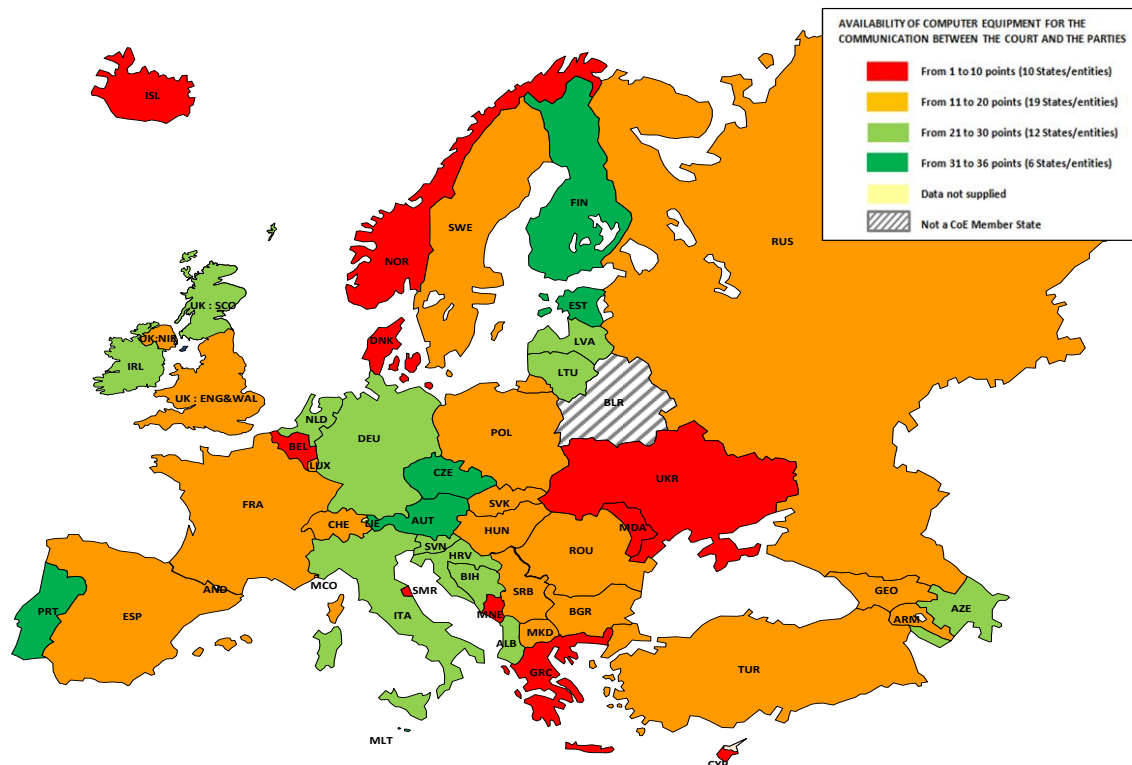
Figure 5.13 Level of availability of computer equipment for direct assistance to judges and/or court clerks (Q62)



The level of IT to directly assist judges and non-judge staff is relatively high. The majority of states or entities (31) scores high (19 to 20 points) in having computer equipment. 9 states scored 17 to 18 points. 5 states scored 15 to 16 points, though data should be read with care for **Andorra**, **Cyprus** and **Sweden** due to a missing answer and on maximum values for all other replies. Finally, **Montenegro** scored 14, **San Marino** 12 and **Greece** scored 10.

A great majority of the states or entities (apart from those who have 100% of equipment = 20 points) stated that the main problem is the lack (or insufficiency) of electronic files at the disposal of judges and court clerks, scoring an average (taking into account only the countries who responded) of 2.9 points against an average of 3.8 for electronic database of jurisprudence and 3.9 for the other three categories.

Figure 5.14 Availability of computer equipment for the communication between the court and the parties (Q64)



Given the greater complexity of the task in a technological, organisational and normative perspective, it can normally be noted that scores concerning computer equipment for facilitating the communication between the parties and the courts are lower than those of computer facilities used for the direct assistance of judges and court clerks and of systems for the registration and management of cases.

Nevertheless, the trend is encouraging. A good level of computer facilities for communication can also be found in one third of the states or entities. However, it must be kept in mind that this indicator does not assess the performance of such systems. **Austria, Czech Republic, Estonia, Finland, Malta, Portugal**³² have particularly high scores. **Italy** is now finally succeeding in deploying its on-line trial infrastructure³³ and in **France** the e-Barreau system³⁴ that allows data and document exchange between lawyers and courts, is now operative.

In some cases, instead of addressing the complexity of enabling electronic communications between all competent courts and court users, it has been decided to create “state wide electronic jurisdictions” centralising specific, simple but quantitatively conspicuous procedures such as those for the enforcement of authentic documents and creating ad-hoc units for dealing with them (**Slovenia, UK-England and Wales**). This has helped reducing the organisational and technological complexity of the implementation of the systems in a large number of courts and developing specialised competences and skills.

³² For an analysis of the Portuguese case see : Gomes, C., Fernandes, D., Fernando, P. “Citius – Payment Order Procedure”, Building Interoperability for European Civil Proceedings Online, Bologna, 15-16 June 2012, http://www.irsig.cnr.it/BIEPCO/documents/case_studies/biecpo_final.pdf

³³ Carnevali, D., Andrea Resca, A., “The Civil Trial On-Line (TOL): A True Experience of e-Justice in Italy” , Building Interoperability for European Civil Proceedings Online, Bologna, 15-16 June 2012, http://www.irsig.cnr.it/BIEPCO/documents/case_studies/TOL%20System_Report_Italy_28mag12%20.pdf

³⁴ For an analysis of the complexity of developing e-Barreau see: Velicogna, M., Errera A.; Derlange, S., “e-Justice in France: the e-Barreau experience”, Utrecht Law Review, Volume 7, Issue 1 (January) 2011, pp. 163-187, <http://ssrn.com/abstract=1763270>

Table 5.15 Level of computerisation of courts for the three areas of application (Q62, Q63, Q64)

< 35 points (6 States/entities)	35 to < 50 points (17 States/entities)	50 to < 60 points (16 States/entities)	60 points and over (9 States/entities)
Andorra Cyprus Greece Moldova San Marino Ukraine	Armenia Belgium Bulgaria Denmark Georgia Iceland Monaco Montenegro Norway Poland Russian Federation Serbia Slovakia Sweden Switzerland The FYROMacedonia UK-Northern Ireland	Albania Azerbaijan Bosnia and Herzegovina Croatia France Germany Hungary Ireland Italy Latvia Luxembourg Netherlands Romania Spain Turkey UK-England and Wales	Austria Czech Republic Estonia Finland Lithuania Malta Portugal Slovenia UK-Scotland

As observed before, most of the states or entities have achieved high or acceptable results and can provide the court users with a range of developed facilities. Insufficient funding might explain the delays of other states in developing e-justice systems (**Greece**).

The next step, which is now being attempted by a consortium of Ministries of Justice (or their representative) of 15 European states³⁵ is the development of an information infrastructure to support cross-border electronic access of citizens and businesses to legal means in Europe, as well as to improve the interoperability between legal authorities of different countries and improve cross-border judicial cooperation. The electronic services which have so far been selected and which will be piloted are: European Payment Order, European Small Claim procedure, European Arrest Warrant (EAW), and the Secure cross-border exchange of sensitive data³⁶.

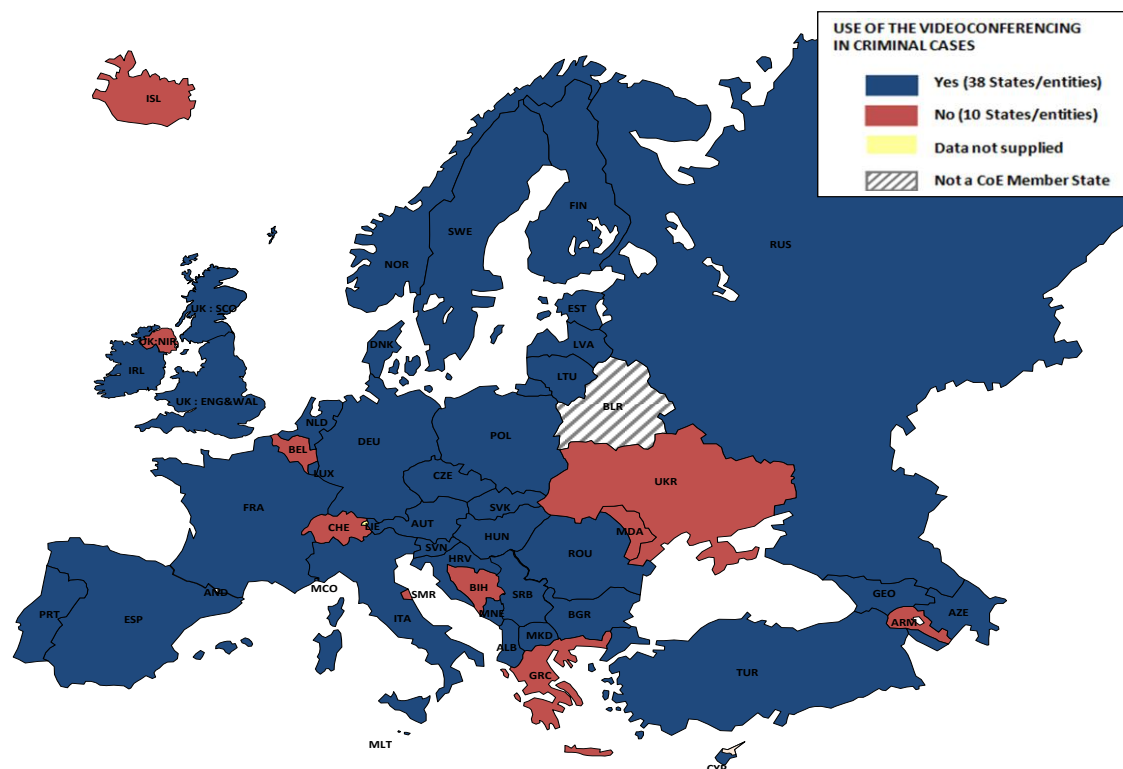
Use of videoconferencing

The use of video-conferencing is increasing in European judiciaries, to speed up procedures and reduce costs in non-criminal cases, to interview parties, experts and witnesses, but also when particular conditions of security or privacy arise in criminal cases, in order to allow victims and witnesses (especially victims of violent crimes, children and witnesses who are otherwise vulnerable), accused/convicted persons who are in custody, to safely attend hearings or be interviewed from safe locations.

³⁵ Austria, Belgium, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Malta, Netherlands, Portugal, Romania, Spain, Turkey.

³⁶ For more information see : <http://www.e-codex.eu/>

Figure 5.16 Use of videoconferencing in criminal cases (Q65)



Comments

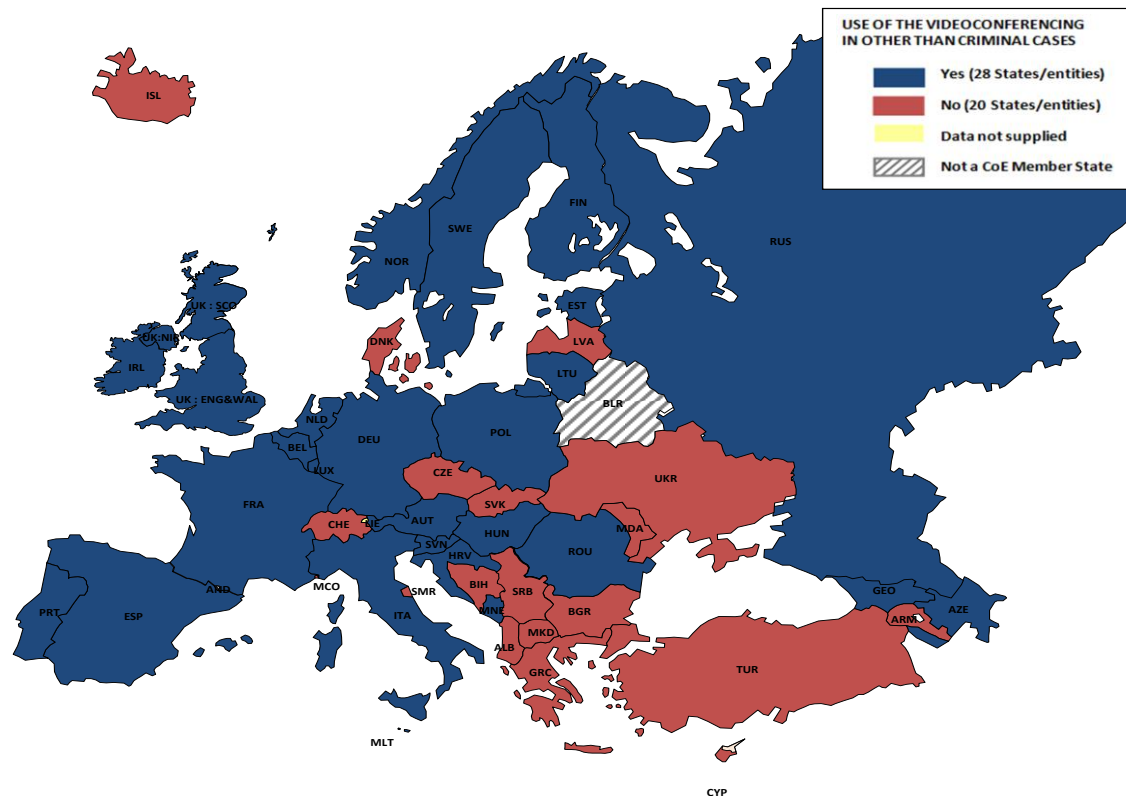
Italy: videoconferencing is mainly used in criminal proceedings in order to question detainees subjected to special security measures so that they do not need to be taken from the prison to another location. Videoconferencing as more effective means of communication and for other uses other than in criminal proceedings is presently under testing.

Latvia: courts are being facilitated with videoconferencing equipment within the Latvian-Swiss cooperation programme project "Court modernization in Latvia" that started in 2009 and it is planned to fully conclude it in 2012, when every court and prison in Latvia is going to be facilitated with videoconferencing equipment. In 2010 courts and prisons were not equipped with the videoconference equipment. Currently, the legal framework for videoconferencing is provided only in the Criminal Procedure Law: (Article 140).

In almost 80% of the states or legal entities, video-conferencing is used in criminal cases. The video-conference technology offers judges and prosecutors the possibility to question people summoned to a court that is nearest to their domicile and equipped with a video-conference system (**Austria**) or accused/convicted persons who are in custody and benefit from specially equipped rooms in detention (**France, Italy, Netherlands**³⁷ for specific cases). Child victims and witnesses of violent crime are increasingly questioned in specially equipped questioning rooms (**Azerbaijan, Germany**). In other cases, questioning of undercover investigators can be carried out in a secret location in criminal proceedings by disguising the voice and face (**Azerbaijan, Germany**) or police officers may present evidence from their police station (**UK-England and Wales**).

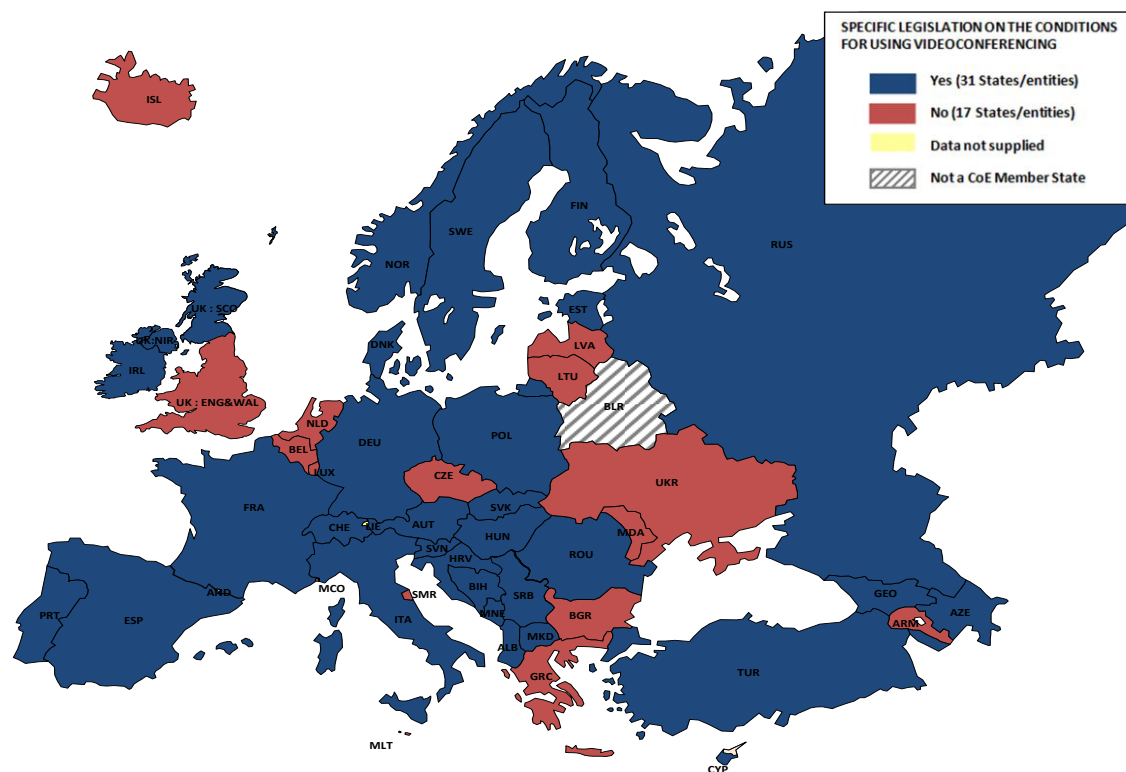
³⁷ For an analysis of the situation in the Netherlands see: Ng, G.Y., & F. Henning. "The Challenge of Collaboration – ICT implementation networks in courts in the Netherlands." TRASTransylvanian Review of Administrative Sciences, no. 28 (2009): 27-44.

Figure 5.17 Use of the videoconferencing in other than criminal cases (Q65)



Video-conferencing is less widely used in other than criminal cases, with less than 60% of the states or entities actively using it. Interesting experiences are being made in the field of cross border judicial proceedings (**Austria, Azerbaijan, Czech Republic, Germany**) or when a witness lives outside the country (**Azerbaijan, Portugal**).

Figure 5.18 Specific legislation on the conditions for using videoconferencing (Q65)



While nowadays video-conferencing is becoming more and more available to the general public through the use of PCs, webcams and more or less freely downloadable software applications, the use of video-

conferencing in a context such as that of the courts require the introduction of norms to define the range of applications of the new tools and govern their use. Specific legislation is needed in order to allow the use of video-conference technologies during judicial proceedings.

Between the scopes of video-conferencing legislation is ensuring the respect of fair trial as they are some differences, which are not always obvious differences, from that of a traditional trial (i.e. the direct visual control of the judge for the accused/convicted person in order to assess if he/she is under coercion by someone not visible on the teleconference screen; storing and availability of recordings; etc.). Technical and procedural requirements are directed to guarantee this. In **Spain**, for example, the law requires to ensure that there is a two-way simultaneous transmission of the image and sound, as well as visual, auditory and verbal interaction between the persons who are in the different geographical locations, and that it is possible at all times for each party to question and counter the other party's evidence, guaranteeing the right to a fair trial.

In some countries, though, there is no specific legislation on the conditions of using video-conferencing in judicial proceedings and the decision on the modalities of using of video-conference is left to the single judge (**UK-England and Wales**). In **Belgium** where such legislation is not yet available, video-conference is used only in pilot courts in civil cases; all parties must have given their consent.

In the field of video-conferencing too, sharing of experiences between European states has a topical role, as shown by the example of the Latvian-Swiss cooperation project "Court modernisation in Latvia", which aims at providing a legal framework and video-conferencing facilities to every court and prison in **Latvia**.

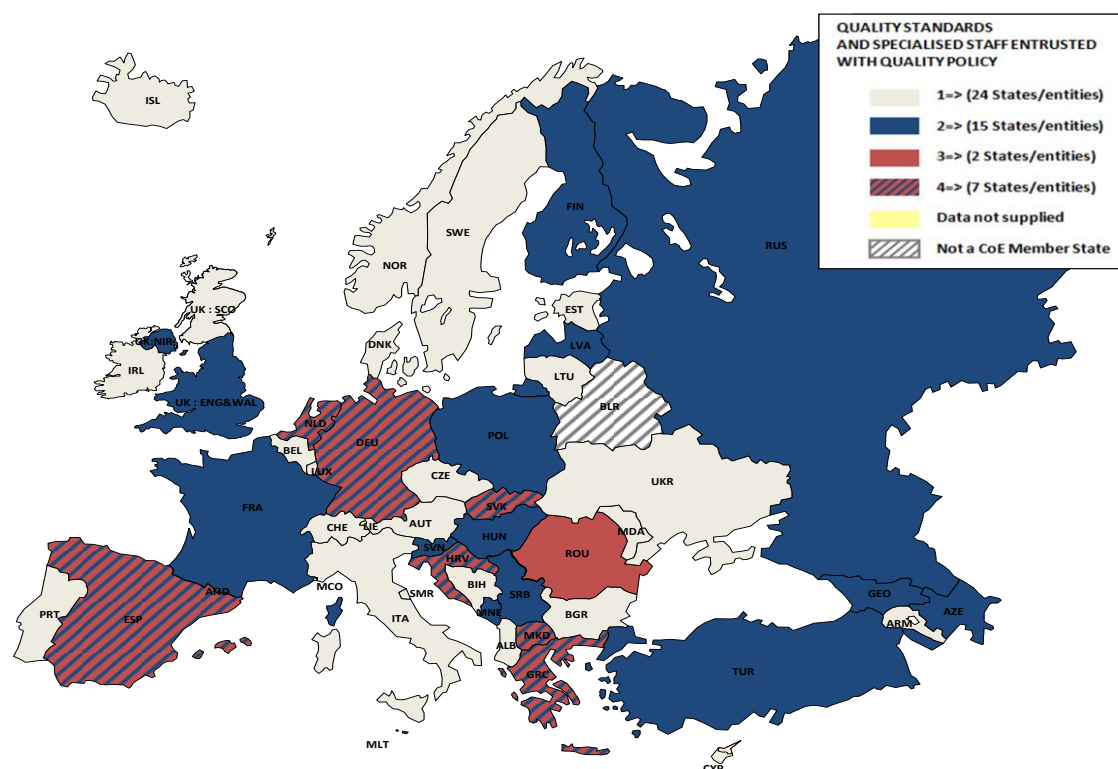
5.4 Quality and performance of the courts – Evaluation

5.4.1 Quality standards and performance targets

To underline the growing importance of the development of a quality policy for courts and the judiciary, the CEPEJ has created a special working group and has adopted a Checklist for the promotion of the quality of justice and courts: a practical tool that can be used by the courts to introduce specific quality measures. Another important area is the court users. A specific Handbook for setting up and implementing satisfaction surveys by the court users has been drafted and published by the CEPEJ. Furthermore, a specific Study on quality systems with courts in Europe has been published by the CEPEJ (see: www.coe.int/cepej)³⁸.

³⁸ Report on conducting satisfaction surveys of court users in Council of Europe member states, Jean-Paul Jean and Hélène Jorry, CEPEJ Study N°15.

Figure 5.19 States or entities which have defined quality standards and specialised staff entrusted with quality policy and/or quality systems (Q78, Q79)



Reading keys for map 5.19

- (1) **No quality standards defined and no specialised staff entrusted with quality policy** (24 states or entities)
- (2) **Specific quality standards defined, but no specialised court staff for dealing with these standards** (15 states or entities)
- (3) **Specialised court staff but no general quality policy** (2 states or entities)
- (4) **Quality standards defined and specialised court staff** (7 states or entities).

Most of the responding states or entities (24) have no defined quality standards and do not have any qualified staff entrusted with this task. However, 22 states or entities reported having quality standards for the courts (18 in 2008) and 9 have specialised staff. 7 states (3 more than in 2008): **Croatia, Germany, Greece, Netherlands, Slovakia, Spain** and "the former Yugoslav Republic of Macedonia" indicated having both a quality policy and specialised staff.

Several states or entities reported that general quality policies are set up by law (**Greece, Hungary, Russian Federation, Turkey**) or by a judicial authority (**Croatia**).

Finland provided information on quality projects in the courts of appeal of Rovaniemi and Helsinki and mentioned a cooperation project between administrative courts. In some countries, such as **France**, there are no specific quality standards for the judiciary but those of the public administration apply. **Latvia** reported on existing standards regarding the quality of service provided to court users and visitors. In **Montenegro**, strict deadlines for the announcement of decisions for several procedural acts exist and **Poland** uses the judgement stability ratio as a major indicator. In **Slovenia**, a pilot project for a quality system started in 2008 and in 2010, new criteria for the assessment of quality of the court work have been adopted by the Judicial Council. There is now a 3-year trial period in which some pilot courts will be monitored regarding the selected criteria. After the trial period the criteria will be revised and then adopted at state level. Furthermore, in 2009 a pilot project for self-evaluation was launched in three pilot district courts and is now being extended to other courts. In **Spain**, the National Quality Commission has approved a new quality system to be implemented in the new Judicial Offices. It comprises verifiable procedural indicators, as well as mechanisms for monitoring the number of cases and timeframes for each indicator. **Germany** also provided a number of useful experiences. The Baden-Württemberg Land, for example, is currently testing and implementing a large number of strategies for quality assurance in the judiciary. Tools of quality assurance are the cost and performance accounting, judicial control, staff cost budgeting, benchmark proceedings, the Balanced Scorecard, the EFQM model, various tools of personnel and organisation development, personnel requirements calculation, process optimisation, questionnaires among lawyers, citizens and staff, as well as evaluation tools both for the individual judicial and public prosecution work, and for the courts and public

prosecution offices as organisational units. **Monaco** does not have a system to evaluate the performance of the courts. Nevertheless, each head of court evaluates the performance of his/ her court. Moreover, on the occasion of the swearing in ceremony, an evaluation of the judicial activity of the past year is presented.

Indeed, data shows that this field still requires exploration by many judiciaries to find viable solutions, and that it would be important to have an increasing number of useful examples to be followed up in order to benefit from other countries' experiences, avoiding their mistakes and at the same time not reinventing the wheel.

All states or entities excepting **Andorra, Armenia, Belgium, Bulgaria, Cyprus, Hungary, Ireland, Luxembourg, Malta, Romania**³⁹ and **Ukraine**, have indicated that they have regular systems to evaluate the performance of the courts (Q69).

Table 5.20 Performance and quality indicators for a proper functioning of courts (Q71)

States/entities	Incoming cases	Length of proceedings (timeframes)	Closed cases	Pending cases and backlogs	Productivity of judges and court staff	Percentage of cases cs that are processed by a single sitting judge	Enforcement of penal decisions	Satisfaction of court staff	Satisfaction of users	Judicial quality and organisational quality of the courts	Costs of the judicial procedures	Other	Performance and quality indicators per state/entity
Albania													5
Andorra													4
Armenia													4
Austria													4
Azerbaijan													4
Bosnia and Herzegovina													4
Bulgaria													8
Croatia													5
Cyprus													4
Czech Republic													4
Denmark													4
Estonia													7
Finland													4
France													4
Georgia													5
Germany													4
Greece													4
Hungary													4
Iceland													4
Ireland													5
Italy													4
Latvia													6
Lithuania													4
Moldova													4
Monaco													4
Montenegro													4
Netherlands													4
Norway													4
Poland													4
Portugal													4
Romania													4
Russian Federation													5
Serbia													4
Slovakia													4
Slovenia													4
Spain													5
Sweden													4
Switzerland													4
The FYROMacedonia													4
Turkey													4
UK-England and Wales													4
UK-Northern Ireland													4
UK-Scotland													4
TOTAL	28	37	36	36	20	7	3	2	7	7	2	2	European Average : 4 performance and quality indicators

There are five main indicators highlighted by the responding states or entities:

1. indicator of the length of proceedings (37 states or entities),
2. indicator of the number of closed cases (36 states or entities),
3. indicator of pending cases and backlogs (36 states or entities),
4. indicator of the number of incoming cases (28 states or entities), and
5. indicator of the productivity of judges and court staff (20 states or entities – only 11 in 2008).

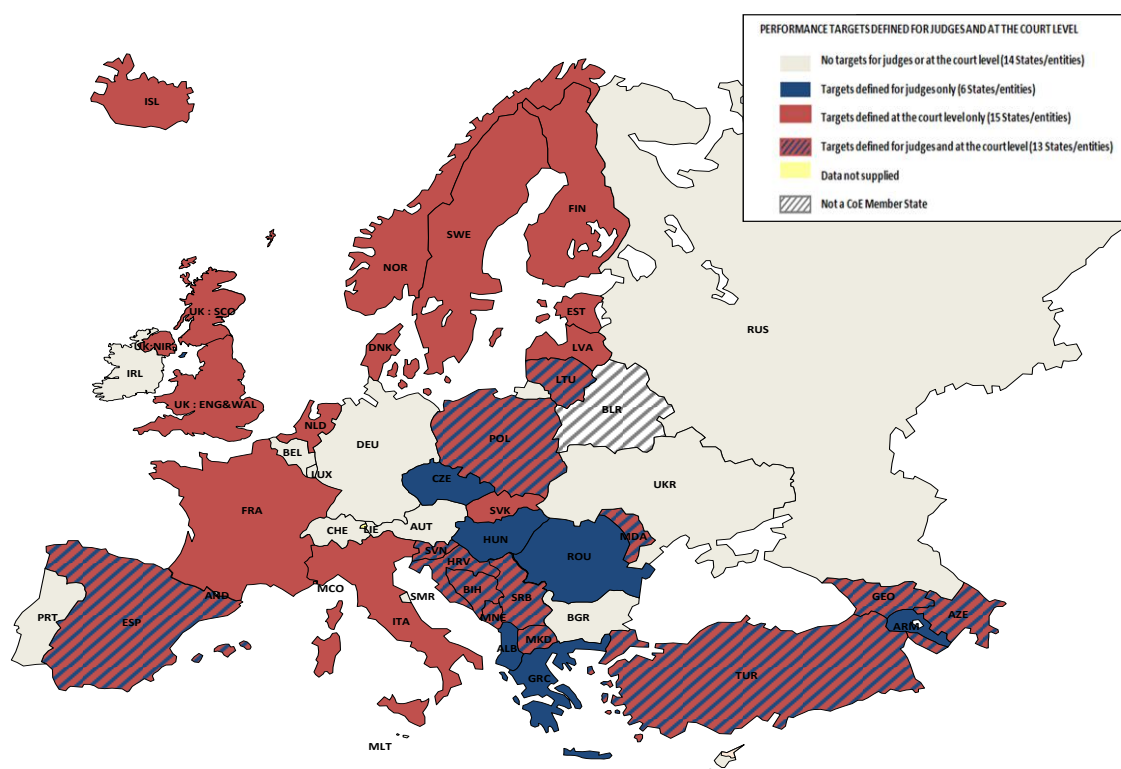
³⁹ In Romania there is not a formally adopted (by law or by subsequent regulatory act) periodic evaluation system of the activity (performance and result) of each court, although the SCM uses a series of performance indicators concerning the activity of courts.

Other indicators are of lesser significance in justice systems across Europe. Nevertheless, there are several states or entities mentioning them as important in their systems:

- judicial quality and organisational quality of the courts is evaluated in 7 states: **Albania, Cyprus, Georgia, Greece, Latvia, Serbia** and "**the former Yugoslav Republic of Macedonia**",
- percentage of cases that are dealt with by a single sitting judge was highlighted by 7 states: **Albania, Azerbaijan, Bulgaria, Estonia, Georgia, Republic of Moldova** and **Netherlands**,
- satisfaction of court users regarding the services delivered by the courts is one of the priorities for 7 states or entities: **Armenia, Denmark, Ireland, Netherlands, Spain, UK-Northern Ireland** and **UK-Scotland**,
- enforcement of penal decisions is stressed as one of the main indicators in **Bulgaria, Ireland** and **UK-England and Wales**,
- costs of the judicial proceedings are mainly evaluated in 2 states: **Estonia** and **Bulgaria**,
- satisfaction of employees in **Ireland** and **UK-Scotland**.

Performance indicators are often negotiated and agreed upon between courts and judicial councils or Ministries of Justice, such as in **Estonia**, where there have been and probably will be in the future, so-called "protocols/agreements for collective intentions" between the first and second instance courts and the Ministry of Justice. The targets are set in cooperation of the president of a court and the Ministry of Justice.

Figure 5.21 Performance targets defined for an individual judge and at the court level (Q72, Q74)



13 states or entities reported having defined performance targets for individual judges and at the court level while in another 15 states they are defined at court level only. 6 states or entities have defined performance targets for individual judges while 14 states still do not have any targets.

5.4.2 Evaluation and monitoring

As part of the management of courts, a periodic evaluation and monitoring of the quality of justice and of the court performance is recommended. Also, for the external orientation of the judiciary, annual (public) reports should be produced and provided to the public.

Table 5.22 Modalities of monitoring systems (Q67, Q68)

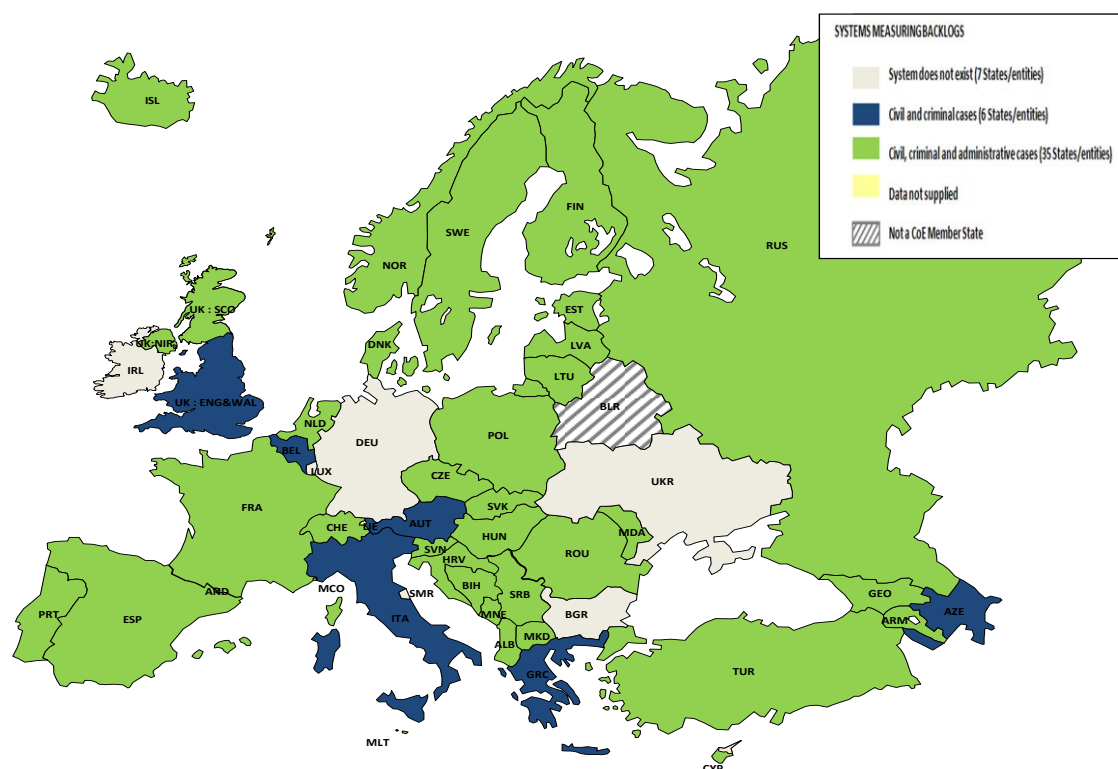
States/entities	Annual activity report	Monitoring of the number of incoming cases	Monitoring of the number of decisions	Monitoring number of postponed cases	Monitoring length of proceedings (timeframes)	Monitoring of the other elements	Modalities of monitoring systems per state/entity
Albania							6
Andorra							3
Armenia							5
Austria							6
Azerbaijan							5
Belgium							5
Bosnia and Herzegovina							5
Bulgaria							5
Croatia							5
Cyprus							4
Czech Republic							4
Denmark							6
Estonia							6
Finland							5
France							6
Georgia							5
Germany							5
Greece							4
Hungary							6
Iceland							5
Ireland							3
Italy							5
Latvia							6
Lithuania							6
Luxembourg							3
Malta							4
Moldova							5
Monaco							5
Montenegro							6
Netherlands							5
Norway							5
Poland							6
Portugal							5
Romania							6
Russian Federation							6
San Marino							5
Serbia							4
Slovakia							6
Slovenia							5
Spain							6
Sweden							4
Switzerland							5
The FYROMacedonia							5
Turkey							6
Ukraine							1
UK-England and Wales							5
UK-Northern Ireland							6
UK-Scotland							5
TOTAL	44	47	47	39	43	20	European average : 5 modalities of monitoring systems

A high number of states or entities reported that courts are required to prepare an annual activity report and to have monitoring systems on the number of incoming cases, number of decisions and length of proceedings. **Cyprus, Czech Republic, Greece** and **Sweden** do not require annual reports from courts. In **Cyprus**, for example, the Supreme Court prepares an activity report on the reserved judgments and the period for which they are reserved but there is no report prepared by each court on the number of cases. **Ukraine** does not have any monitoring systems. **Andorra, Ireland, Luxembourg** and **Malta** do not use monitoring systems on the length of proceedings.

One of the relatively underrepresented systems is the monitoring of postponed cases. This system is applied in 39 states or entities. States which do not have this system are: **Andorra, Germany, Iceland, Ireland, Luxembourg, Norway, Serbia, Sweden** and **Ukraine**. **UK-England and Wales** commented that not all activities used in Table 5.22 are measured in all its courts.

Some other elements are monitored in 20 states or entities. For instance, in **Albania**, the cases adjudicated by individual judges are also measured. **Spain** monitors the number of enforcements, appeals filed and returned while **Sweden**, among other elements, monitors the number and duration of hearings and the number of cancelled hearings in a case. Often the number and type of criminal offences are evaluated (**France, Turkey, UK–Scotland**) and in **Denmark**, the most violent types of offences are being monitored. In **Turkey**, in addition to statistics on number of files, verdicts, pending cases and the average duration of the cases, through the ICT infrastructure (UYAP) case type, judgment type, offence type, number of accused persons, age groups, nature of the conviction decisions can also be monitored regularly.

Figure 5.23 Systems measuring backlogs (Q80)



In addition to the previously described modalities of monitoring the justice system performance, a large majority of states or entities use specific systems in order to measure backlogs. 35 states or entities have a system to measure the backlogs in civil, criminal and administrative matters. In 6 states or entities: **Austria, Azerbaijan, Belgium, Greece, Italy** and **UK-England and Wales**, the backlogs are measured in civil and criminal cases. In 7 states: **Andorra, Bulgaria, Ireland, Germany, Luxembourg, San Marino** and **Ukraine** do not have any measurement system.

Most of the time, the states or entities that apply a measurement system for backlogs also monitor the length of proceedings (timeframes). This is not the case for **Malta**. On the other hand, **Bulgaria, Germany** and **San Marino** do not measure the backlogs, but use a monitoring system for the length of proceedings (timeframes).

However, considering the few answers given to the specific question on the average length of proceedings (Q102 see Chapter 9), such systems deserve to be further developed. To this end, the CEPEJ's SATURN Centre could play an important role in the sharing of information on positive experiences and also on possible problems that can be avoided or better managed when properly anticipated.

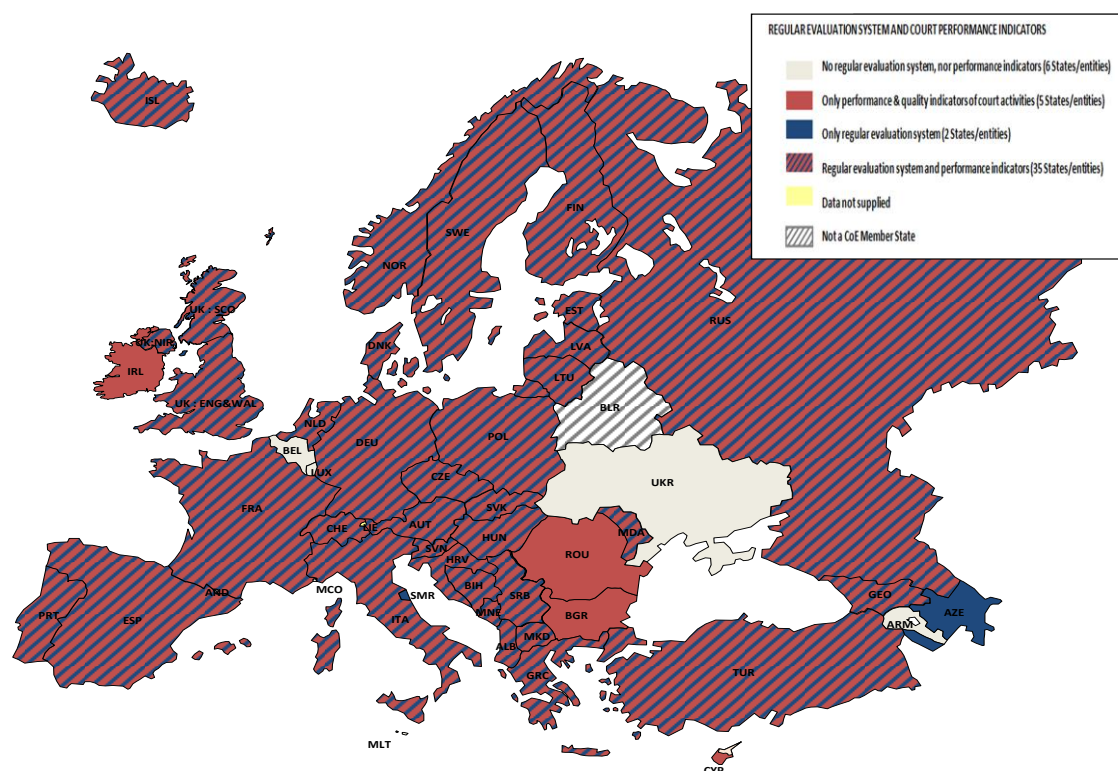
Table 5.24 States or entities that use a way of analysing the waiting time during court procedures (Q81)

Yes (25 States/entities)	No (23 States/entities)
Albania	Andorra
Armenia	Austria
Azerbaijan	Belgium
Bosnia and Herzegovina	Bulgaria
Croatia	Cyprus
Estonia	Czech Republic
Finland	Denmark
France	Germany
Georgia	Greece
Hungary	Iceland
Ireland	Italy
Latvia	Luxembourg
Lithuania	Moldova
Malta	Norway
Monaco	Portugal
Montenegro	Romania
Netherlands	San Marino
Poland	Serbia
Russian Federation	Slovakia
Slovenia	Sweden
Spain	Switzerland
The FYROMacedonia	Ukraine
Turkey	UK-Northern Ireland
UK-England and Wales	
UK-Scotland	

More than 50% of states or entities mentioned explicitly the use of management information systems for analysing the length of proceedings, backlogs, waiting times or other steps in the proceedings. As an example of such activities, in **Finland**, the courts perform self-inspections with the support of their case management systems. In **Bosnia and Herzegovina** courts are required to send reports every six months on time structure of pending cases, i.e. when each case was initiated and if there is an appeal, when the appeal was received by a higher instance court. In addition, the HJPC uses an information system to collect monthly time structures of pending cases in order to publish them on its website. The information system is increasingly used to monitor length of each phase in the court procedure. In **Estonia**, the control is centralised by the Ministry of Justice which sends extracts of the courts information system to the court presidents. In **Croatia**, the waiting period during court procedures is analysed in cases of protection of the right to trial within a reasonable time. Statistics of individual performance of judge also allows an effective monitoring of the duration of court proceedings, while in **Azerbaijan** and **Georgia**, the High Council of Justice studies the reasons for excessive length of time-frames according to statistical data, as well as by on-site visits. In **Slovenia**, cases are considered as backlogs when they exceed a specific time limit from the filing, which varies according to the type of case.

For the states or entities that provided a negative reply, this does not necessarily mean that some experiences are not carried out. In **Portugal** for example, waiting time during court procedures is not generally measured, but in some courts this is a common procedure, while in **Switzerland** it is done in 10 Cantons out of 26 and in **Iceland** the Supreme Court considers the timeframe of proceedings at the district courts when handling appeals.

Figure 5.25 Defined performance indicators concerning court activities and regular evaluation systems of each court's performance (Q69, Q70)



A great majority of the states or entities (35) have a regular system to evaluate the performance of each court and court performance indicators. **Azerbaijan** and **San Marino** reported that they have regular systems to evaluate the performance of each court but do not have performance indicators. 5 states apply performance indicators, but do not have a regular evaluation system: **Andorra, Bulgaria, Cyprus, Ireland** and **Romania**. Another 6 states (**Armenia, Belgium, Luxembourg, Malta, Monaco, Ukraine**) do not use any regular evaluation system and have not defined performance indicators.

5.4.3 Responsible authorities

Table 5.26 Authorities responsible for setting the targets for each judge and for the courts (Q73, Q75)

States/entities	Authorities setting targets for each judge				Authorities setting targets for the courts			
	Executive power (for example : Ministry of Justice)	Legislative power	Judicial power (for example : High Judicial Council or a Higher Court)	Other	Executive power (for example : Ministry of Justice)	Legislative power	Judicial power (for example : High Judicial Council or a Higher Court)	Other
Albania								
Andorra								
Armenia								
Austria								
Azerbaijan								
Belgium								
Bosnia and Herzegovina								
Bulgaria								
Croatia								
Cyprus								
Czech Republic								
Denmark								
Estonia								
Finland								
France								
Georgia								
Germany								
Greece								
Hungary								
Iceland								
Ireland								
Italy								
Latvia								
Lithuania								
Luxembourg								
Malta								
Moldova								
Monaco								
Montenegro								
Netherlands								
Norway								
Poland								
Portugal								
Romania								
Russian Federation								
San Marino								
Serbia								
Slovakia								
Slovenia								
Spain								
Sweden								
Switzerland								
The FYROMacedonia								
Turkey								
Ukraine								
UK-England and Wales								
UK-Northern Ireland								
UK-Scotland								
TOTAL	2	4	17	5	11	5	18	8

It is mainly the judicial power itself that sets targets for individual judges (17 states or entities) and at the court level (18 states or entities). The executive power can also set targets for the courts (11 states or entities), but typically does not for individual judges to avoid the risk of interfering with the individual work of judges.

Table 5.27 Authorities responsible for the evaluation of the performances of the courts (Q77)

States/entities	High Council of judiciary	Ministry of Justice	Inspection authority	Supreme Court	External audit body	Other	Total number of authorities per state/entity
Albania							2
Andorra							1
Armenia							1
Austria							2
Azerbaijan							1
Belgium							0
Bosnia and Herzegovina							1
Bulgaria							1
Croatia							2
Cyprus							1
Czech Republic							1
Denmark							1
Estonia							4
Finland							2
France							1
Georgia							1
Germany							1
Greece							1
Hungary							1
Iceland							4
Ireland							1
Italy							3
Latvia							3
Lithuania							1
Luxembourg							1
Malta							1
Moldova							1
Monaco							1
Montenegro							1
Netherlands							1
Norway							2
Poland							2
Portugal							1
Romania							1
Russian Federation							3
San Marino							3
Serbia							2
Slovakia							2
Slovenia							4
Spain							2
Sweden							1
Switzerland							3
The FYROMacedonia							1
Turkey							1
Ukraine							1
UK-England and Wales							3
UK-Northern Ireland							2
UK-Scotland							1
TOTAL	25	17	6	9	5	16	European Average : 2 authorities

5.5 Trends and conclusions

Considering the evolution of the number of first instance courts in Europe, it is difficult to conclude that there is a strong trend as regards the organisation of the judicial map. A majority of states or entities have not modified their court organisation between 2006 and 2010. Among those states which have modified their judicial maps, looking at the 2006-2010 variations, two different trends can be observed: some states or entities have reduced the number of courts, mainly for budgetary reasons, seeking more financial efficiency of scale and specialisation. On the contrary, other states or entities have increased the number of courts, often within the framework of larger strategies of justice reform.

A majority of European states have specialised courts, representing a European average of 24% of all first instance courts (considered as legal entities), which seems to be an increasing trend - they represented 19% of first instance courts in 2008.

A positive evolution can be noted as regards ICT in courts even if the results are not always visible when examining quantitative data. The development of e-justice and e-courts is a strong European trend. Many states or entities provided information regarding recent or on-going reforms in fields such as electronic registers, databases for judicial decisions, electronic court files and electronic signature or case management systems. The results of these reforms are clearly visible in the improvement of computer equipment for the direct assistance to judges and court clerks and for communication between the court and the parties concerned. Several countries have now developed and implemented ICT systems to support simplified procedures such as payment orders and small claims. In some cases, the creation of a single national electronic jurisdiction for the management of such claims has resulted in reduced complexity and more efficient use of resources. The use of video-conferencing is increasing in European judicial systems mainly for penal cases. However, there is a need to develop norms in order to define the range of application of the new video tools and govern their use. There are no European standards on this issue at this stage. It is a foreseeable tendency that ICT will continue to be used in the judicial systems to increase effectiveness and quality, and that new interesting solutions will be implemented.

With respect to the operation of courts, there is a trend towards rationalisation and an increasing use of performance and quality indicators, in order to make justice more efficient.

Chapter 6. Alternative Dispute Resolution (ADR)

Since the importance of the use of ADR is growing in the various European states or entities, the CEPEJ has decided to present this topic in a separate chapter. The use of ADR can help improve judicial efficiency by providing citizens alternatives to regular judicial proceedings.

The Committee of Ministers of the Council of Europe has adopted several Recommendations on mediation. Recommendation Rec(98)1 concerns mediation in family matters, particularly in the area of divorce (and custody cases of children). The aim of this Recommendation is not only to reduce the workload of the courts, but also to create a more acceptable solution for the parties and (in the case of children) to better protect the welfare of children. Recommendation Rec(99)19 concerning mediation in criminal matters aims to enhance the active participation of the victim and the offender in criminal proceedings. The recommendation seeks, on the one hand, to recognise the legitimate interest of victims to have a stronger voice in dealing with the consequences of their victimisation and to communicate with the offender, and on the other hand, to encourage the offenders' sense of responsibility by offering possibilities of reintegration and rehabilitation. Mediation in civil matters is addressed in Recommendation Rec (2002)10, where a definition is given: "*a dispute resolution process whereby parties negotiate over the issues in dispute in order to reach an agreement with the assistance of one or more mediators*". This definition is used for the purposes of this report. Guidelines have been adopted by the CEPEJ in 2007 to facilitate the proper implementation of these recommendations in the member states⁴⁰.

6.1 Different forms of ADR

The use of ADR has gained widespread acceptance in various European countries both among the general public and the legal profession. It helps improve efficiency and effectiveness of the justice system by providing users alternatives to regular judicial proceedings.

Different kinds of ADR exist in the member states of the Council of Europe:

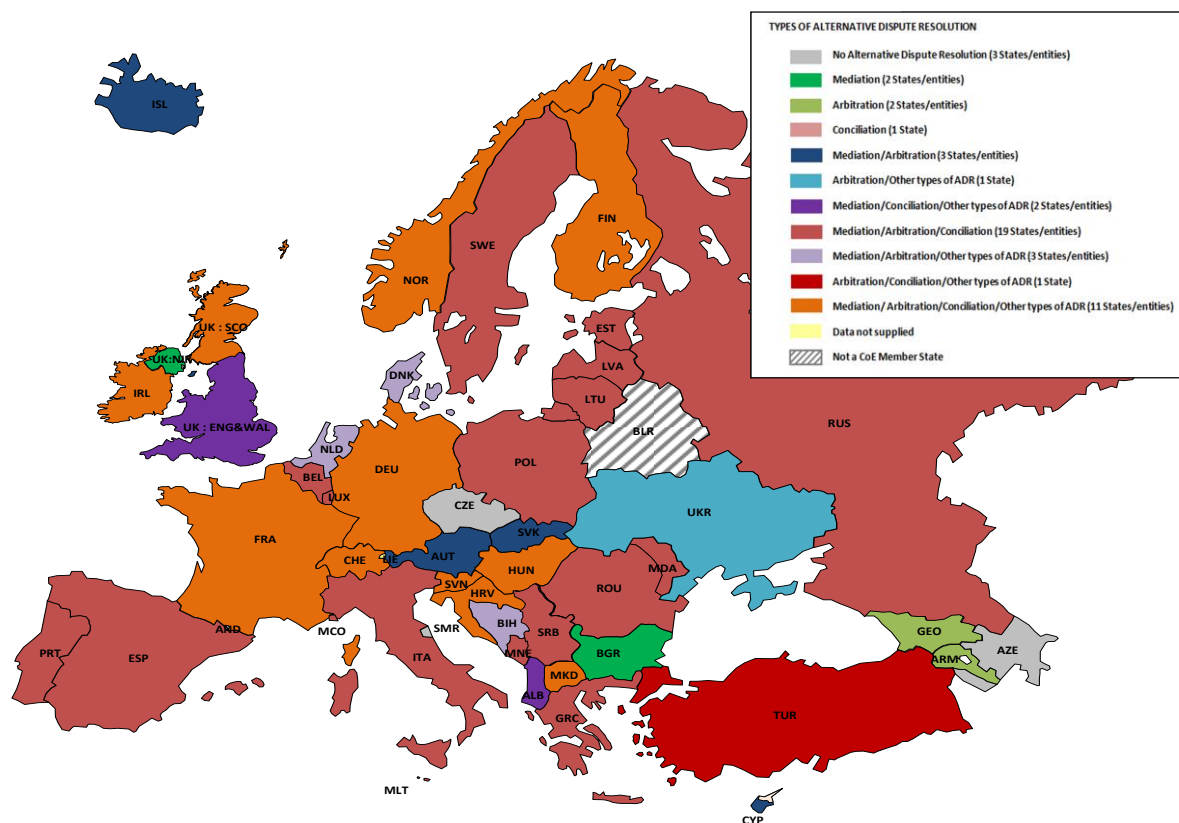
- *Mediation*: this is a voluntary, non-binding private dispute resolution process in which a neutral and independent person assists the parties in facilitating the discussion between the parties in order to help them resolve their difficulties and reach an agreement. It exists in civil, administrative and criminal matters.
- *Conciliation*: the conciliator's main goal is to conciliate, most of the time by seeking concessions. She/he can suggest to the parties proposals for the settlement of a dispute. Compared to a mediator, a conciliator has more power and is more proactive.
- *Arbitration*: parties select an impartial third party, known as an arbitrator, whose (final) decision is binding. Parties can present evidence and testimonies before the arbitrators. Sometimes there are several arbitrators selected who work as a court. Arbitration is most commonly used for the resolution of commercial disputes as it offers greater confidentiality.

Several member states reported offering also other forms of ADR.

The scope of the different forms of ADR may differ. For example, in **France**, the negotiations between a prosecutor and the defendant concerning the modality of the sanction is a form of mediation, while in other countries this is not the case (e.g. the **Netherlands**). Plus, the distinction between mediation and conciliation is not always evident. For these reasons the following data and figures must be interpreted with care.

⁴⁰ See www.coe.int/cepej

Figure 6.1 Types of Alternative Dispute Resolution applied in European states or entities in 2010 (Q168)



Note: Andorra applies conciliation, Monaco and Malta: mediation, arbitration and conciliation, San Marino: No ADR.

In a majority of states or entities there are at least 2 forms of ADR: *mediation* and *arbitration*. UK-Northern Ireland applies only *mediation*. Armenia applies only *arbitration*. Only four states (Azerbaijan, Bulgaria, Czech Republic and San Marino) stated that they did not offer any form of ADR.

Table 6.2 Types of Alternative Dispute Resolution applied in European states or entities in 2010 (Q168)

States/entities	Mediation	Arbitration	Conciliation	Other types of ADR	Type(s) of ADR
Albania					3
Andorra					1
Armenia					1
Austria					2
Belgium					3
Bosnia and Herzegovina					3
Bulgaria					1
Croatia					4
Cyprus					2
Denmark					3
Estonia					3
Finland					4
France					4
Georgia					1
Germany					4
Greece					3
Hungary					4
Iceland					2
Ireland					4
Italy					4
Latvia					3
Lithuania					3
Luxembourg					3
Malta					3
Moldova					3
Monaco					3
Montenegro					3
Netherlands					3
Norway					4
Poland					3
Portugal					3
Romania					3
Russian Federation					3
Serbia					3
Slovakia					3
Slovenia					4
Spain					3
Sweden					3
Switzerland					4
The FYROMacedonia					3
Turkey					3
Ukraine					2
UK-England and Wales					3
UK-Northern Ireland					1
UK-Scotland					4
TOTAL	40	40	34	18	Average : 3 types of ADR per State/entity

Mediation and Arbitration are the forms of ADR which are used by the highest number of European states or entities (40 states or entities).

6.2 Mediation

This chapter concerns *judicial mediation*. In this type of mediation, there is always the intervention of a judge or a public prosecutor who advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).

6.2.1 Authorities responsible for mediation

Table 6.3 Authorities responsible for mediation procedures in 2010 (Q164)

States/entities	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Albania					
Austria					
Belgium					
Bosnia and Herzegovina					
Bulgaria					
Croatia					
Czech Republic					
Denmark					
Estonia					
Finland					
France					
Germany					
Greece					
Hungary					
Iceland					
Ireland					
Italy					
Latvia					
Lithuania					
Luxembourg					
Malta					
Moldova					
Monaco					
Montenegro					
Netherlands					
Norway					
Poland					
Portugal					
Romania					
Russian Federation					
Serbia					
Slovakia					
Slovenia					
Spain					
Sweden					
Switzerland					
The FYROMacedonia					
Turkey					
UK-England and Wales					
UK-Northern Ireland					
Total	26	31	23	15	7

In table 6.3 are included the 40 states or entities that provide for a system of mediation. All of them provided information.

Private mediation is currently the main system of mediation in European states or entities (31 states or entities). Private mediators can be specially trained professionals, certified lawyers or other private (legal) professionals hired by the parties. Private mediation proposed by a judge or a court annexed mediation is present in 26 states or entities. The third most important type of mediation is the one performed by a public authority other than the court (23). Mediation by judges or court staff nominated as mediator ("*in-house*" service - the "*multi-door courthouse principle*") exists in a smaller group of states or entities (15). In 7 states, prosecutors can perform mediation duties such as arranging (financial) compensation for the victim of a crime. In **Austria, Belgium, France, Greece, Serbia** and **Turkey**, prosecutors intervene only in criminal cases. In **Croatia**, prosecutors may also manage several categories of civil cases.

6.2.2 Types of Mediation proceedings

Table 6.4 Judicial mediation in *civil and commercial* cases in 2010 (Q164)

Court annexed mediation - 22 States/entities -	Private mediator - 26 States/entities -	Public authority - 9 States/entities -	Judge - 13 States/entities -	Public prosecutor - 1 State/entity -
Belgium	Albania	Bosnia and Herzegovina	Albania	Croatia
Croatia	Belgium	Finland	Croatia	
Denmark	Bosnia and Herzegovina	Germany	Denmark	
Finland	Bulgaria	Hungary	Finland	
Germany	Croatia	Malta	Germany	
Greece	Estonia	Montenegro	Iceland	
Hungary	Finland	Portugal	Italy	
Ireland	France	Serbia	Lithuania	
Lithuania	Germany	Spain	Monaco	
Malta	Hungary		Norway	
Monaco	Ireland		Russian Federation	
Netherlands	Italy		Serbia	
Romania	Lithuania		Sweden	
Russian Federation	Luxembourg			
Serbia	Netherlands			
Slovenia	Norway			
Spain	Poland			
Sweden	Romania			
Switzerland	Russian Federation			
Turkey	Serbia			
UK-England and Wales	Slovakia			
UK-Northern Ireland	Slovenia			
	Sweden			
	The FYROMacedonia			
	UK-England and Wales			
	UK-Northern Ireland			

Mediation within a judicial process is largely provided in civil and commercial matters (36 states or entities). Countries not providing mediation in civil and commercial matters are: **Andorra, Armenia, Austria, Azerbaijan, Cyprus, Czech Republic, Georgia, Latvia, Republic of Moldova, San Marino, Ukraine** and **UK-Scotland**. The highest number of states or entities apply these mediations through a private mediator (26 states or entities).

Table 6.5 Judicial mediation in *family law* cases in 2010 (Q164)

Court annexed mediation - 20 States/entities -	Private mediator - 25 States/entities -	Public authority - 14 States/entities -	Judge - 14 States/entities -	Prosecutor - no country -
Belgium	Albania	Bosnia and Herzegovina	Albania	
Croatia	Belgium	Croatia	Croatia	
Denmark	Bosnia and Herzegovina	Denmark	Denmark	
Finland	Bulgaria	Finland	Finland	
France	Estonia	Germany	Germany	
Germany	Finland	Hungary	Iceland	
Hungary	France	Ireland	Italy	
Lithuania	Germany	Lithuania	Lithuania	
Malta	Hungary	Montenegro	Monaco	
Monaco	Ireland	Norway	Norway	
Netherlands	Lithuania	Portugal	Russian Federation	
Romania	Luxembourg	Serbia	Serbia	
Russian Federation	Malta	Spain	Sweden	
Serbia	Netherlands	UK-England and Wales	UK-England and Wales	
Slovenia	Norway			
Spain	Poland			
Sweden	Romania			
Switzerland	Russian Federation			
UK-England and Wales	Serbia			
UK-Northern Ireland	Slovakia			
	Slovenia			
	Sweden			
	The FYROMacedonia			
	UK-England and Wales			
	UK-Northern Ireland			

Table 6.6 Judicial mediation in *employment dismissal* cases in 2010 (Q164)

Court annexed mediation - 15 States/entities -	Private mediator - 23 States/entities -	Public authority - 10 States/entities -	Judge - 13 States/entities -	Prosecutor - 0 States/entities -
Belgium	Albania	Bosnia and Herzegovina	Albania	
Croatia	Belgium	Croatia	Croatia	
Finland	Bosnia and Herzegovina	Finland	Finland	
Germany	Bulgaria	Hungary	Germany	
Hungary	Croatia	Italy	Iceland	
Lithuania	Estonia	Montenegro	Italy	
Monaco	Finland	Portugal	Lithuania	
Netherlands	France	Russian Federation	Monaco	
Romania	Germany	Serbia	Norway	
Russian Federation	Hungary	Turkey	Russian Federation	
Serbia	Lithuania		Serbia	
Slovenia	Luxembourg		Sweden	
Spain	Netherlands		UK-England and Wales	
Sweden	Norway			
Switzerland	Poland			
	Romania			
	Russian Federation			
	Serbia			
	Slovakia			
	Slovenia			
	Sweden			
	The FYROMacedonia			
	UK-England and Wales			

In 2010, Judicial mediation in family law cases and in employment dismissal cases are also reported by many states or entities (respectively 34 and 31 states or entities). Again, most of the time, mediation is provided by a private mediator on the proposal of a judge (25 and 23), or by a court annexed mediation (21 and 15).

Table 6.7 Judicial mediation in *administrative* cases in 2010 (Q164)

Court annexed mediation - 8 States/entities -	Private mediator - 12 States/entities -	Public authority - 2 States/entities -	Judge - 6 States/entities -	Prosecutor - 0 States/entities -
Croatia	Albania	Croatia	Albania	
Germany	Bulgaria	Switzerland	Croatia	
Monaco	Estonia		Germany	
Netherlands	France		Iceland	
Norway	Germany		Monaco	
Serbia	Netherlands		Norway	
Spain	Norway			
Turkey	Poland			
	Portugal			
	The FYROMacedonia			
	UK-England and Wales			
	UK-Northern Ireland			

Mediation in administrative cases is only applied in a minority of member states or entities (17).

Table 6.8 Judicial mediation in *criminal* cases in 2010 (Q164)

Court annexed mediation - 11 States/entities -	Private mediator - 12 States/entities -	Public authority - 10 States/entities -	Judge - 4 States/entities -	Prosecutor - 7 States/entities -
Croatia	Austria	Austria	Albania	Austria
Czech Republic	Bosnia and Herzegovina	Belgium	Austria	Belgium
France	Bulgaria	Finland	Iceland	Croatia
Greece	Estonia	France	Serbia	France
Hungary	Hungary	Hungary		Greece
Luxembourg	Latvia	Ireland		Serbia
Romania	Luxembourg	Latvia		Turkey
Serbia	Moldova	Montenegro		
Slovakia	Poland	Portugal		
Spain	Romania	Sweden		
Turkey	Switzerland			
	The FYROMacedonia			

Twenty-nine states or entities apply mediation procedures in criminal cases. Private mediation (proposed by a judge or court annexed mediation), direct private mediation and mediation by a public authority (other than the court) are performed in a rather equal number of states or entities. However, it must be underlined that judicial mediation in criminal matters is the only kind of mediation where court annexed mediation is more used by Member states than private mediators acting on the proposal of a judge.

Table 6.9 Types of cases concerned by judicial mediation in 2010 (Q164)

States/entities	Civil and commercial cases	Family law cases	Administrative cases	Employment dismissal	Criminal cases
Albania					
Austria					
Belgium					
Bosnia and Herzegovina					
Bulgaria					
Croatia					
Czech Republic					
Denmark					
Estonia					
Finland					
France					
Germany					
Greece					
Hungary					
Iceland					
Ireland					
Italy					
Latvia					
Lithuania					
Luxembourg					
Malta					
Moldova					
Monaco					
Montenegro					
Netherlands					
Norway					
Poland					
Portugal					
Romania					
Russian Federation					
Serbia					
Slovakia					
Slovenia					
Spain					
Sweden					
Switzerland					
The FYROMacedonia					
Turkey					
UK-England and Wales					
UK-Northern Ireland					
TOTAL	36	34	19	31	28

On average, mediation is applied for 4 types of disputes. However, there are big differences between States and entities; indeed, **Austria, Czech Republic, Latvia, Republic of Moldova** provide mediation only in criminal cases, whereas mediation is available in all types of cases in **Bulgaria, Croatia, Estonia, France, Iceland, Poland**, and **Portugal, Serbia, Spain, Switzerland** and “**the former Yugoslav Republic of Macedonia**”.

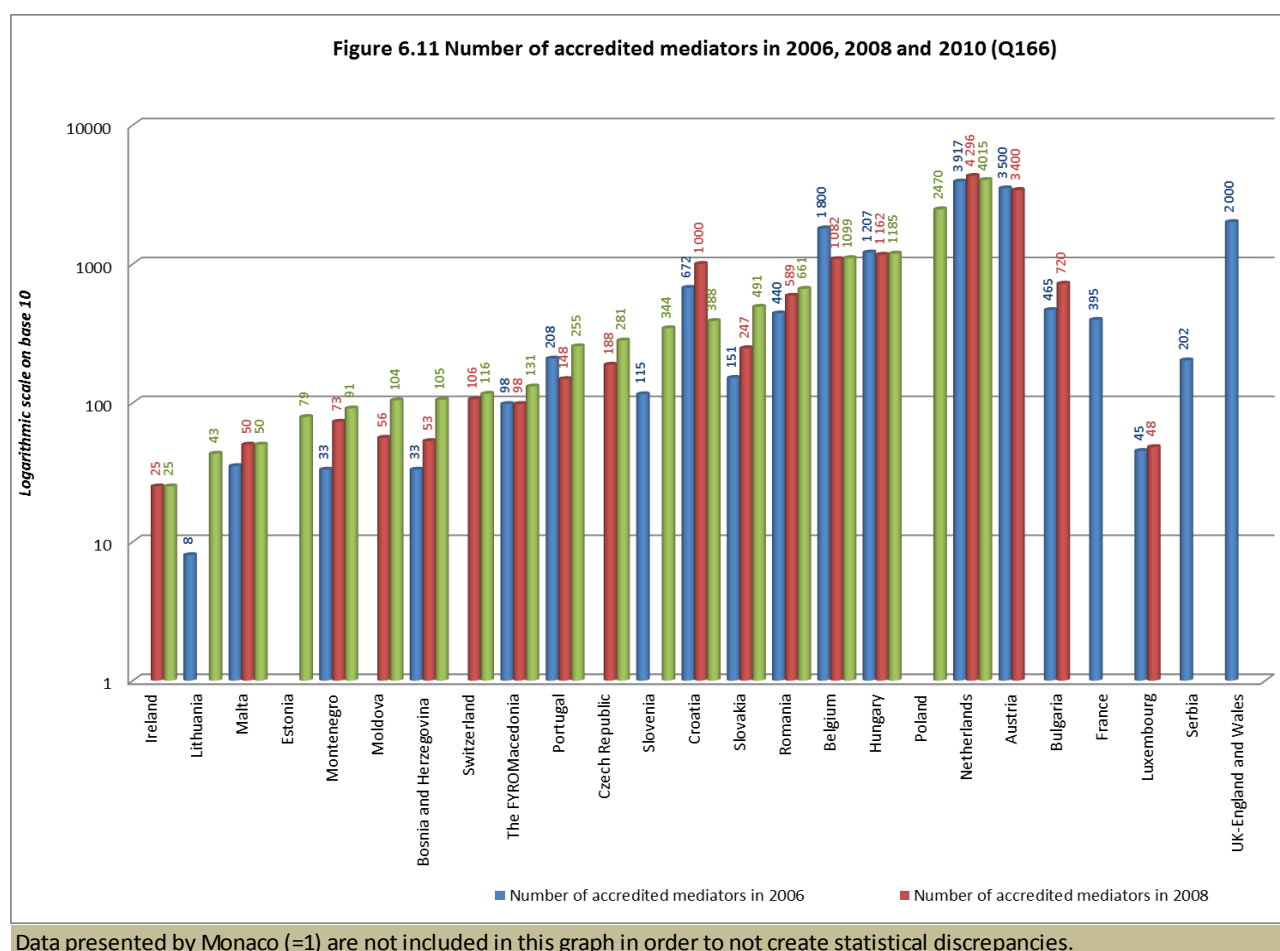
It is noticeable that some countries have reduced the types of cases concerned by judicial mediation in 2010 in comparison with 2008, while the European trend is to increase it. As an example, in 2008, in **Austria** and

Czech Republic, all types of cases were concerned by judicial mediation. The trend is that mediation can be provided by private mediators only (as in **Czech Republic**).

Table 6.10 Numerical classification by types of cases concerned by judicial mediation in 2010 (Q164)

1 type (4 States/entities)	2 types (3 States/entities)	3 types (6 States/entities)	4 types (15 States/entities)	5 types (12 States/entities)
Austria	Denmark	Ireland	Belgium	Albania
Czech Republic	Greece	Italy	Bosnia and Herzegovina	Bulgaria
Latvia	Malta	Lithuania	Finland	Croatia
Moldova		Russian Federation	Germany	Estonia
		Slovenia	Hungary	France
		UK-Northern Ireland	Luxembourg	Iceland
			Monaco	Poland
			Montenegro	Portugal
			Netherlands	Serbia
			Norway	Spain
			Romania	Switzerland
			Slovakia	The FYROMacedonia
			Sweden	
			Turkey	
			UK-England and Wales	

6.2.3 Number of Accredited Mediators



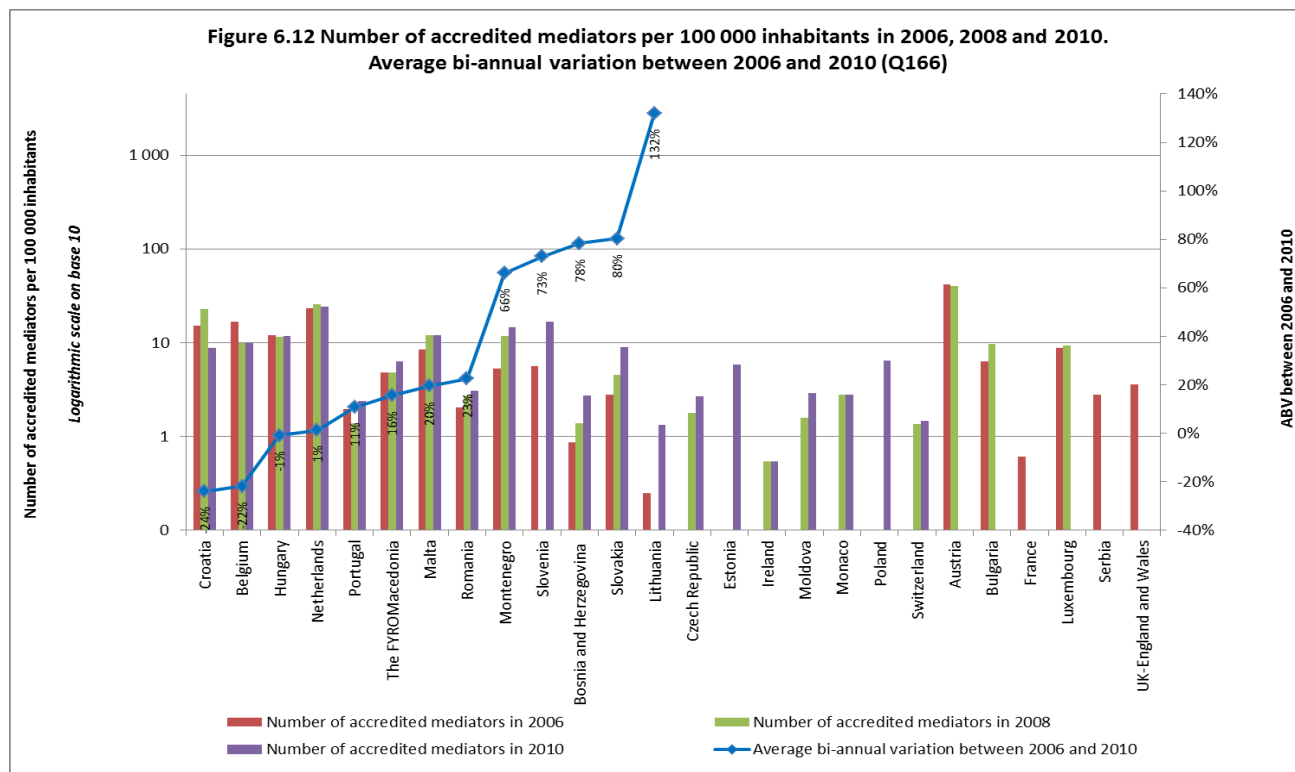
Comments

Bosnia and Herzegovina: the Association of Mediators provided the number of accredited mediators. It confirmed that there has been a considerable increase in the number of accredited mediators and offered the explanation that mediation, as a career choice, has become more popular over the last couple of years.

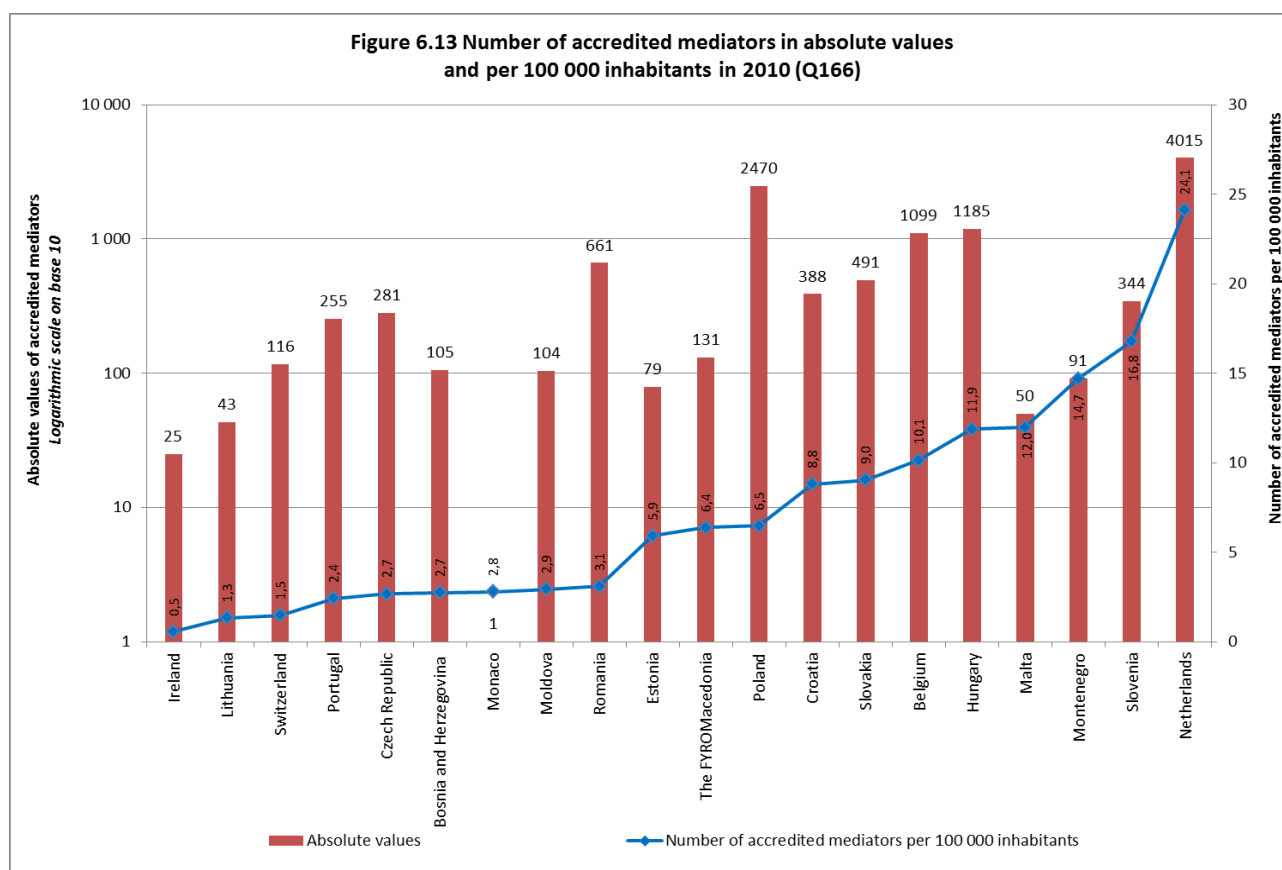
Czech Republic: in connection with the new Criminal Code, at the end of 2009 there were 90 new people engaged as probate servants who were trained in the field of mediation and can mediate between offender and victim. That is the reason for the increase.

Montenegro: the figures are due to the activities defined in the Action plan for the implementation of the Judicial Reform Strategy 2007-2012 which contains a Chapter devoted to Promotion Alternative Dispute Resolution

Slovakia: The Ministry of justice of the Slovak republic is obliged to register the person who complies with the statutory conditions for being the mediator. The increase of the total number means that there are more qualified persons interested to be a mediator.



The accessibility of mediation services is one of the aspects of access to Justice. Regarding the number of accredited mediators per 100000 inhabitants, it is noticeable that there is a European trend to increase this number among the responding member States. Except for a few Member States (**Croatia**, **Belgium** and **Hungary**), the average bi-annual variation is positive between 2006 and 2010. Most of the responding Member states and entities have a number of accredited mediators which is less or equal to 10 mediators per 100000 inhabitants.



Comments

Bosnia and Herzegovina: mediators are private professionals, i.e. they are not employed by the Association of Mediators

Croatia: the number of accredited conciliators is not final because mediators continue to register for accreditation.

Ireland: twenty-five qualified family mediators work for the State funded Family Mediation Service. Many lawyers and others persons have been trained and practice as mediators. Numbers for these are not available.

Switzerland: figures provided by only 2 cantons. Some other cantons have mediators but they do not use an accreditation system.

UK-England and Wales: in total, there are more than 600 family mediation services which have multiple mediators in several offices across England and Wales. There are 100 Employment Judges trained in judicial mediation.

Accreditation may be granted by the courts, a national authority or an NGO. Member states were asked to provide an official figure. As in 2008, no more than 20 states or entities were able to indicate a number of court accredited mediators which limit the analysis and comparability of data. The profession is sometimes self-regulated (**Latvia, Slovenia and UK England and Wales**) and figures are hard to collect.

However, it is noticeable that there are important differences between the States and entities. The **Netherlands** has a relatively high number of mediators (over 20 per 100000 inhabitants). The number of 2,8 mediators per 100000 inhabitants for **Monaco** is not significant (only one mediator).

Table 6.14 Number of judicial mediation procedures and number of accredited mediators in 2010 (Q166, Q167)

Country	Categories based on types of cases concerned by judicial mediation	Total number of mediation procedures	of which:					Number of accredited mediators per 100.000 inhabitants	Average number of cases per mediator
			Civil cases	Family cases	Administrative cases	Employment dismissal cases	Criminal cases		
Croatia	5	NA	541	NA	NA	NA	NA	8,8	NA
Cyprus	5	NA	NA	NA	NA	NA	NA		NAP
Estonia	5	NA	NA	NA	NA	NA	NA	5,9	NA
Iceland	5	NA	NA	NA	NA	NA	NA		NAP
Poland	5	14782	5426	1704	11	447	7194	6,5	5,98
Portugal	5	2854	2406	83	NA	116	249	2,4	11,19
Romania	5	258	39	213	6	0	0	3,1	0,39
Spain	5	NA	NA	2242	NA	NA	NA		NA
Switzerland	5	NA	NA	NA	NA	NA	NA	1,5	NA
The FYROMacedonia	5	NA	NA	NA	NA	NA	NA	6,4	NA
Germany	4a	NA	NA	NA	NA	NA	NAP		NAP
Monaco	4a	NA	NA	NA	NA	NA	NAP	2,8	NA
Netherlands	4a	3880	461	2537	882	NA	NAP	24,1	0,97
UK-England and Wales	4a	24600	10000	14200	0	400	NAP		NA
Norway	4a	2017	1925	NA	NA	NA	NAP		NA
Hungary	4b	NA	NA	NA	NAP	NA	NA	11,9	NA
Belgium	4b	NA	NA	NA	NAP	NA	6320	10,1	NA
Bosnia and Herzegovina	4b	44	41	0	NAP	0	3	2,7	0,42
Finland	4b	NA	NA	NA	NAP	NA	NA		NAP
Italy	4b	NA	NA	NA	NAP	NA	NA		NA
Montenegro	4b	1577	87	1420	NAP	0	70	14,7	17,33
Slovakia	4b	NA	NA	NA	NAP	NA	NA	9,0	NA
Sweden	4b	NA	NA	NA	NAP	NA	NA		NAP
Turkey	4c	NA	NA	NAP	NA	NA	NA		NA
UK-Northern Ireland	3a	NA	NA	NA	NA	NAP	NAP		NA
Ireland	3b	NA	NA	NA	NAP	NAP	NA	0,5	NA
Lithuania	3c	NA	NA	NA	NAP	NA	NAP	1,3	NA
Russian Federation	3c	NA	NA	NA	NAP	NA	NAP		NA
Slovenia	3c	2239	1917	0	NAP	322	NAP	16,8	6,51
Denmark	2	NA	NA	NA	NAP	NAP	NAP		NA
Malta	2	NA	NA	NA	NAP	NAP	NAP	12,0	NA
Austria	1	6007	NAP	NAP	NAP	NAP	6007		NAP
Czech Republic	1	726	NAP	NAP	NAP	NAP	726	2,7	2,58
Latvia	1	440	NAP	NAP	NAP	NAP	440		NAP
Moldova	1	15	NAP	NAP	NAP	NAP	15	2,9	0,14
Andorra	0	NAP	NAP	NAP	NAP	NAP	NAP		NAP
Armenia	0	NAP	NAP	NAP	NAP	NAP	NAP		NAP
Azerbaijan	0	NAP	NAP	NAP	NAP	NAP	NAP		NAP
San Marino	0	NAP	NAP	NAP	NAP	NAP	NAP		NAP
UK-Scotland	0	NAP	NAP	NAP	NAP	NAP	NAP		NAP

Comment

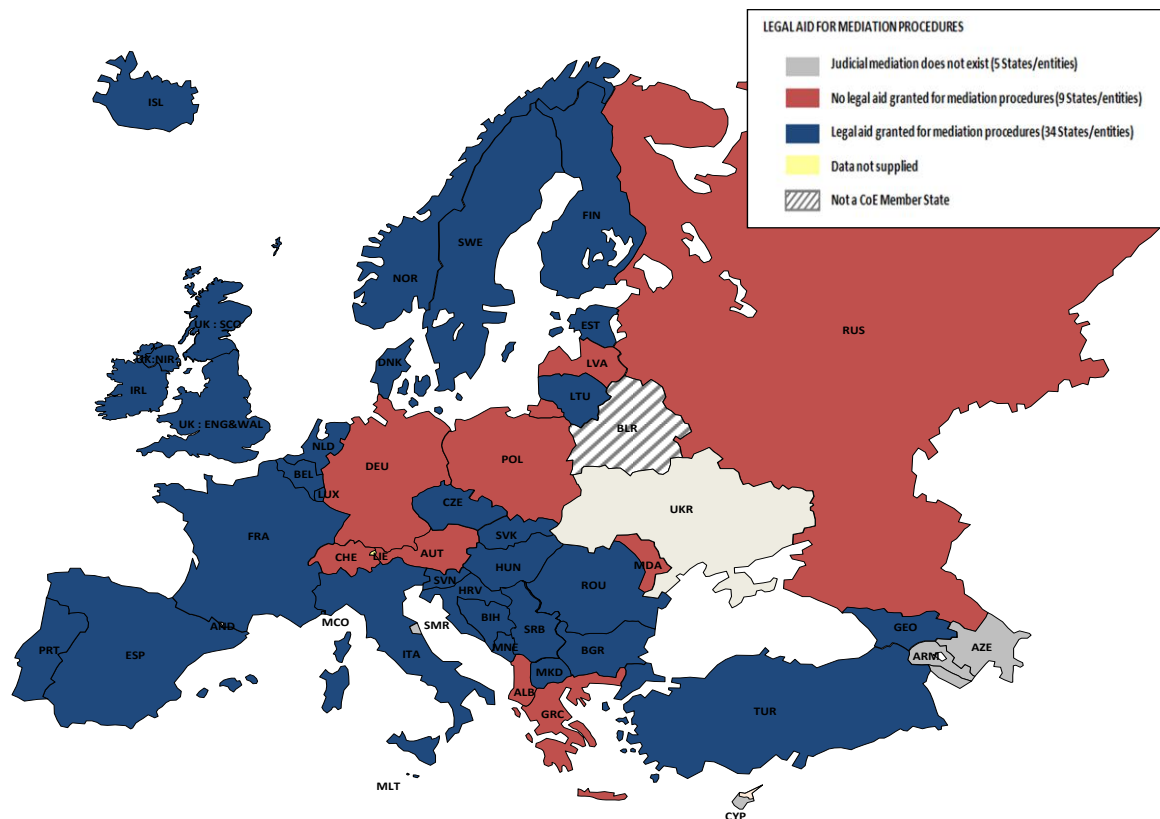
Switzerland: Figures provided by only 2 cantons. Some other cantons have mediators but they do not use an accreditation system.

Twenty-five states or entities were able to present figures on the number of mediation procedures. The data is quite fragmentary: only 13 states were able to provide a total.

The comparison between member states and entities could not be done without taking into consideration the types of cases concerned by judicial mediation in each of them. Based on the replies sent by the national correspondents, the CEPEJ has divided the member States in several categories (5, 4a, 4b, 4c, 3a, 3b, 3c, 2, 1, 0). This is among the States within each category that comparisons can be the most relevant.

6.2.4 Mediation Proceedings and Legal Aid

Figure 6.15 Legal aid for mediation procedures (Q163, Q165)



Malta and **Monaco** grant legal aid for mediation procedures. In **Andorra**, **San Marino**, judicial mediation does not exist.

Thirty-four states or entities grant legal aid for mediation in judicial proceedings. Since 2006, 12 more member states provide legal aid for mediation procedures, and this trend seems to be on the increase (7 states in the last two years).

6.3 Arbitration, conciliation and other forms of ADR

Thirty-nine states or entities have indicated that *arbitration* is offered in their system. Arbitration concerns especially commercial and (intellectual) property disputes. On a less common basis, in **Malta**, arbitration is mandatory in cases related to traffic accidents which do not exceed €11600 in value and which do not include bodily injury and disputes regarding water and electricity bills. In **Russian Federation**, arbitration covers collective labour disputes. In **Hungary**, arbitration may also cover sport disputes and in **Netherlands**, construction cases. The organisation of arbitration can be very different from one country to another. Permanent arbitration tribunals are often attached to Commercial Chambers (i.e. **Finland**, **Hungary**) or offered by (lawyers') associations (i.e. **Hungary**). In **Slovakia**, a permanent arbitration court may be established by legal persons with the authorisation of the Ministry of Justice. Arbitration is mostly regulated through special arbitration laws, but may also be introduced in the civil procedure codes (**Bulgaria**, **Estonia**, **Romania** and **Turkey**). It may be based under the UNCITRAL model-Law on International Commercial Arbitration (**Ireland**). Furthermore, some states have specified that the decision pronounced by an arbitrator is generally final and enforceable (**Bosnia and Herzegovina**). The decision can be challenged before the court on special grounds in **Slovakia**.

Conciliation is available in 34 states or entities. This procedure is performed in various areas, such as family law (i.e. **Finland**), labour disputes (i.e. **Hungary**), banking and credit (i.e. **Italy**), consumer protection and telecom (i.e. **Hungary** and **Italy**), etc.

Eighteen states or entities also reported offering *other types of ADR*:

- the transaction or settlement in civil and sometimes criminal matters (**Finland**, **France**, **Luxembourg**, **"the former Yugoslav Republic of Macedonia"**, **Turkey**),
- alternatives to prosecution (e.g. *composition pénale* in **France** that is reserved for first time offenders and may lead to a fine, a specific obligation to do or not to do, or a requirement to attend a course),

- Extrajudicial settlement certified by a public notary (**Croatia**)
- A consumer may choose to bring a case before the Consumer Complaints Board or another relevant complaints body approved by the Minister of Business and Growth instead of, or before, bringing it before the courts (**Denmark**).
- Financial and debtor's advices (**Finland**),
- Consumers (**Denmark**), including binding advice in consumer and insurance cases by the national Ombudsman (**the Netherlands**)

6.4 Trends and conclusions

ADR continue to be developed in Europe.

Italy, Montenegro, Romania, and “the former Yugoslav Republic of Macedonia” have recently launched projects to change the legislation in order to make ADR more effective. In Italy in 2010, a large reform on ADR (decreto 28/2010) was approved and, since March 2011, a number of matters in the civil sector requires that a mandatory mediation procedure is executed before the case can be treated in court. In March 2012, the mediation procedure became mandatory for additional subjects of the civil sector.

Interesting and attractive forms of ADR have been described by several countries and may inspire other member states or entities.

To ensure access to justice in mediation proceedings, 32 states or entities grant legal aid for mediation in judicial proceedings. Since 2006, 12 more member states provide legal aid for mediation procedures, and this trend seems to be on the increase (7 states in the last two years).

It is still difficult to obtain valuable information about the number of mediators and the number of performed mediations, as mediations are often organised and conducted outside the judicial system. However, a categorisation based on types of mediations seems to be an interesting means to start to analyse the actual situation and to make some careful comparisons.

Chapter 7. Judges

7.1 Introduction

A judge is a person entrusted with giving, or taking part in, a judicial decision opposing parties who can be either natural or physical persons, during a trial. This definition should be viewed in the light of the European Convention on Human Rights and the case law of the European Court of Human Rights. More specifically, *"the judge decides, according to the law and following organised proceedings, on any issue within his/her jurisdiction"*.

To better take into account the diversity in the status and functions which can be linked to the word *"judge"*, three types of judges have been defined in the CEPEJ's scheme:

- *professional judges* are described in the explanatory note of the evaluation scheme (Q 46) as "those who have been trained and who are paid as such", and whose main function is to work as a judge and not as a prosecutor (see Chapter 10)
- *professional judges* sit in a court on an occasional basis and are paid as such (Q48)
- *non-professional judges* are volunteers who are compensated for their expenses and who give binding decisions in courts (Q49).

Prosecutors are therefore excluded from this chapter. They are dealt with in Chapter 10.

For these three categories, and in order to better assess the actual activity, member states have been requested to specify in full time equivalents (FTE) the number of professional judges' positions effectively occupied, whether they are practicing full time or on an occasional basis.

Table 7.1 Type and number of judges in 2010 (Q46, Q48 and Q49)

States/entities	Professional judges (FTE)		Professional judges sitting in courts occasionally (gross figures)		Non-professional judges (lay judges) (gross figures)	
	Absolute number	Per 100 000 inhabitants	Absolute number	Per 100 000 inhabitants	Absolute number	Per 100 000 inhabitants
Albania	373	11,7	NAP		NAP	
Andorra	24	28,2	2	2,4	NA	
Armenia	220	6,7	NAP		NAP	
Austria	1 491	17,8	NAP		NA	
Azerbaijan	600	6,7	NAP		NAP	
Belgium	1 607	14,8	NAP		2 654	24,5
Bosnia and Herzegovina	938	24,4	113	2,9	318	8,3
Bulgaria	2 198	29,8	NA		NA	
Croatia	1 887	42,8	NAP		NAP	
Cyprus	104	12,9	NAP		NAP	
Czech Republic	3 063	29,1	NAP		6 180	58,8
Denmark	501	9,0	NA		33 572	603,7
Estonia	224	16,7	NAP		NA	
Finland	967	18,0	NAP		3 689	68,6
France	6 945	10,7	578	0,9	28 859	44,4
Georgia	234	5,2	NAP		NAP	
Germany	19 832	24,3	NA		98 107	120,0
Greece	2 041	18,0	NAP		NAP	
Hungary	2 891	29,0	NAP		4 382	43,9
Iceland	52	16,3	NA		NAP	
Ireland	147	3,2	NAP		NAP	
Italy	6 654	11,0	NAP		3 121	5,1
Latvia	472	21,2	NAP		10	0,4
Lithuania	767	23,6	NAP		NAP	
Luxembourg	188	36,7	NAP		NAP	
Malta	39	9,3	NAP		NAP	
Moldova	443	12,4	NAP		NAP	
Monaco	36	100,3	15	41,8	118	328,9
Montenegro	260	41,9	25	4,0	2	0,3
Netherlands	2 530	15,2	900	5,4	NAP	
Norway	549	11,2	44	0,9	43 000	873,9
Poland	10 625	27,8	NAP		22 076	57,8
Portugal	1 956	18,4	NAP		NA	
Romania	4 081	19,0	NAP		NAP	
Russian Federation	32 313	22,6	NAP		NAP	
San Marino	14	42,2	1	3,0	NAP	
Serbia	2 455	33,7	NAP		3 021	41,4
Slovakia	1 351	24,9	NAP		NA	
Slovenia	1 024	49,9	NAP		3 445	168,0
Spain	4 689	10,2	1 357	3,0	7 682	16,7
Sweden	1 081	11,5	211	2,2	8 000	85,0
Switzerland	1 142	14,5	572	7,3	2 580	32,8
The FYROMacedonia	664	32,3	NAP		2 342	113,8
Turkey	7 727	10,6	NAP		NAP	
Ukraine	8 823	19,3	NAP		NAP	
UK-England and Wales	1 984	3,6	7 432	13,5	27 118	49,1
UK-Northern Ireland	NA		NA		NA	
UK-Scotland	185	3,5	99	1,9	386	7,4
TOTAL	138 391					
Average		21,3		6,9		125,1
Median		18,0		3,0		46,8
Maximum		100,3		41,8		873,9
Minimum		3,2		0,9		0,3

This table includes information about the number of professional judges sitting in court on a permanent basis, professional judges sitting in court on an occasional basis and non-professional judges. Where no data is included for these last two categories, this means either that those do not exist within the judicial system concerned or that the state concerned has not provided information about them for distinguishing these two categories.

UK-Northern Ireland did not provide any data on the number of judges, and “NA” is therefore mentioned in all columns.

Bulgaria, Denmark and Iceland indicated that the data on the number of judges sitting on an occasional basis is not available (“NA”) without specifying if this category of judges exists or not. The data is not available for **Germany** neither (“NA”) since the professional judges sitting on an occasional basis are included in the number of professional judges. The **Netherlands** and **Spain** indicate that the figures are approximate because they do not relate to the reference year 2010.

The scheme asked the states to specify, if possible, besides the raw data, the full-time equivalent data: among the 13 states that reported having in their system judges sitting occasionally, only **Sweden** (46 fte) was in a position to do so.

Andorra, Austria, Bulgaria, Portugal and Slovakia were not in a position to provide figures on non-professional judges.

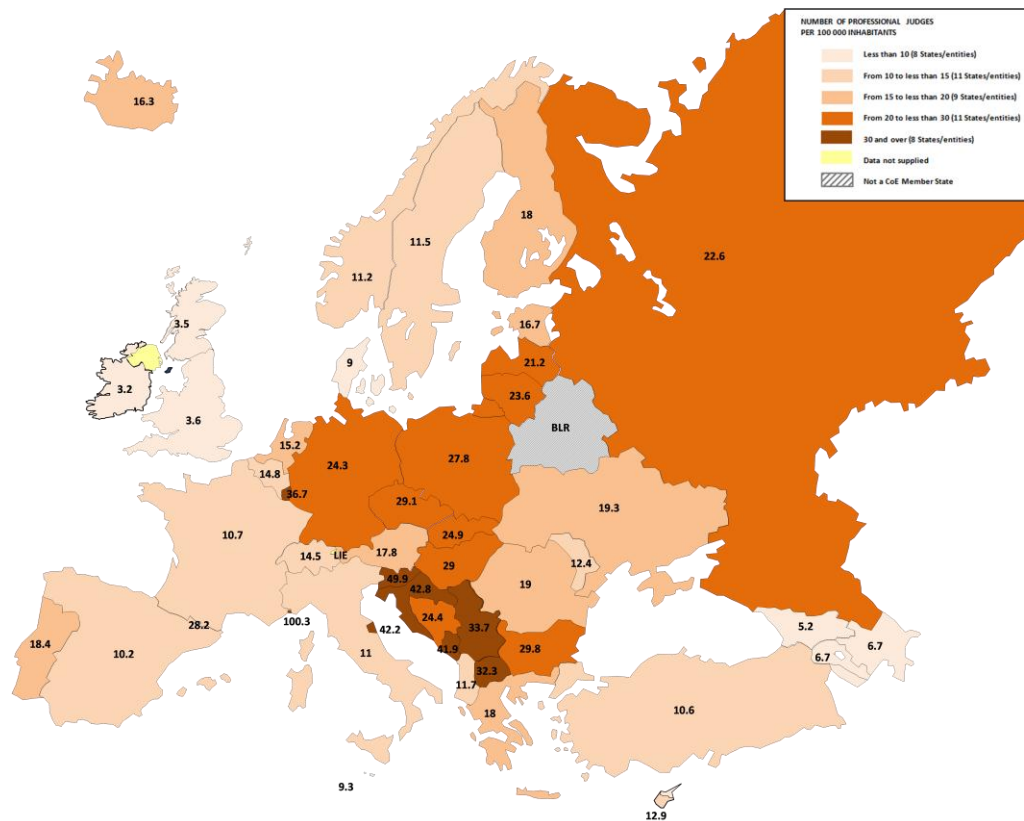
7.2 Professional judges

Professional judges may be defined as judges who have been recruited and are paid to practice solely as a judge. This chapter does not deal with professional judges sitting on an occasional basis (see chapter 7.3).

Data provided should include only the judges who are currently discharging judicial functions (explanatory note – question 46). Only some states have indicated details (judges seconded to the ministries, judges on maternity leave, for instance): **Austria, Slovakia, Slovenia, Spain, Turkey**.

It is common that some positions of judges remain temporarily vacant, especially during the maternity leave of female judges; the profession being highly feminised (see Chapter 11, part 11.6.2.). Significant differences can thus be seen from one year to another concerning the number of professional judges, depending on the importance of these unrecorded vacancies – this is the case in **Ukraine** with a gap of nearly 20%.

Figure 7.2 Number of professional judges sitting in courts (FTE) for 100 000 inhabitants, in 2010 (Q46)



Comments

Denmark: data includes only judges and legal assessors but not deputy judges who are, however, included in question 55.

France : Only judges working in courts dealing with judicial matters and administrative matters on 31 December 2010 are counted. Table only for judges working in courts dealing with judicial matters (without administrative matters):

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	5855	2188	3667
1. Number of professional judges of first instance	4128	1362	2766
2. Number of professional judges in courts of appeal (2nd instance)	1504	707	797
3. Number of professional judges in supreme courts	223	119	104

Greece: the total number given refers to the judicial officials of the civil-penal and administrative courts; 159 judicial officials of the Council of State and 551 Magistrates are not included.

Norway: in addition there are 160 deputy judges in the first instance courts. Deputy judges are judges by definition. However, they are temporarily appointed for a period of maximum 3 years, appointed by the Chief Judge. With few exceptions they do the same work as judges appointed for lifetime by the King in Council. Due to the fact that they are not appointed on a permanent basis, they are not included in the reporting of professional judges.

Slovakia: the number 1351 represents the judges actually performing their functions on 31 December 2010. The total number of the judges in the documentation of the Ministry of justice is 1387. This total number includes also the judges not performing the function of a judge, e.g. the judges temporarily assigned to other institutions (Ministry of justice, Judicial Academy, other judicial institutions), the judges on maternity leaves etc.

Slovenia: on 31.12.2010, there were 1024 judicial posts. This number represents all the posts which are formally occupied although some posts are *de facto* vacant, since the judge is actually absent e.g. due to maternity leave. According to some estimations of the Ministry of Justice, this kind of post represents around 15 - 20% of all judicial posts. Accordingly, calculations were made that included the actual number of working hours. These calculations excluded the judges that were on maternity leave, judges on sick leave, but included the annual leave. The final number of judicial posts according to these calculations (934) would be the number of actual working hours in 2010, divided by judges (952), from which 17 judges are subtracted, since they do not perform judicial functions but are assigned to other duties (1 general secretary of the Supreme Court, 11 appointed to the Registry Department of the Supreme Court, 2 appointed to the Judicial Council and 4 appointed to the Ministry of Justice). However, for reasons of comparability, the number of judicial posts is indicated in the table. The figures about the actual working hours serve just as an indication.

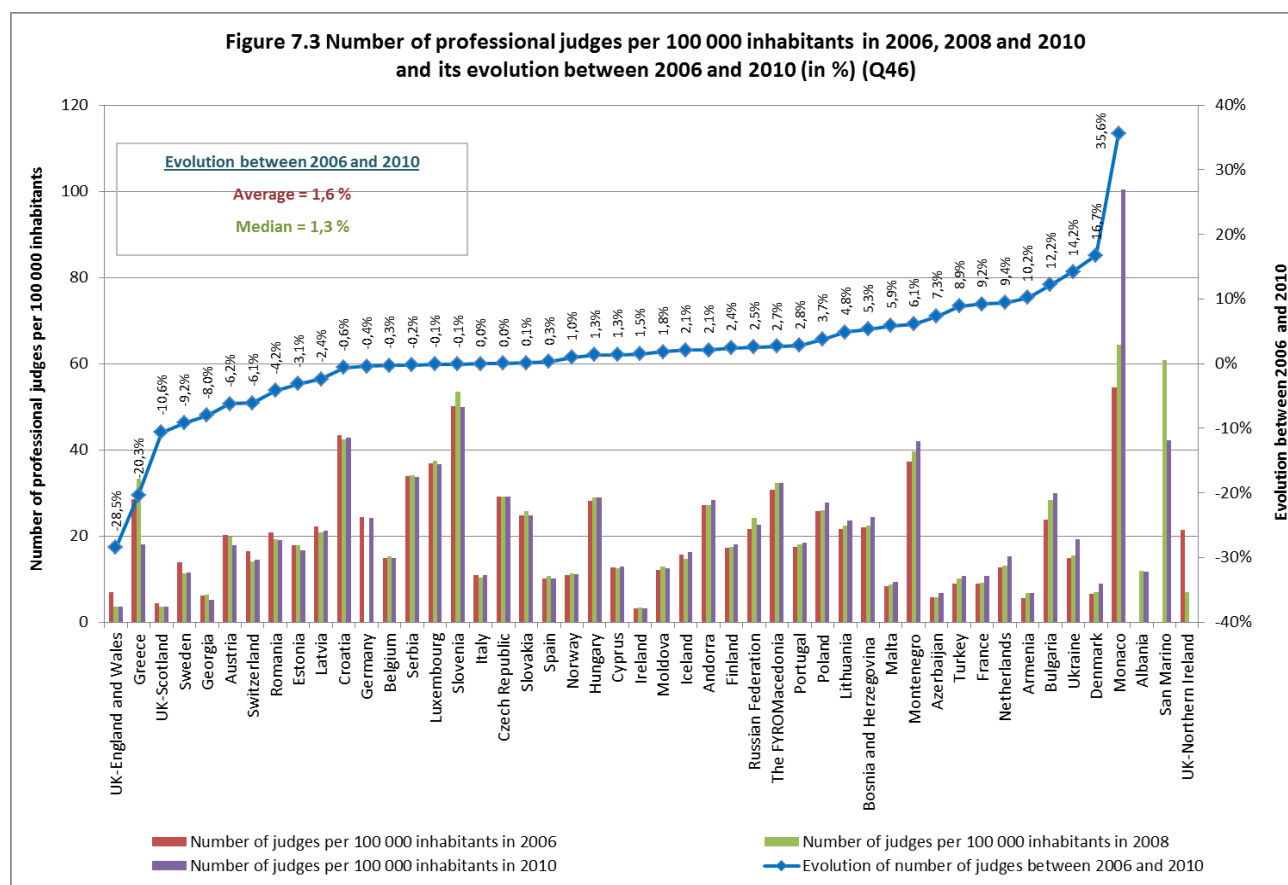
Spain: the figures presented refer to the number of professional judges on active service on 1 January 2011, except for those who were on leave.

The European average of 21,3 judges per 100.000 inhabitants is a stable average over two exercises. However, the number of professional judges sitting in courts varies considerably according to countries and judicial systems. Generally speaking, an imbalance can be noticed between Western and Eastern European states or entities, as there are more judges per inhabitant in Eastern Europe.

This difference can partly be explained because some systems rely completely on professional judges (**Albania, Andorra, Armenia, Austria, Azerbaijan, Cyprus, Croatia, Georgia, Greece, Ireland, Iceland, Malta, Republic of Moldova, Montenegro, the Netherlands, Romania, Russian Federation, Serbia, Turkey, Ukraine**) whereas other systems, such as in the **United Kingdom** or in **Norway**, give a pre-eminent role to *lay judges / magistrates*.

The European States which have the highest number of professional judges (more than 30 judges per 100.000 inhabitants) can be found essentially in the states coming from the former Yugoslavia (**Croatia, Montenegro, Serbia, Slovenia, "the former Yugoslav Republic of Macedonia"**).

Data of **Luxembourg** and **Monaco** must be related to the small number of inhabitants, which has an impact on the indicator given per 100.000 inhabitants, and to the cases concerned with economic activity. Among the systems where professional judges have a pre-eminent position, a low number of judges (less than 7 per 100 000 inhabitants) can be found in the Caucasus countries (**Armenia, Azerbaijan and Georgia**) and in **Ireland**. The comparison with **UK-England and Wales** and **UK-Scotland**, which also have a low number of professional judges (less than 4 per 100,000 inhabitants), is irrelevant insofar as they have a justice system using with many lay judges.



This figure has been established on the basis of states or entities having provided figures on the three exercises. Only **Albania, Germany, San Marino** and **UK-Northern Ireland** have provided data for two exercises only.

When comparing the trend since 2006, it can be noted that in Europe, the number of professional judges per 100.000 inhabitants has increased in average by + 1.6%, and at the same time, a trend towards relative stability in the number of judicial staff in the majority of European states or entities is discernible.

In 16 states or entities out of 48, essentially in Western Europe, the number of professional judges per 100.000 inhabitants has decreased. This trend must be interpreted in the light of the comments made by the

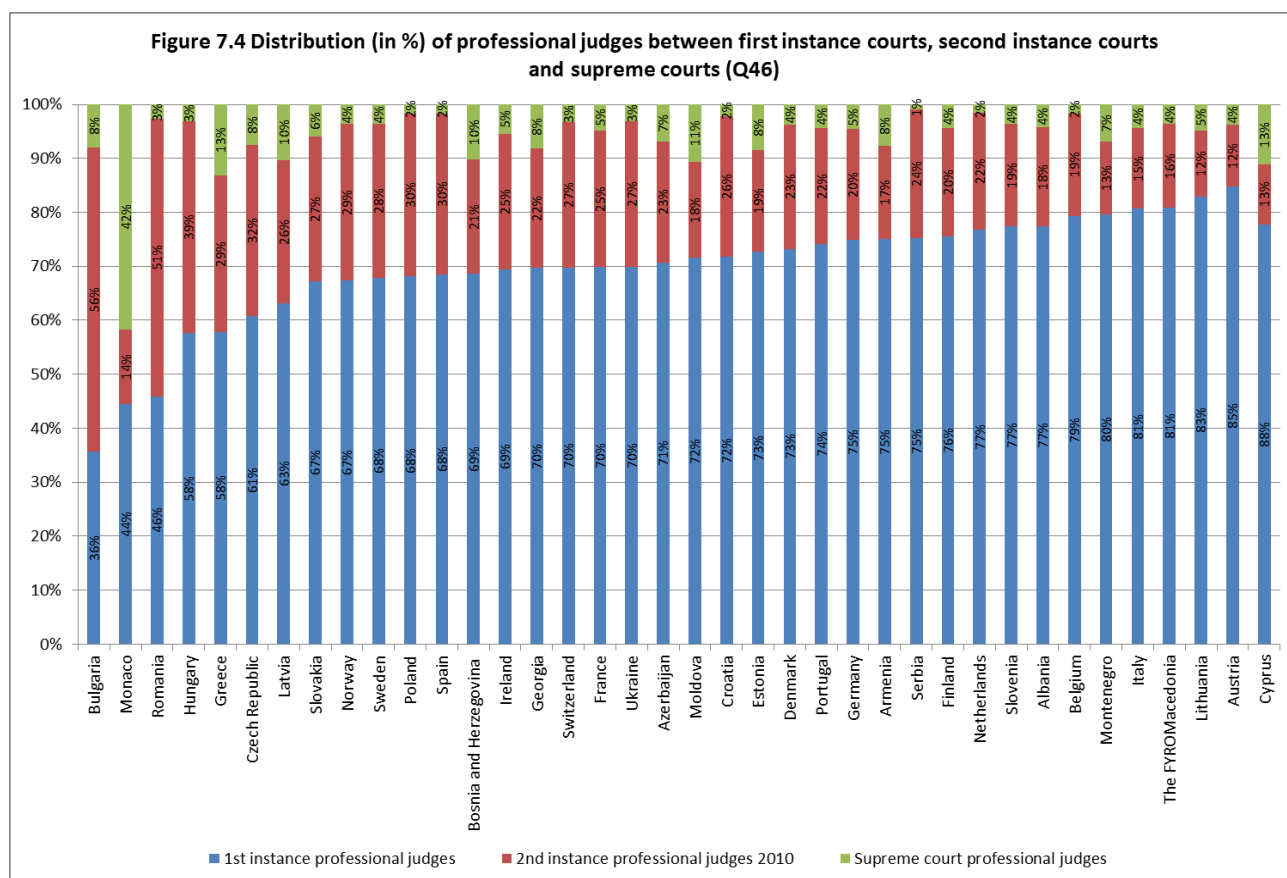
member states which follow table 7.2 above. The analysis of the gross number of judges between 2008 and 2010 explains this trend as resulting essentially from demographic effects: the states concerned are small states where the general population has significantly increased, which constitutes the main explanation for the variation in the ratio.

In fact, among those states where professional judges per inhabitant are decreasing (in absolute figures), the number of judges in 2010 decreases significantly only in **Greece**. The decrease in **Switzerland**, **Sweden** and **UK-Scotland** is older and the number of professional judges has actually increased since 2008. Some other states or entities (**UK-England and Wales**) may have modified their methods of calculation or of data collection, but without providing the corresponding information.

Structural reforms can result in the reduction of posts, some states or entities having chosen to increase the number of assistant judges or non-professional judges.

By contrast, some states in transition continue their reforms by increasing human resources devoted to the judicial function (**Azerbaijan**, **Bosnia and Herzegovina**, **Montenegro**, "the former Yugoslav Republic of Macedonia" and **Ukraine**). The influence of recent membership of, or application to, the European Union may be an explanation for this trend of increasing numbers of judges (**Bulgaria**, **Turkey**). **Denmark**, the **Netherlands** and **Poland**, also increased significantly the number of professional judges.

Some decreases or increases can also simply be explained by the filling of existing free places for judges (**Russian Federation** or **Lithuania**).



Comments

Andorra: the Superior Court is the highest court of the judicial organisation of the Principality. It has the ability to judge all appeals against the decisions taken in the first instance court by the *Batllia* of Andorra, in civil and administrative order, within the limits set by the law, and in criminal matters by the Court of *Corts*. The Court of *Corts* (Court of Appeal and court for serious offenses) has the ability to judge, at first instance, serious offences and to enforce its sentences and other resolutions. It has, through its President, the functions of supervisory jurisdiction on the prison system and the enforcement of sentences. It handles the appeals against sentences decided by the judges which affect the freedom of the accused person or grant provisional measures in periods of instruction or drop the procedure or make right to a charge or complaint. It judges on appeal criminal convictions decided by the *Batllies* in cases involving minor offenses, and by the judges in cases involving criminal offences. The *Batllia* of Andorra is the court of first instance and instruction in all jurisdictional domains.

Bosnia and Herzegovina: there are 3 courts of general jurisdiction in Bosnia and Herzegovina that are included in the supreme court category. Firstly, at the entity level, the Federation of Bosnia and Herzegovina Supreme Court and the Republika Srpska Supreme Court. Both are competent to decide in the respective entity on legal remedies for decisions of the lower courts. Consequently, each entity Supreme Court is the highest court in the relevant entity. Secondly, there is the Court of Bosnia and Herzegovina at the state level. Its powers are regulated by the Law on the Court of BiH and are related to criminal, administrative and appellate jurisdiction. However, the Court of Bosnia and Herzegovina has no jurisdiction over the decisions adopted by the entity – Supreme Court level. Within its criminal jurisdiction, the Court of BiH addresses cases pertaining to the crimes laid down by the laws of BiH, which include war crimes, organised crime, economic crime and corruption cases. Administrative jurisdiction means that the Court of BiH adjudicates cases pertaining to the decisions issued by BiH institutions and other organisations in charge of public functions, such as property disputes related to the performance of public functions between the states and the entities, breaches of the election law, etc. Its Appellate Division only decides on appeals against the decisions of the Court's first instance divisions.

Croatia: the number of professional judges in first instance courts includes judges of municipal, commercial and magistrates' courts. The number of judges in second instance courts includes judges of the county courts, High Commercial Court, High Magistrates' Court and Administrative Court.

Germany: a judge working part-time is counted as a fraction of 1 which corresponds to the proportion of his/her working hours to full-time (e.g. 0.5 for a judge working half the usual number of hours). The information from personnel deployment has been used as a basis re 1 and 2. Personnel deployment is ascertained according to a complex calculation scheme as an annual average of the actual personnel deployed. The total staff from the two-year statistics on judges as per 31 December 2010 has been used as a basis re 3. The personnel file of judges at the end of the year, which does not permit a breakdown to be made by first instance and appeal court, shows the following total result in job shares: a total of 20.410,45, of which 12.562,19 males and 7.848,26 females.

Ireland: figures correct at 1st Jan 2010. There are 4 categories of judges: Supreme, High, Circuit & District Court judges. 1 = District & Circuit Court Judges - Total number of Circuit Court Judges was 38 = 26 males and 12 females.

Total number of District Court Judges was 64 – 48 males and 16 females.

Lithuania: the regional courts have both the functions of first instance courts and courts of appeal. Therefore the number of judges in these courts (158) were put in section 1. The Supreme Administrative Court has not only the function of appeal, but also forms the practice of administrative courts. Nevertheless, the number of its judges (16) is included in the number of the judges of the court of appeals.

Luxembourg: the figure includes 35 judges, both from the Court of appeal and the Court of Cassation, as both courts form together the Superior Court of Justice, as well as the judges of the Administrative Court. The judges of the Constitutional Court have not been counted separately, since they have a primary assignment either to the ordinary courts or to administrative courts.

Malta: there is no Supreme Court and the Court of Appeal is the Court of Second Instance. The Constitutional Court is presided over by the 5 judges who compose the Court of second Instance also known as the Court of Appeal in its Superior Jurisdiction.

Monaco: two courts can be called supreme courts:

- the Supreme Court, whose jurisdiction is both administrative and constitutional, composed of five members and two alternate members, appointed by the Prince, for a period of four years; the court meets in session and the judges are compensated for their work and their disbursements;
- the Court of Revision, at the top of the judicial pyramid, composed of eight judges: a president, a vice president and six councilors, appointed by sovereign order and asked to sit in the order of their appointment.

Montenegro: in the second instance proceeding, judges of the Appellate court and high courts can decide. Therefore the number of second instance professional judges includes also judges of high courts who work in departments of second instance.

Netherlands: figures include court presidents. They are not presented in full time equivalents, since it is not possible to give FTE by gender and first/second instance. On 31 December 2010, the total of first and second instance (males and females) is, in FTE, 2.273. (1) without judges of Trade and Industry Tribunal, including judges "overig RA" that cannot be assigned to either 1st or 2nd instance; (2) is without judges of Raad van State (council of state); (3) are included the president (1) and vice-presidents (6).

Poland: the court system contains district courts (1st instance courts), regional courts (1st and 2nd instance courts) and appellate courts (2nd instance courts). Therefore some second instance court judges sit also in first instance cases. It is impossible to provide the exact figures because some judges sit in 1st and 2nd instance cases in regional courts. The figures provided are constructed exactly as in previous evaluations.

Romania: the hierarchy of courts is as follows:

- courts of first instance,
- law courts, which are generally courts of appeal but also judge in first instance,
- courts of appeal, which are appeal courts, but also judge in first instance,
- HCCJ, unique and supreme court, which mainly judges the reviews against the judgments of the courts of appeal and other judgments, in the cases stipulated by law.

Russian Federation:

1) Each court of general jurisdiction can function as a first instance court; it means that all the second instance courts fall within two rows of the table simultaneously (and the Supreme Court of the Russian Federation falls within all the three rows).

2) The same applies to commercial cassational courts, which can function as both first and second instance courts.

3) Moreover, the systems of courts of general jurisdiction and commercial courts are organised in four levels (first instance, appellate, cassational and supervisory proceedings), not three.

In such a situation, only the first rows of the tables in questions 46 and 47 can be filled in. The male / female proportion for the justices of the peace is "NA", thus only the total number of professional judges can be specified in the table. The