

European judicial systems

Edition 2006 (2004 data)

**European Commission for the Efficiency of Justice
(CEPEJ)**

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Foreword

by Mr. Eberhard Desch, President of the CEPEJ, and Mr. Guy De Vel, Director General Legal Affairs of the Council of Europe

In deciding "to develop the evaluation functions" of the European Commission for the Efficiency of Justice (CEPEJ) in the Action Plan adopted in Warsaw in May 2005, the Heads of State and government of the Council of Europe's member states have expressed their support to the process set up by the CEPEJ and wish to strengthen it.

This exercise aims to have a detailed knowledge of the functioning of the justice system in all European states and has become the corner stone of the action of our Commission. Drawing lessons from the pilot exercise implemented in 2004 and wishing to develop the proper know how to, according to its Statute, "examine the results achieved by the different judicial systems (...) by using (...) common statistical criteria and means of evaluation", the CEPEJ is delighted to offer this report to policy makers, judicial practitioners, researchers as well as all citizens who might be users of justice systems. These reports will be published regularly, thus enabling to assess the evolutions of the public services of justice for 800 million Europeans.

It is indeed a unique process, built according to a specific methodology, to present the most detailed picture possible for comparing judicial systems of 45 European states. But what for?

In setting up the CEPEJ, under the impulsion of the European ministers of justice, the Committee of Ministers of the Council of Europe wanted a structure with the capacity to propose concrete solutions to improve fairness, quality and efficiency of justice in Europe, to strengthen the confidence of the citizens in their domestic system and to limit cases filed before the Strasbourg Court because of dysfunctions within the justice systems, which are contrary to Article 6 of the European Convention of Human Rights.

The CEPEJ has achieved the first part of its mission in delivering this report, open to the analysis by administrations, universities and research institutes in the member states. Of course the CEPEJ strongly encourages policy makers and researchers to use this unique information to develop studies and feed the indispensable European debate and the reforms, the necessity of which is regularly reminded by the case-law of the Strasbourg Court and the events in our member states. But the CEPEJ also wishes that this report be for itself a source of in-depth reflections so as to be able to propose to the Committee of Ministers and to the relevant administrations within the member states concrete tools for developing their public policies of justice.

The 2006 edition of the report of the CEPEJ is therefore the starting point of a continuous process, where phases of knowledge will alternate with phases of analysis, both for the CEPEJ and the relevant bodies entrusted with justice throughout Europe.

Our Commission would not have been able to produce such results without the exceptional work, both in quality and quantity, of a fully dedicated group of experts. We would like to pay a tribute to the high expertise and scientific rigour of Ana-Maria FALCONI and the Working Group chaired by Jean-Paul JEAN and also composed of Pim ALBERS, Fausto DE SANTIS, Elsa GARCIA-MALTRAS DE BLAS, Hazel GENN, Beata GRUSZCZYŃSKA and Mikhail VINOGRADOV, as well as to the appreciated support of Julien LHUILLIER and Jean HUBER. We would also like to thank the Ministry of Justice of the Netherlands for its specific support in this process.

Introduction

In December 2004 the European Commission for the Efficiency of Justice (CEPEJ) adopted the Report: "European judicial systems: facts and figures". It was the result of an experimental exercise, based on a Pilot Scheme (questionnaire) for evaluating judicial systems designed to obtain comparable, objective quantitative and qualitative figures concerning the organisation and functioning of judicial systems. 40 of the 46 member states of the Council of Europe were considered in the experimental process. This was a European first: no such exercise had ever been conducted in the justice field. In spite of limits and shortcomings because of its experimental character, the Pilot report showed that this kind of evaluation exercise was not merely possible, but, above all, worthwhile, providing for useful figures on key areas for understanding the functioning of the judicial systems in Europe. The report has been studied by policy-makers and judicial authorities in many member states, some of which drew on the information provided to identify gaps in their own systems and to find inspiration for reforms. Several states set up ad hoc working groups to study the report and make use of it. Therefore the Committee of Ministers of the Council of Europe urged the CEPEJ to continue its efforts in this direction.

In the Action Plan which they adopted at their Third Summit (Warsaw, May 2005), the Heads of State and Government of Council of Europe member states decided to develop the evaluation and assistance functions of the CEPEJ in order to help states deliver justice fairly and rapidly. Based on the lessons learnt from the pilot exercise, the CEPEJ launched in 2005 an initial regular evaluation exercise, using the in-depth methodological approach implemented in the pilot exercise and drawing on the Network of national correspondents set up to collect figures.

This report was adopted by the CEPEJ at its 7th plenary meeting (July 2006), under the Chairmanship of Mr Eberhard DESCH (Germany). It is the result of this new evaluation process. It is based on reports by the states, whose preparation was coordinated by national correspondents appointed within the states. It presents the results of a survey conducted in 45 European states. It is unique in the number of subjects and countries that are covered.

This process aims progressively to define a set of key quantitative and qualitative figures to be regularly collected and equally processed in all member states and to bring out shared indicators of the quality and efficiency of court activities in the states of the Council of Europe (key figures of European judicial systems), including assessment of the evolution of the situation from one period to another.

Comparing quantitative figures from different countries, with different geographical, economic, and judicial situations is a difficult task which must be addressed cautiously, both by the experts while drafting the report and by the readers while interpreting the information provided by the report. The figures must be addressed in their specific context, taking fully into account the relevant comments.

This report offers policy-makers, judicial practitioners, researchers or any citizens interested in judicial issues in the member states a description of the European judicial systems with qualitative and quantitative figures, presented in a comparative perspective together with the first elements for further analysis. The reader can find here comparative tables and relevant comments on key areas for understanding the functioning of the judicial systems, grasping the main developments, identifying problems and orientating public policies aimed at improving the quality, equity and efficiency of the services offered to the citizens by the justice systems.

This report is only the first step of a two-tier approach. Beyond the useful picture that is given, there is room for in-depth analysis to be further carried out by the CEPEJ itself as well as by the main stakeholders of this report, on the basis of this information.

This Edition 2006 of the report is based on the 2004 figures. The collection, processing and presentation of the figures reflected in the Report were done within a very tight timeframe, in order to stick as far as possible to the reality of judicial systems at the time of its publication (being understood that the 2004 figures were generally not available in the member states before the last quarter of 2005). Despite the time constraints, the CEPEJ has chosen to work so as to adopt the report in July 2006.

This work is a joint effort involving at least a hundred people, including the national correspondents in charge of answering the questionnaire, the scientific expert, the experts of the Working group, the CEPEJ members and the Secretariat of the Council of Europe. This could not have been possible without their full commitment.

1. The evaluation process of the CEPEJ

This first chapter describes the evaluation process carried out by the CEPEJ to prepare this report. It makes explicit the working principles and methodological choices which presided to this exercise. The chapter ends with a few notes to guide the reader through this report.

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, entrusted in particular with proposing concrete solutions, suitable for use by Council of Europe member states for:

- promoting the effective implementation of existing Council of Europe instruments relating to the organisation of justice (normative "after sale 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 46 Council of Europe member states, to assess the efficiency of judicial systems and propose practical tools and measures 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. These tasks shall be fulfilled by, among others, (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 emphasizes in this way the comparison of judicial systems and the exchange of knowledge on their functioning. The scope of this comparison is broader than 'just' efficiency in a narrow sense: it emphasizes the quality and the effectiveness of justice as well.

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

1.2 The revised Scheme for evaluating judicial systems

The CEPEJ set up in 2005 a Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL)¹ to revise the evaluation Scheme (questionnaire) in the light of the conclusions of the pilot exercise, to ensure the collection and processing of new figures and to prepare the draft report.

¹ Composed of:

- Pim ALBERS Senior Policy Advisor, Strategy Department for the Administration of Justice, Ministry of Justice, The Netherlands (Chair 2005),
- Jean-Paul JEAN, Prosecutor, Court of Appeal of Paris, Associated Professor at the University of Poitiers, France (Chair 2006),
- Fausto DE SANTIS, Director General, Office of Judicial organisation, Ministry of Justice, Italy,
- Elsa GARCIA-MALTRAS DE BLAS, Prosecutor, Legal Advisor, Directorate General of the international judicial cooperation, Ministry of Justice, Spain,
- Hazel GENN, Professor of Socio-Legal Studies, Faculty of Laws, University College London, United Kingdom,
- Beata Z. GRUSZCZYŃSKA, Institute of Justice, Ministry of Justice, Chair of Criminology and Criminal Policy at the Warsaw University, Poland,
- Mikhail VINOGRADOV, Lawyer, State Legal Directorate of the President of the Russian Federation (GGPU), The Russian Federation,

The main purpose of revising the Scheme was to come up with a questionnaire that could be systematically used in future evaluation exercises.

To draft the revised scheme (123 questions) and its explanatory note, the experts kept the main principles which were used for the drafting of the pilot scheme. They particularly had in mind the principles identified in the Resolution Res (2002)12 which establishes the CEPEJ as well as the Council of Europe's Resolutions and Recommendations in the field of efficiency and fairness of justice.

They also took into account the proposals for amendments submitted by the CEPEJ members, observers, and national correspondents within the framework of the pilot process. Specific attention was paid to the explanatory note, aimed at helping national correspondents to answer the questions in a homogeneous way. In particular, more precise definitions have been introduced with a view to reducing interpretation difficulties, taking into account the comments of the experts and stakeholders of the pilot report.

Compared to the pilot scheme, the revised scheme, including both descriptive and quantitative figures, tries to improve questions to get more meaningful answers, improving the layout to make it easier to answer them, encouraging comments or explanations. It contains a number of new questions (mainly about the court budgets, the users of the courts, timeframes of proceedings, the execution of court decisions and notaries) and a section on fair trial has been expanded. The structure has been modified to enable national correspondents to divide the collection of figures between several relevant bodies.

The CEPEJ-GT-EVAL prepared the revised scheme² adopted by the CEPEJ at its 5th plenary meeting (June 2005) and approved by the Ministers' Deputies at their 936th meeting (September 2005). The revised scheme and the subsequent explanatory note were submitted to member states in September 2005, in order to receive new figures at the beginning of 2006.

1.3 Data collection and processing

This report is based on figures from 2004. As the majority of the countries were able to issue judicial figures for 2004 in the autumn 2005, the CEPEJ was not able to gather figures before the beginning of 2006, which left only three months for member states to collect and consolidate their individual replies to the evaluation scheme and less than five effective working months for the experts to process them and prepare the report.

Methodologically, the collection of figures is then based on reports by member states, who were invited to appoint national correspondents entrusted with the coordination of the replies to the scheme in their respective countries.

The CEPEJ instructed its Working Group, under the chairmanship of Jean-Paul JEAN (France), with the preparation of the report. The Secretariat of the Council of Europe appointed Ana-Maria FALCONI (France)³, as scientific expert in charge of processing the national figures submitted by member states and preparing the preliminary draft report, together with the Secretariat of the CEPEJ⁴.

The national correspondents were considered as the main interlocutors of the Secretariat and of the experts when collecting new figures and as those primarily responsible for the quality of figures used in the survey. All individual replies of the member states were registered in a database by the scientific expert.

▪ Katarzyna GRZYBOWSKA, Administrator, JLS.C-3 Citizenship and Fundamental Rights, Directorate General Justice Freedom and Security, European Commission (Observer).

The group also benefited from the valuable contribution of Mr Jean HUBER, junior judge of the French *Ecole Nationale de la Magistrature*, and Mr Julien LHUILLIER, Researcher at the Law Faculty of Nancy 2 (France).

² See part 15.3 in appendix.

³ Ms FALCONI was scientifically supported in this task by the *Centre Maurice Halbwachs*, attached to the French *Centre National pour la Recherche Scientifique (CNRS)*, the *Ecole des Hautes Etudes en Sciences Sociales*, the *Ecole Normale Supérieure* and the University of Caen.

⁴ The Ministry of Justice of the Netherlands has seconded to the Secretariat of the CEPEJ, as from 1 March 2006, Pim ALBERS to work within the Secretariat as Special Advisor.

The scientific expert had many contacts with national correspondents to validate or clarify the figures and their adjustments continued until shortly before the final version of the report. However, the CEPEJ experts agreed that the figures would not be changed *ex officio*, unless the correspondents explicitly agreed to such changes. All changes to them were approved by the national correspondents.

The meeting between the scientific experts, the CEPEJ-GT-EVAL and the network of national correspondents (Strasbourg, May 2006) was an essential step of the process, aimed at validating figures, discussing decisions of the experts and improving the quality of the figures provided.

Responding states

By May 2006, 45 states had participated in the process: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italia, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, San Marino, Serbia⁵, Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine, United Kingdom⁶ and Montenegro⁷.

The following countries did not reply to this report: Switzerland and "the former Yugoslav Republic of Macedonia"⁸. Hopefully, they will be included in the next exercise.

In federal states or states with a decentralised system of justice administration, the data collection offers different characteristics, compared to those of centralised states. The situation is frequently more complex. In these states, data collection at central level is limited, while at the level of entities, both the type and the quantity of figures collected may vary. In practice, several federations have sent the questionnaire to each of its entities. Some states have extrapolated their answers for the whole country from the figures made available from the entities, taking into account the number of inhabitants of each entity.

All the figures provided for by individual member states have been made available on the CEPEJ Website: (www.coe.int/CEPEJ). National replies sometimes contain descriptions of legal systems and explanations that greatly contribute to the understanding of the figures provided. They are therefore a useful complement to the report: because of the need to be concise and consistent, it was indeed not possible to include all this information in this report.

1.4 General methodological issues

Objectives of the CEPEJ

This report does not pretend to have exploited exhaustively all the relevant information that has been forwarded by the member states. The CEPEJ tried to address the issues in this report, bearing in mind first of all the priorities and the fundamental principles of the Council of Europe. Beyond the figures, the interest of the CEPEJ report lies in the main trends, evolutions and common issues for European states.

This report is an important step for the regular evaluation process of European judicial systems, taking into account the valuable results of the pilot exercise and trying to improve it, in a dynamic perspective. When preparing the report, experts and national correspondents were encouraged to keep in mind the long term objective of the process: defining a set of key quantitative and qualitative data to be regularly collected and equally processed in all member states and bringing out shared indicators of the quality and efficiency of court activities in the member states of the Council of Europe.

⁵ Figures of Serbia exclude the region under the administration of the United Nations Mission in Kosovo (UNMIK).

⁶ 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.

⁷ Though Montenegro is a non-member state at the date of adoption of this report, it has fully participated in the evaluation exercise when it was part of the Union of States of Serbia and Montenegro.

⁸ The reply of "the former Yugoslav Republic of Macedonia" to the Scheme had not been received in due time to be processed in this report. However, it appears on the website of the CEPEJ: www.coe.int/cepej

The quality of figures

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, on the efforts made by national correspondents, the national figures available to them and on the way the figures have been processed and analysed. In spite of the improvements resulting from the experience of the pilot process, it is reasonable to assume that some variations occurred when national respondents 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.

The CEPEJ has chosen to process and present only the figures which presented a high level of quality and credibility. It decided to disregard the figures which were either too varied from one country to another or which did not present enough guarantees of reliability. More information than the one included into this report has been collected and is available on the CEPEJ Website (www.coe.int/CEPEJ).

The comparability of figures and concepts

The comparison of quantitative figures from different countries set against the 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, those specificities of the systems which explain differences from one country to another one (different judicial structure, organisation of justice and the use of statistical tools to evaluate the systems, etc.) must be highlighted. Specific efforts have been made to define words and ensure that concepts had been addressed according to a common understanding. For instance, several questions have been included in the revised 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 diversity in the systems might prevent achieving shared concepts. In these cases, specific comments have been drafted together with the figures. Therefore only an active reading of this report can allow drawing analyses and conclusions; figures cannot be passively taken one after the others, but must be interpreted in the light of the subsequent comments.

In this context, as the aim of this report is to give an overview of the situation of the European judicial systems, the CEPEJ has generally decided to present the situation in member states following the alphabetical order. Comparing is not 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). The CEPEJ itself will carry out its own analytical phase on the basis of this report in a second stage.

The CEPEJ scheme was filled in by small states. Andorra, Monaco, Liechtenstein or San Marino are territories which are, due to their scale, not comparable with other countries. Consequently the figures compared according to a scale "per 100.000 inhabitants" must be interpreted cautiously for these countries.

Financial values are reported in Euros. Because of this, some problems have occurred while using exchange rates for countries outside the euro zone. Exchange rates vary from year to year. Since the report focuses mainly on 2004, the exchange rates of 1 January 2005 were used. For countries with high inflation rates, the figures presented may seem strange at times; their interpretation should therefore be viewed within their specific context.

Chronological comparisons of figures

Although this report relies mainly on the work developed in the framework of the experimental phase and the report adopted in 2004, it would not be relevant to compare the figures presented in this report with the information of the previous report. Indeed, the last report was an experimental project. The definitions and variables used might have changed from one exercise to another. Therefore, though highlighting the quality and usefulness of the pilot exercise and the subsequent report, the CEPEJ considers this current exercise as the starting point of a regular process and envisages to proceed to chronological comparisons in next evaluation exercises. It considers the current report as a standard on which it will be possible to make useful analysis to assess the evolution of judicial systems in groups of countries or within individual states.

The evolution of judicial systems

Since 2004, some member states of the Council of Europe have implemented essential 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.

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 made. They enable in particular, as was the case in the report resulting from the pilot exercise, to relativize and to put the other figures in context, particularly budgetary figures and figures relating to court activity.

The figures also enable the reader to measure the enormous variables in the population and the size of the countries concerned, from **San Marino**, with less than 30.000 inhabitants, to the **Russian Federation** with more than 143 millions. This variable in the demographic definition must always be borne in mind. The population concerned by this study is roughly 796 millions.

The figures also demonstrate the huge differences as regards wealth and living standards in the various countries, through per capita GDP (new figures vis-à-vis the pilot survey), and partially reflected in the amount of the global public expenditure. 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 inhabitant, the per capita GDP and the average gross salary.

The data regarding public expenditures (question 2) seem to be too tied to various techniques of public accounting, both as regards defined perimeters and, for instance, the presentation of deficits. The problem 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.

Some reservations were expressed as regards the figures relating to the average gross salary provided by all the countries, except **Denmark** and **Monaco**. These figures will only be used in tables and not in graphs in order to compare the salary of judges and prosecutors.

It was thus decided to mainly use two ratios usually used in such surveys for comparisons, in particular budgetary comparisons through graphs: the number of inhabitants and the per capita GDP, which will be included in the relevant graphs.

The figures on population were provided by all member states. They will be used in all ratios which measure an impact per inhabitant. Only the states with similar sizes will then be compared.

Figures related to per inhabitant GDP were provided by almost all the countries. Only **Bulgaria**, **Denmark** and **Monaco** were not able to provide them, and will therefore be excluded from the comparative tables and graphs prepared on the basis of such variable. Here again, huge 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 € (**Albania**, **Armenia**, **Azerbaijan**, **Bosnia and Herzegovina**, **Georgia**, **Moldova** and **Ukraine**), and on the other hand, **Liechtenstein** with a declared per capita GDP fifty times higher.

Table 1. General information on responding countries in 2004 (questions 1 - 4)

Country	Q1 Number of inhabitants	Q2 Total of annual State public expenditure at State level	Q2 Total of annual State public expenditure at regional / entity level	Q3 Per capita GDP	Q4 Average gross annual salary
Albania	3 069 275	n.r.		1 920 €	2 440 €
Andorra	76 875	275 500 000 €		22 347 €	14 846 €
Armenia	3 210 000	454 210 840 €		850 €	756 €
Austria	8 206 500	65 000 000 000 €		29 000 €	38 640 €
Azerbaijan	8 347 000	1 305 570 000 €		852 €	994 €
Belgium	10 446 000	142 577 800 000 €	59 925 000 000 €	27 579 €	31 992 €
Bosnia and Herzegovina	3 832 000	2 662 255 000 €		1 732 €	4 634 €
Bulgaria	7 761 049	n.r.		n.r.	2 417 €
Croatia	4 443 900	11 279 647 220 €	1 863 093 620 €	6 200 €	9 582 €
Cyprus	689 565	3 313 706 975 €		7 216 €	11 700 €
Czech Republic	10 220 577	32 450 758 526 €		8 446 €	6 783 €
Denmark	5 397 640	3 894 612 799 €		n.a.	n.a.
Estonia	1 351 069	3 000 000 000 €		6 644 €	5 588 €
Finland	5 236 611	36 320 000 000 €		28 646 €	33 000 €
France	62 177 400	374 597 000 000 €	161 600 000 000 €	26 511 €	38 921 €
Georgia	4 535 200	n.a.	n.a.	923 €	992 €
Germany	82 500 000	273 600 000 000 €	255 900 000 000 €	26 754 €	39 815 €
Greece	11 056 800	63 500 000 000 €		15 119 €	16 776 €
Hungary	10 097 549	24 950 400 000 €		8 025 €	6 984 €
Iceland	293 577	3 700 000 000 €	1 400 000 000 €	34 700 €	38 700 €
Ireland	4 040 000	41 230 000 000 €		36 737 €	27 780 €
Italy	58 462 375	452 826 000 001 €	n.a.	23 115 €	22 254 €
Latvia	2 319 200	3 167 516 484 €		4 777 €	3 600 €
Liechtenstein	34 600	524 133 333 €		106 000 €	74 592 €
Lithuania	3 425 300	3 664 414 301 €		5 264 €	4 024 €
Luxembourg	455 000	6 476 725 546 €		56 488 €	39 587 €
Malta	402 668	1 519 354 800 €		9 647 €	11 644 €
Moldova	3 386 000	4 286 300 000 €	1 885 600 000 €	572 €	853 €
Monaco	30 020	694 840 032 €		n.a.	n.a.
Montenegro	620 533	450 738 779 €		2 113 €	3 636 €
Netherlands	16 292 000	227 500 000 000 €		29 993 €	30 642 €
Norway	4 606 363	72 992 239 200 €	22 109 122 400 €	43 818 €	41 219 €
Poland	38 174 000	44 660 633 484 €		5 246 €	6 218 €
Portugal	10 529 255	64 175 000 000 €		13 550 €	13 492 €
Romania	21 673 328	7 494 168 708 €	3 422 276 068 €	2 718 €	2 423 €
Russian Federation	143 474 143	125 591 176 470 €		3 478 €	2 379 €
San Marino	29 673	715 834 955 €		26 350 €	23 609 €
Serbia	7 498 001	n.r.		2 255 €	3 420 €
Slovakia	5 400 000	8 388 155 026 €	572 550 000 €	6 200 €	4 997 €
Slovenia	1 997 590	7 006 900 000 €		13 103 €	13 565 €
Spain	42 935 001	102 665 000 000 €	324 972 000 000 €	19 502 €	25 060 €
Sweden	9 034 837	87 913 178 770 €	65 806 087 566 €	28 832 €	31 906 €
Turkey	71 152 000	79 312 575 000 €		3 359 €	7 783 €
Ukraine	47 280 800	11 283 701 187 €		1 141 €	1 105 €

Country	Q1 Number of inhabitants	Q2 Total of annual State public expenditure at State level	Q2 Total of annual State public expenditure at regional / entity level	Q3 Per capita GDP	Q4 Average gross annual salary
UK England & Wales	53 046 300	201 000 000 000 €		24 579 €	36 900 €
UK Northern Ireland	1 710 300	12 400 000 000 €		25 343 €	31 061 €
UK Scotland	5 078 400	65 241 060 000 €		24 600 €	33 500 €

1.6 Analysing the findings of the report

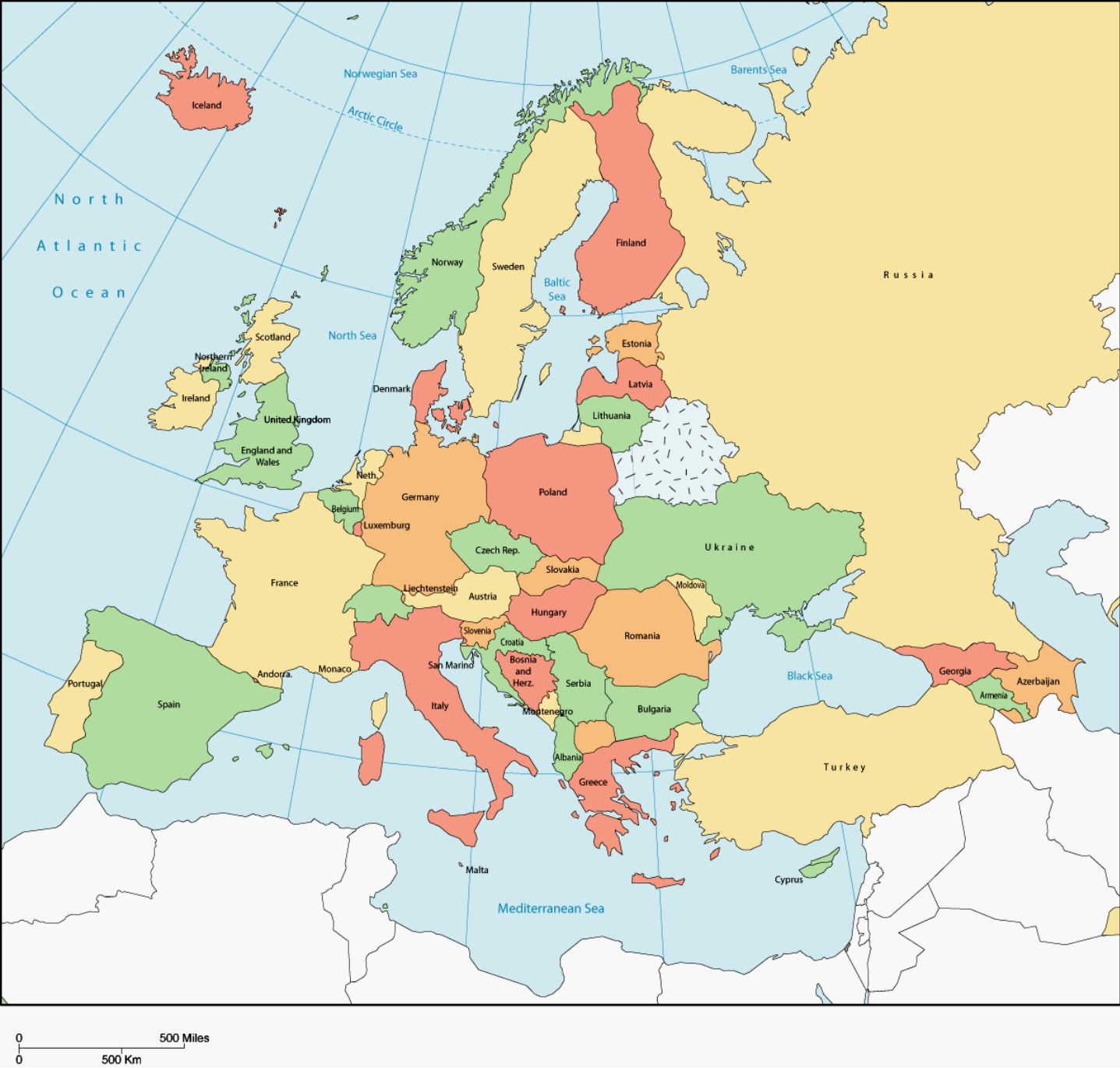
The ultimate aim of the regular evaluation exercise is to develop recommendations and set up concrete tools to improve the quality, equity and efficiency of judicial systems. Therefore a second phase of the process would consist in the CEPEJ "letting the figures speak". The CEPEJ will then turn its attention to the analysis of the results, where specific topics would be addressed more in depth on the basis of the facts and figures available.

Keys

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

- (Question x) refers to the (number of the) question in the scheme which appears in appendix, by which the information has been collected.
- If a certain country left a question open, this is shown as "n.r." (no reply) or a blank (" ").
- If there was a reply, saying no (valid) information was available, this is shown as "n.a." (Not available).
- In some cases, a question could not be replied to, for it referred to a situation that does not exist in the responding country. These cases, and cases in which an answer was given that clearly did not match the question, are shown as "nap" (not applicable).
- When a "-" appears in the tables it means that, due to the fact that the main data is not available, no calculation (of a ratio) could be made.
- fte = full time equivalent; number of staff (judges, prosecutors, etc.) are given in full time equivalent so as to enable comparisons.
- "UK–England and Wales" / "UK–Scotland" / "UK–Northern Ireland" corresponds to the territories of the United Kingdom concerned by the figures reported.

Figure 0 Responding countries



2. Public expenditures: courts and prosecution system

2.1 Introduction

This chapter focuses on the means of the judicial systems, and especially on the courts, legal aid and the prosecution system. In the first section, the financing of the courts is described. A reference to methodological matters is also made in the appendix.

With this in mind and regarding the complexity of these questions, the CEPEJ has chosen to break up as much as possible the various elements of the budgets to allow a progressive approach. Three entities were taken into account:

- the budget allocated to the courts (answer to question 5), which will be put in relation to the part of the report devoted to the activities of the courts,
- the budget allocated to the public prosecution (answer to question 9), which will be put in relation to the part of the report devoted to the activities of the public prosecutor,
- the budget devoted to legal aid (answer to question 7) which constitutes an indicator of the efforts devoted by a country to making their legal systems accessible.

The tables presented one after the other make it possible to provide all the comparisons on each one of these three entities, the courts (C), the public prosecution (PP) and the system of legal aid (LA).

Table 2: Budget devoted to the courts in 2004 (excluding legal aid)

Table 3: Budget devoted to the public prosecution in 2004 (real or estimated)

Table 4: Budget devoted to legal aid in 2004

Furthermore, totals showing the evaluation of budgets devoted to the following are also presented:

- to the whole of the bodies dealing with prosecution and judgment (C + PP)- Table no. 5: budget allocated to the judicial system, including courts and public prosecution in 2004 (without legal aid),
- to the whole of three entities (C + LA +PP) - Table no. 6: budget allocated to the judicial system, including courts, legal aid and public prosecution in 2004,
- to the access to justice and the courts (C + LA) - Table no. 7: budget allocated to the jurisdictions and legal aid in 2004.

As a result, any state will be able to compare itself to other countries deemed as similar. It will then, in the same way, be able to check the activity results.

In order to contribute to these reasoned comparisons, all the figures transmitted and used (summary table 75 in appendix) was made available. At the end of each table, ratios have been highlighted, to allow comparisons with comparable categories, by connecting the budgetary figures to the number of inhabitant and the GDP per capita, in the form of graphs.

Following each table, charts are presented with the ratio of the budget per inhabitant and the ratio as a percentage of the GDP per head of the population. This makes it possible to compare comparable categories.

The necessary data for these calculations are, in addition to the budget or «regrouped» budget: the number of inhabitants, the GDP per head and the average annual gross salary.

Each point studied successively distinguishes a part "figures and methodology" and a part "comments".

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting (Strasbourg, 15 – 17 June 2005) and
approved by the Committee of Ministers on 7 September 2005
(936th meeting of the Ministers' Deputies)**

15.3 Revised scheme for evaluating judicial systems

I. Demographic and economic data

I. A. General information

1. Number of inhabitants
2. Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level
3. Per capita GDP
4. Average gross annual salary

I. B. Budgetary data concerning judicial system

5. Total annual budget allocated to all courts
Please specify:
6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:
 - Salaries?
 - IT?
 - Justice expenses borne by the State?
7. Annual public budget spent on legal aid
8. If possible, please specify:
 - the annual public budget spent on legal aid in criminal cases
 - the annual public budget spent on legal aid in other court cases
9. Annual public budget spent on prosecution system
10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice				
Other ministry. Please specify				
Parliament				
Supreme Court				
Judicial Council				
Courts				
Inspection body. Please specify.				
Other. Please specify				

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your budgetary system*

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)		
Legal advice (Yes/No)		
Other (Yes/No). Please specify		

12. Number of legal aid cases:

- total
- criminal cases
- other than criminal cases

13. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

14. Does your country have an income and asset test for granting legal aid:

- for criminal cases?
- for other than criminal cases?

15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

16. If yes, is the decision taken by:

- the court?
- a body external to the court?
- a mixed decision-making body (court and external)?

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
- for other than criminal cases?

If yes, are there exceptions? Please specify:

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

Please specify:

19. Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:

- criminal cases?
- other than criminal cases?

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system

II. B. Users of the courts and victims
II. B. 1. Rights of the users and victims

- 20. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:**
- **legal texts (e.g. codes, laws, regulations, etc.)?**
Internet address(es):
 - **case-law of the higher court/s?**
Internet address(es):
 - **other documents (for examples legal forms)?**
Internet address(es):
- 21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?
If yes, please specify:**
- 22. Is there a public and free-of-charge specific information system to inform and to help victims of crimes?**
- 23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:**

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape				
Victims of terrorism				
Child/Witness/ Victim				
Victims of domestic violence				
Ethnic minorities				
Disabled persons				
Juvenile offenders				
Other				

24. Does your country have compensation procedure for victims of crimes?
25. If yes, does this compensation procedure consist in:
- a public fund?
 - a court order?
 - private fund?
26. If yes, which kind of cases does this procedure concern?
27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?
Please specify:

II. B.2. Confidence of citizens in their justice system

28. Is there a system for compensating users in the following circumstances:
- excessive length of proceedings?
 - wrongful arrest?
 - wrongful condemnation?
- If yes, please specify (fund, daily tariff):
29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?
If possible, please specify their titles, how to find these surveys, etc:

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level		
Surveys at court level		

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/No)
Court concerned		
Higher court		
Ministry of Justice		
High Council of Justice		
Other external organisations (e.g. Ombudsman)		

Can you give information elements concerning the efficiency of this complaint procedure?

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):
- first instance courts of general jurisdiction
 - specialised first instance courts
- Please specify the different areas of specialisation (and, if possible, the number of courts concerned):
34. Total number of courts (geographic locations)
35. Number of first instance courts competent for a case concerning:
- a debt collection for small claims
- Please specify what is meant by small claims in your country:
- a dismissal
 - a robbery
36. Number of professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)
37. Number of professional judges sitting in courts on an occasional basis and who are paid as such:
- *gross figure*
 - *if possible, in full time equivalent*
- Please specify:
38. Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs
Please specify:
39. Does your judicial system include trial by jury with the participation of citizens?
For which type of case(s)?
If possible, number of citizens who were involved in such juries for the year 2004?
40. Number of non-judge staff who are working in courts
(present the information in full time equivalent and for permanent posts)
Source
41. If possible, could you distribute this staff according to the 3 following categories:
- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars:
 - staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management):
 - technical staff:
42. In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):
43. Number of public prosecutors
(present the information in full time equivalent and for permanent posts)
44. Do you have persons who have similar duties as public prosecutors?
Please specify:

- 45. Is the status of prosecutors:**
- independent within the judiciary?
 - independent from the judiciary ?
 - under the authority of the Ministry of Justice?

46. Number of staff (non prosecutors) attached to the public prosecution service
(present the information in full time equivalent and for permanent posts)

47. Who is entrusted with the individual court budget?

	Preparation of the budget (Yes/No)	Arbitration and allocation (Yes/No)	Day to day management of the budget (Yes/No)	Evaluation and control of the use of the budget (Yes/No)
Management Board				
Court President				
Court administrative director				
Head of the court clerk office				
Other. Please specify				

48. In general, do the courts in your country have computer facilities?

49. What are the computer facilities used within the courts?

Functions	Facilities	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Direct assistance to the judge/court clerk	Word processing				
	Electronic data base of jurisprudence				
	Electronic files				
	E-mail				
	Internet connection				
Administration management and	Case registration system				
	Court management information system				
	Financial information system				
Communication between the court and the parties	Electronic forms				
	Special Website				
	Other electronic communication facilities				

50. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?
Please specify the name and the address of this institution:

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your judicial system*

III. B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?
52. Do you have a regular monitoring system of court activities concerning the:
- number of incoming cases?
 - number of decisions?
 - number of postponed cases?
 - length of proceedings?
 - other?
- Please specify:
53. Do you have a regular evaluation system of the performance of the court?
Please specify:
54. Concerning court activities, have you defined:
- performance indicators?
 - Please specify the 4 main indicators for a proper functioning of justice:
 - targets?
- Please specify who is responsible for setting the targets:
- executive power?
 - legislative power?
 - judicial power?
 - other? Please specify:
- Please specify the main objectives applied:
55. Which authority is responsible for the evaluation of the performances of the courts:
- the High Council of judiciary?
 - the Ministry of justice?
 - an Inspection body?
 - the Supreme Court?
 - an external audit body?
 - other? Please specify:
56. Does the evaluation system include quality standards concerning judicial decisions?
Please specify:
57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:
- civil cases?
 - criminal cases?
 - administrative cases?
58. Do you have a way of analysing queuing time during court procedures?
Please specify:
59. Do you monitor and evaluate the performance of the prosecution services?
Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

IV. Fair trial

IV. A. Fundamental principles

60. Is there in your judicial system:
- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?
 - the right to have reasons given for all prisons sentences?
 - for all cases, an effective remedy to a superior jurisdiction?
61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented?
62. Is there a procedure to effectively challenge a judge if a party consider he/she is not impartial?
If possible, number of successful challenges (in a year):
63. Please give the following data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§2										
	Article 6§3a										
	Article 6§3b										
	Article 6§3c										
Civil proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§1 (non execution only)										

IV.B. Timeframes of proceedings

IV. B. 1. General

64. Are there specific procedures for urgent matters in:
- civil cases?
 - criminal cases?
 - administrative cases?
65. Are there simplified procedures for:
- civil cases (small claims)?
 - criminal cases (petty offences)?
 - administrative cases?
66. Is it possible for a second instance court to send back a case to a first instance court for a new examination?
67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers to submit their conclusions and dates of hearings)?
Please specify:

IV. B. 2. Civil and administrative cases

**68. Total number of civil cases in courts (litigious and not litigious):
Please specify the main types of cases:**

69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

		Civil cases	Administrative cases	Divorce	Employment dismissal
Total number (1st instance)	Incoming cases				
	Decisions on the merits				
	Percentage of decisions subject to appeal in a higher court				
	Pending cases by 1 January 2005				
	Percentage of pending cases of more than 3 years				
Average length (from date of lodging of court proceedings*)	1st instance decisions				
	2nd instance decisions				
	Total procedure				

* If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

Where appropriate, please specify the specific procedure as regards divorce:

IV. B. 3. Criminal cases

70. Please describe the role and powers of the prosecutor in the criminal procedure:

- to conduct or supervise police investigation?
 - to conduct investigation?
 - when necessary, to demand investigation measures from the judge?
 - to charge?
 - to present the case in the court?
 - to propose a sentence to the judge?
 - to appeal?
 - to supervise enforcement procedure?
 - to end the case by dropping it without the need for a judicial decision?
 - to end the case by imposing or negotiating a penalty without a judicial decision?
 - other significant powers?
- Please specify:

**71. Does the prosecutor also have a role in civil and/or administrative cases?
Please specify:**

72. Functions of the public prosecutor in relation to criminal cases – please complete this table:

		Total number of 1st instance criminal cases
Received by the public prosecutor		
Discontinued by the public prosecutor	In general	
	Because the offender could not be identified	
	Due to the lack of an established offence or a specific legal situation	
Concluded by a penalty, imposed or negotiated by the public prosecutor		
Charged by the public prosecutor before the courts		

73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

		Criminal cases	Robbery cases	Intentional homicides
Total number (1st instance)	Incoming cases			
	Judicial decisions			
	Convicted persons			
	Acquitted persons			
	Percentage of decisions subject to appeal in a higher court			
	Pending cases by 1 January 2005			
	Percentage of pending cases of more than 3 years			
Average length*(from the date of official charging)	1st instance decision			
	2nd instance decision			
	Total procedure			

* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning timeframes of proceedings**

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:

- a body composed of members of the judiciary?
- a body composed of members external to the judiciary?
- a body composed of members of the judiciary and external to the judiciary?

75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- a body composed of members of the prosecution system?
- a body composed of members external to the prosecution system?
- a body composed of members of the prosecution system and external to the prosecution system?

76. Is the mandate given for an undetermined period for:
- judges?
 - prosecutors?

Are there exceptions ? Please specify:
If no, what is the length of the mandate:

- of judges?
- of prosecutors?

Is it renewable?

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of the selection and nomination procedure of judges and prosecutors*

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory			
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended		Regular	
	Optional		Occasional	
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory		Annual	
	Highly recommended		Regular	
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended		Regular	
	Optional		Occasional	

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory			
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended		Regular	
	Optional		Occasional	
Specialised in-service training	Compulsory		Annual	
	Highly recommended		Regular	
	Optional		Occasional	

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of of your training system for judges and prosecutors*

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career
80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court
81. Gross annual salary of a public prosecutor at the beginning of his/her career
82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation		
Special pension		
Housing		
Other financial benefit (If yes, please specify)		

84. Can judges or prosecutors combine their work with any of the following other professions?

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching						
Research and publication						
Arbitrator						
Consultant						
Cultural function						
Other function to specify						

**85. Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?
Please specify:**

V. C. Disciplinary procedures

86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for disciplinary procedures	Total number		
	Breach of professional ethics (Yes/No) If yes, please specify the number		
	Professional inadequacy (Yes/No) If yes, please specify the number		
	Criminal offence (Yes/No) If yes, please specify the number		
	Other (Yes/No) If yes, please specify		
	Types of sanctions	Total number	
Reprimand (Yes/No) If yes, please specify the number			
Suspension (Yes/No) If yes, please specify the number			
Dismissal (Yes/No) If yes, please specify the number			
Fine (Yes/No) If yes, please specify the number			
Other (Yes/No) If yes, please specify			

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors

VI. Lawyers

87. Number of lawyers practising in your country
88. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?
89. Do lawyers have a monopoly of representation:

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*			Member of family	
			Trade Union	
			NGO	
			Other	
Criminal cases*	Defendant		Member of family	
			Trade Union	
			NGO	
			Other	
	Victim		Member of family	
			Trade Union	
			NGO	
			Other	
Administrative cases*			Member of family	
			Trade Union	
			NGO	
			Other	

* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?
- a national bar?
 - a regional bar?
 - a local bar?
- Please specify:
91. Is there a specific initial training or examination to enter the profession of lawyer?
92. Is there a mandatory general system for lawyers requiring continuing professional development?
93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?
Please specify:
94. Can users establish easily what the lawyers' fees will be?
95. Are lawyers fees:
- regulated by law?
 - regulated by Bar association?
 - freely negotiated?
96. Have quality standards been formulated for lawyers?

97. If yes, who is responsible for formulating these quality standards:

- the bar association?
- the legislature?
- other? Please specify:

98. Is it possible to complain about :

- the performance of lawyers? Please specify:
- the amount of fees?

99. Disciplinary proceedings and sanctions against lawyers:

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	
	Professional inadequacy	
	Criminal offence	
	Other	
Type of sanctions	Reprimand	
	Suspension	
	Removal	
	Fine	
	Other	

100. Who is the authority responsible for the disciplinary procedures:

- a professional body? Please specify:
- the judge?
- the Ministry of justice?
- other? Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar

VII. Alternative Dispute Resolution

101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
Family cases	Compulsory stage in court proceedings		Judge	
			Prosecutor	
			Private mediator	
Civil cases	Compulsory stage prior to court proceedings		Public or authorised by court body	
			Court	
			Judge	
Family cases	Compulsory stage in court proceedings		Prosecutor	
			Private mediator	
			Public or authorised by court body	

Administrative cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	

102. Can you provide information about accredited mediators?

103. Can you provide information about the total number of mediation procedure concerning:

- civil cases?
- family cases?
- administrative cases?
- employment dismissals?
- criminal cases?

104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)? Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

- judges?
 - bailiff practising as private profession ruled by public authorities?
 - bailiff working in a public institution?
 - other enforcement agents?
- Please specify their status:

106. Number of enforcement agents

107. Is there a specific initial training or examination to enter the profession of enforcement agent?

108. Is the profession of enforcement agent organised by?
- a national body?
 - a regional body?
 - a local body?
109. Can users establish easily what the fees of the enforcement agents will be?
110. Are enforcement fees:
- regulated by law?
 - freely negotiated?
111. Is there a body entrusted with the supervision and the control of the enforcement agents?
Which authority is responsible for the supervision and the control of enforcement agents:
- a professional body?
 - the judge?
 - the Ministry of justice?
 - the prosecutor?
 - other?
- Please specify:
112. Have quality standards been formulated for enforcement agents?
Who is responsible for formulating these quality standards?
113. What are the main complaints of users concerning the enforcement procedure:
- no execution at all?
 - lack of information?
 - excessive length?
 - unlawful practices?
 - insufficient supervision?
 - excessive cost?
 - other?
114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?
Please specify:
115. Is there a system measuring the timeframes of the enforcement of decisions :
- for civil cases?
 - for administrative cases?
116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:
- between 1 and 5 days
 - between 6 and 10 days
 - between 11 and 30 days
 - more: please specify
117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	
	Professional inadequacy	
	Criminal offence	
	Other	
Sanctions	Reprimand	
	Suspension	
	Dismissal	
	Fine	
	Other	

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your enforcement system of decisions in civil matters*

VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has in charge the enforcement of judgments?
If yes, please specify his/her functions and activities (e.g. Initiative or control functions):
If no, please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):
119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?
Please specify:

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your enforcement system of decisions in criminal matters*

IX. Notaries

120. Is the status of notaries:
- a private one?
 - a status of private worker ruled by the public authorities?
 - a public one?
 - other?
- Please specify:
121. Do notaries have duties:
- within the framework of civil procedure?
 - in the field of legal advice?
 - to authenticate legal deeds?
 - other?
- If yes, please specify:
122. Is there a body entrusted with the supervision and the control of the notaries?
Which authority is responsible for the supervision and the control of the notaries:
- a professional body?
 - the judge?
 - the Ministry of justice?
 - the prosecutor?
 - other? Please specify:

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your system of notaries*

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

**EXPLANATORY NOTE
TO THE REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS**

15.4 Explanatory note

I. Introduction

Background

In conformity with its terms of reference⁹, the European Commission for the Efficiency of Justice (CEPEJ) adopted in December 2003 a Pilot Scheme for evaluating judicial systems, which was approved by the Committee of Ministers in February 2004.

The main aim of this Pilot Scheme, containing both qualitative and quantitative indicators, was to enable member States to compare the functioning of their judicial systems.

The Pilot Scheme was sent in May 2004 to all members States of the Council of Europe. The data for the year 2002 were thus collected and processed by the Dutch Research Institute of the Ministry of Justice (WODC) and the Working Group CEPEJ-GT-2004. The Report "European Judicial Systems 2002" was then adopted by the CEPEJ at its 4th plenary meeting (December 2004), presented to the Committee of Ministers in January 2005 and published. A Conference on "Evaluating European judicial systems" was organised in The Hague (the Netherlands) on 2 and 3 May 2005; the results of this pilot exercise were presented to the public on this occasion.

This work was achieved with the support of the national correspondents designated in each member States to reply to the questionnaire. The CEPEJ is expecting that these national correspondents will constitute a genuine network working in a long-term perspective with the CEPEJ.

Although 45 member States replied by May 2005, the Report presents the results of those 40 members States of the Council of Europe which replied in due time so that their answers could be processed.

The Report contains precise and substantiated information, with detailed figures, where the reader can find comparative tables concerning essential items of the functioning of judicial systems. As the conclusion of a pilot exercise, it obviously contains limits and shortcomings because of its experimental character. Although the wording of the questions was agreed by the member States, this exercise highlighted the fact that some questions did not received satisfactory replies either because of differing interpretation or because there were not always relevant.

However it proves that this evaluation exercise is both possible and useful.

At their 3rd Summit, organised in Warsaw on 16 and 17 May 2005, the Heads of State and government of the Member States of the Council of Europe "[decided] to develop the evaluation and assistance functions of the European Commission for the Efficiency of Justice (CEPEJ)".

This experimental exercise conducted through the Pilot Scheme for evaluating judicial systems constitutes to that extent a solid basis in order to develop this essential task.

The CEPEJ is convinced that, by using the methodology developed in the framework of this pilot exercise and with the help of the national correspondents, it is possible to obtain a general evaluation of the judicial systems containing recent data. This will enable policy makers to act on the basis of that information. Therefore the CEPEJ wishes to pursue the evaluation on a regular basis.

In 2005, in order to set up a questionnaire which can be used in a systematic way for regular evaluation exercises, the CEPEJ entrusted the Working Group on evaluating judicial systems

⁹ The CEPEJ shall fulfill its tasks (...) by identifying and developing indicators, collecting and analysing quantitative and qualitative data, and defining measures and means of evaluation (*Resolution (2002) 12 establishing the CEPEJ*).

(CEPEJ-GT-EVAL) to collect all the comments submitted by CEPEJ members, observers, members of CEPEJ-GT-2004 and national correspondents during the pilot evaluation exercise and to take them into account for the preparation of a revised Scheme.

The revised Scheme was adopted by the CEPEJ at its 5th plenary meeting (15 – 17 June 2005) [and was approved by the Committee of Ministers at the 936th meeting of the Deputies (7 September 2006.)]

General recommendations

The aim of this exercise is to compare the functioning of judicial systems in their various aspects, to have a better knowledge of the trends of the judicial organisation and to propose reforms aiming at improving the efficiency of justice. The evaluation scheme and the analysis of the conclusions which can result from it should become a genuine tool in favour of public policies on justice and for the sake the European citizens.

Because of the diversity of the judicial systems in the member states concerned, each state will probably not be able to reply to all questions. The objective of the Scheme is then also to stimulate the collection of data by the States in those fields where such data are still not available.

It must also be noted that the Scheme neither aims to include an exhaustive list of indicators nor aims to be an academic or scientific study. It contains indicators which have been considered relevant to assess the situation of the judicial systems and to enable the CEPEJ to work more in depth in promising fields as regards the improvement of the quality and the efficiency of justice. At the same time, the data collected will enable the CEPEJ to continue to work in depth in new essential fields for improving the quality and efficiency of justice.

II. Comments concerning the questions of the Scheme

This note aims to assist the national correspondents and other persons entrusted with replying to the questions of the revised Scheme.

a. General remarks

The year of reference for this Scheme is 2004. If 2004 data are not available, please use the most recent figures. In this case, please indicate the year of reference used under the relevant question.

Please indicate the sources of your data if possible. The "source" concerns the institution which has given the information to answer a question (e.g. the National Institute of the Statistics of the Ministry of Justice) in order to check the credibility of the data.

All financial amounts should be given, if possible, in Euros.

You are invited to send by e-mail the WORD-file Scheme duly completed to the following address: <mailto:CEPEJ@coe.int>

Before sending back your reply, please change the name of the file to the name of your country and the year of reference (2004). For instance: "albania2004.doc".

When the choice between 'yes' or 'no' is offered, please tick the appropriate box. It may, however, not always be possible to choose between these answers. Please feel free to give a more elaborated answer of your choice. If certain information is not available or not relevant, please use "N.A" (not applicable).

As the document has been prepared under WORD format, you can always add extra lines under the questions or within the frames to complete your answer.

Complementary comments on the answers

In general, if certain questions cannot be answered or if you need to give details in particular due to the specificity of your judicial system, please comment on it.

A specific area has been left at the end of each chapter to briefly give, on the one hand, any useful comments for interpreting the data given in the chapter, and, on the other hand, the main characteristics or even a qualitative description of your system if your State has chosen specific system to cope with a specific situation.

You are not required to fill systematically this area. On the contrary, please feel free to add comments on certain questions where you deem it useful, even if no specific area for “comments” has been foreseen. Your comments will be useful for the analysis of your replies and the data processing.

If data indicated for 2004 differ significantly from the same data given for 2002 (within the framework of the pilot exercise), please give the explanation for this difference after your answer.

Help desk

Should you have any question as regards this Scheme and the way to answer it, please send an e-mail to Stéphane Leyenberger (stephane.leyenberger@coe.int) or Muriel Décot (muriel.decot@coe.int).

b. Comments question by question

I. Demographic and economic data

For the data requested in this Chapter, please use if possible those available at the OECD to ensure a homogenous calculation of the ratios between member States. If the data concerning your country are not available at the OECD, please use another source and specify this source.

Question 1

The number of inhabitants should be given, if possible, as of 1 January 2005. If this is not possible, please indicate which date has been used.

Question 2

The new version of the Scheme requires an indication of the amount of *public expenditure* (all expenses made by the State or public bodies, including public deficits) instead of the amount of the “budget” which is deemed not to be precise enough and would not include certain “extra expenditure” which does not fall within the budget. The expression *territorial authorities* has been added in order to include federal States or States where power is shared between the central authorities and the territorial authorities. The reply to this question will enable ratios to be calculated which would measure the total real investment of member States in the operation of justice.

Question 3

Please indicate the Gross Domestic Product (GDP) of your country in 2004. This data will be useful to calculate several ratios enabling a comparative analysis.

Question 4

Please indicate the average *gross* annual salary and not the *disposable* salary. The gross salary is calculated before any social expenses and taxes have been paid; it is the amount that the employer has actually to pay out per employee.

Please use the same definition of “gross annual salary” in questions 79 to 82.

The annual gross average salary is an important piece of information in order to calculate ratios which would measure and compare the salaries of the principal “players” involved in the judicial system, in particular judges and prosecutors.

Question 5

Question 5 aims to establish the total amount of the budget covering the operation of the courts, whatever the source of this budget is.

This amount does not include:

- the budget for the prison system;
- the budget for the operation of the Ministry of Justice (and/or any other institution which deals with the administration of justice);
- the budget for the operation of other organs (other than courts) attached to the Ministry of Justice;
- the budget of the prosecution system.

Where appropriate, this amount should include both the budget at national level and at the level of territorial entities.

Question 6

The budgets to be addressed for the purpose of this question concern only those used for the operation of the courts (salaries, justice expenses, IT).

Salaries are those of all judicial and non-judicial staff working within courts, with the exception, where appropriate, of the prosecution system.

IT (Information Technologies) includes all the expenses for the installation, use and maintenance of computer systems, including the expenses paid out for the technical staff.

Justice expenses borne by the State refers to the amounts that the courts should pay out such as expenses paid for expert opinions. Any expenses paid to the courts by the parties should not be indicated here.

Questions 7 and 8

Annual public budget allocated to legal aid refers to the amount of the public budget allocated by the Ministry of Justice or the institution dealing with the administration of justice and/or the territorial authorities to legal aid in its widest sense. This includes both aid given for representation before the courts and legal advice. Further information can be given in question 11. The total should include only the sums directly paid to those benefiting from legal aid or their lawyers (and not include administrative costs).

Please indicate separately the sums allocated to criminal cases and to all other cases.

Question 9

Public Prosecutor is to be understood in the sense of the definition contained in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system: "(...) authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system".

If there is a single budget for judges and prosecutors please indicate, if possible, the proportion of this budget intended for prosecutors. If part of the Public Prosecution’s budget is allocated to the police budget, or to any other budget, please indicate it.

Question 10

The aim of this question is to know the institutions involved in the various phases of the process regarding the global budget allocated to the courts. This question does not concern the management of the budget at court level, to be addressed under question 47.

II. Access to justice and to all courts

As the European Convention on Human Rights guarantees legal aid in criminal matters, the questionnaire specifies legal aid in criminal cases from legal aid in other than criminal cases.

For the purposes of this Scheme, *legal aid* is defined as aid given by the State to persons who do not have sufficient financial means to defend themselves before a court. For the characteristics of legal aid, please refer to Resolution Res(78)8 of the Committee of Ministers of the Council of Europe on Legal Aid and Advice.

Question 12

This question concerns the annual number of decisions granting legal aid to persons involved in cases going to court. It does not concern legal advice regarding questions that are not addressed by the court.

Question 14

If the reply to the question is “yes”, you can indicate in your comments the maximum annual income (if possible for a single person) for which legal aid can be awarded.

Questions 15 and 16

These questions require from the States an indication whether it is possible, according to the law, to refuse legal aid in other than criminal matters for reasons such as frivolous or vexation actions.

Question 17

A general rule can exist in States according to which a person is required to pay a court tax or fee to start a proceeding at a general jurisdiction court. This general rule can have exceptions - please indicate these exceptions. This tax does not concern fees of lawyers. Please also indicate if this court tax applies in criminal cases only or also to other case.

For the purposes of this question, *courts of general jurisdiction* means those courts which deal with all those issues which are not attributed to specialised courts according to the nature of the case.

Question 18

This question does not refer to insurances offered to companies. For the purposes of this question, “*legal expenses insurance*” covers the costs of legal proceedings, including lawyers' fees and other services relating to settlement of the claim. If possible, please give some indications about the development of such insurances in your country. Please also specify whether this is a growing phenomenon.

Question 19

For this question, please indicate whether the judicial decision given by the judge has an impact on the repartition of judicial costs. In other words, States should indicate whether, for instance in a civil case, the losing party has to bear the costs of the winning party. In the affirmative case, States should indicate whether this concerns criminal cases or other cases.

Judicial costs include all costs of legal proceedings and other services relating to the case paid by the parties during the proceedings (taxes, legal advice, representation, travel expenses, etc).

Question 20

The web sites mentioned could appear in particular on the internet web site of the CEPEJ.

Question 21

This question can apply to all types of cases.

A mandatory provision of information to individuals on the foreseeable timeframe of the case in which they are parties is a concept to be developed to improve judicial efficiency. It can be simple information to the parties or for instance a procedure requiring the relevant court and the opposing parties to agree on a jointly determined time-limit, to which both sides would commit themselves through various provisions. Where appropriate, please give details on the existing specific procedures.

Question 22

The question aims to specify if the State has established structures which are known to the public, easily accessible and free of charge, for victims of criminal offences.

Question 23

This question aims to learn how States protect those groups of population which are particularly vulnerable in judicial proceedings. It does not concern the police investigation phase of the procedure.

Specific information mechanism might include, for instance, a public, free of charge and personalised information mechanism, operated by the police or the justice system, which enables the victims of criminal offences to get information on the follow up to the complaints they have launched

Specific hearing modalities might include, for instance, the possibility for a child to have his/her first declaration recorded so that he/she does not have to repeat it in further steps of the proceedings.

Specific procedural rights might include, for instance, *in camera* hearing for the victims of rape or the obligation to inform beforehand the victim of rape, in case of the release of the offender.

Please specify if other specific modalities are provided for by judicial procedures to protect these vulnerable groups (for instance, the right for a woman who is a victim of family violence to enjoy the use of the common house).

This question does not concern compensation mechanisms for the victims of criminal offences, which are addressed under questions 24 to 27.

Questions 24 to 27

These questions aim to provide precise information on the existing compensation mechanisms for the victims of criminal offences. These details concern the nature of the compensation mechanisms, the type of offences for which compensations can be claimed and the quality of the recovery of damages awarded by the court.

Question 28

This question concerns every user of justice and the compensation for a damage suffered because of dysfunctions of the justice system. Where appropriate, please give details on the compensation procedure and the possible existing scales for calculating the compensation (e.g. the amount per day of unjustified detention or condemnation).

Questions 29 and 30

These questions concern the surveys carried on with the persons who had a direct contact with a court and are directly involved in proceedings (for instance the parties). It does not concern opinion surveys.

You can give here concrete examples in indicating the titles of these surveys, the web sites where they can be consulted, etc.

Questions 31 and 32

These questions refer to the existence of a procedure enabling every user of the justice system to complain with regard to a fact that he/she thinks to be contrary to the good functioning of the judicial system. If such a procedure exists, please specify in the table under question 32 the modalities for managing these complaints. It must be specified what is the competent body to address the complaint and, where appropriate, if this body must, on the one hand, answer to this complaint in a given timeframe (to acknowledge receipt of the complaint, to provide information on the follow up to be given to the complaint, etc.) and, on the other hand, to address the complaint in a given timeframe.

If possible, please give details on the efficiency of these procedures, indicating for instance the timeframes or the number of complaints filed.

III. Organisation of the court system

A court can be considered either as a legal entity or a geographical location. Therefore it is required to number the courts according to both concepts, which enable in particular to give information on the accessibility to courts for the citizens.

Question 33

For the purposes of this question, a *court* means a body established by the law 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.

For the purpose of this question, a *first instance court of general jurisdiction* means those courts which deal with all those issues which are not attributed to *specialised courts* owing to the nature of the case.

Please give the list of specialised courts and, if possible, their number.

Should your system require it, you could indicate the criteria used to number these courts.

Question 34

For the purposes of this question, please indicate the total number of geographical locations (premises) where judicial hearings are taking place, numbering both the courts of first instance of general jurisdiction and the specialised courts of first instance. Please do not count simple annexes to a court within a same city.

Should your system require it, you could indicate the criteria used to number these courts.

Question 35

This question aims to compare the number of courts (geographical locations) with jurisdiction for specific and standard cases. It should enable a comparison between member States in spite of the differences in the judicial organisation.

Small claims are not specified to take into account the differences in the living conditions of the European States. Please specify the maximum amount to define a "small claim" in your country, which is generally used as criteria of procedural jurisdiction.

Should your system require it, you could indicate the criteria which are used to number these courts.

Questions 36 to 39

These questions aim to count all persons entrusted with the task to deliver or to participate in a judicial decision.

For the purposes of this Scheme, *judge* must be understood according to the case law of the European Court of Human Rights. In particular, the judge decides, according to the law and following an organised proceeding, on any issue within his/her jurisdiction. He/she is independent from the executive power.

Therefore judges deciding in administrative or financial matters (for instance) must be counted if they are included in the above mentioned definition.

Question 36

For the purposes of the question, *professional judges* means those who have been trained and who are paid as such. Please indicate the number of actually filled posts at the date of reference and not the theoretical budgetary posts. The information should be presented in full time equivalent and for permanent posts.

Question 37

This question concerns professional judges but who do not perform their duty on a permanent basis.

In a first phase, in order to measure to what extent part time judges participate in the judicial system, the gross data could be indicated.

In a second phase, in order to compare the situation between, member States, the same indication could be given, if possible, in full time equivalent.

Question 38

For the purposes of this question, *non-professional judges* means those who sit in courts (as defined in question 33) and whose decisions are binding but who do not belong to the categories mentioned in questions 36 and 37 above. This category includes lay judges and *juges consulaires*.

If possible, please indicate, for each category of non-professional judges, the average number of working days per month. Neither arbitrators, nor those persons who have been sitting in a jury (see question 39) are subject to this question.

Question 39

This category concerns for instance the citizens who have been drawn to take part in a jury entrusted with the task of judging serious criminal offences.

Question 40

The whole judicial (administrative or technical) non-judge staff working in all courts must be counted here, in full time equivalent for permanent posts. This includes court clerks, secretaries, technical staff, etc. Precisions according to the various categories of non-judge staff can be given under questions 41 and 42.

Questions 41 and 42

This question aims to specify the various functions of administrative staff working within the courts.

Technical staff means staff in charge of execution tasks or assuming technical and other maintenance functions such as cleaning staff or electricians.

Question 42 concerns specifically the *Rechtspfleger*, for those States which experience this quasi judicial function.

Question 43

For the purposes of this question, *prosecutors* are defined according to the Recommendation R(2000)19 of the Committee of Ministers on the role of public prosecution in the criminal justice system, as public authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system.

Question 44

In some States, some persons (private workers or police officers) are specifically entrusted with duties similar to those exercised by public prosecutors. Please specify whether these persons are included in the data concerning the number of public prosecutors. Please give also information on these categories (statute, number, functions). This excludes lawyers who are bringing an accusation in a criminal hearing. This excludes also victims who can go directly to the judge without intervention of the public prosecutor.

Question 45

This question aims to situate the prosecutorial system in the organisation of the judicial system in your country. Please specify if it is an independent body or if it is placed under the authority of the Ministry of justice; if it is an independent body, please indicate if it is a hierarchy apart from the judicial power or if it belongs however to the judicial power.

Question 46

For the purposes of this question, please number the non-prosecutor staff working for the prosecution system, even when this staff appear in the budget of the court.

Question 47

Contrary to question 10 which concerns the elaboration of the budget before it is actually allocated between the courts, this question concerns those persons within the courts who enjoy specific powers as regards the budget.

Questions 48 and 49

These questions aim to evaluate the quality of the computerised support to judges and court clerks in their various judicial and administrative tasks.

Please tick the boxes according to the rate of courts which are equipped with the computer facilities indicated in the table. For instance, if it is not possible in your State to introduce a judicial case by electronic form, tick the case “-10% of courts” in the row “electronic form”.

Question 51

The *annual report of the court* includes e.g. data on the number of cases processed or pending cases, the number of judges and administrative staff. It might also include targets and an assessment of the activity.

Questions 52 to 55

Various court activities (including judges and administrative court staff) are nowadays subject, in numerous countries, to monitoring and evaluation procedures.

The monitoring procedure aims to assess the day-to-day activity of the courts, and in particular what the courts produce.

The evaluation procedure refers to the performance of the court systems with prospective concerns, using indicators and targets.

In question 52, please indicate the main items which are regularly assessed by the monitoring procedure. The list which is mentioned is not exhaustive and can be completed.

In question 54, it might be interesting to compare among States what are the most important issues to be considered in view of improving their system and to know if the States define specific targets to the courts.

Question 56

The aim of this question is to know if there are standards as regards for instance the formal drafting of a judicial decision (wording used, motivation) or the timeframe between the hearing and the issuing of the decision.

Question 57

Backlogs are composed of filled cases which have not yet been decided. Please give details concerning your system to measure backlogs.

For the purposes of this Scheme, "*civil cases*" refer in general to all those cases involving private parties, including namely family law cases, commercial cases, employment cases.

Question 58

Queuing time means time in which nothing happens during a procedure (for instance because the judge is waiting for the report of an expert). It is not the general length of procedure.

Question 59

This question concerns the same types of monitoring or evaluation procedures as those under questions 52 to 54, but applied to the prosecution system.

IV. Fair trial

Question 60

This question aims to know to what extent procedural rights guaranteed under Articles 6 and 13 of the European Convention of Human Rights are protected by the law.

Question 61

This question refers to situations in which a judgement is taken without actual defence. This may occur – in some judicial systems – when a suspect is at large or does not show up for trial. The aim of this question is to know if the right to an adversarial trial is respected, in particular in criminal cases in first instance. The right to an adversarial trial means the opportunity for the parties to have knowledge of and comment on the observations filed or evidence adduced by the other party (see amongst others Ruiz-Mateos vs. Spain, judgment of the ECHR of 23 June 1993, Series A no. 262, p.25, para. 63).

Question 62

This questions aims to provide information on procedures which enable to guarantee to the user of justice the respect of the principle of impartiality, in line with Article 6 of the European Convention on Human Rights.

Question 63

This table concerns the number of cases regarding the violation of Article 6 of the European Convention on Human Rights for 2003 and 2004, specifying civil and criminal cases. In the first column, please indicate the number of cases communicated by the Court to your government, which is the beginning of the adversarial procedure.

Data requested for your country in this question are available at the European Court of Human Rights.

European Convention on Human Rights - Article 6 – Right to a fair trial

- 1 *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*
- 2 *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*
- 3 *Everyone charged with a criminal offence has the following minimum rights:*
 - a *to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;*
 - b *to have adequate time and facilities for the preparation of his defence;*
 - c *to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;*
 - d *to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;*
 - e *to have the free assistance of an interpreter if he cannot understand or speak the language used in court.*

Question 64

Such a *procedure of urgency* can be used so that the judge can take a provisional decision (e.g. decision on the right to control and care of a child) or when it is necessary to preserve elements of proof or when there is a risk of imminent or hardly repairable damage (for instance emergency interim proceedings).

Question 65

Such a *simplified procedure* can be used in civil matters for instance when it concerns the enforcement of a simple obligation (e.g. payment order).

For criminal matters, the question aims to know whether petty offences (for instance minor traffic offences or shoplifting) can be processed through administrative or simplified procedures. These offences are considered as incurring sanctions of criminal nature by the European Court of Human Rights and shall therefore be processed in the respect of the subsequent procedural rights.

Question 67

This question refers to agreements between lawyers and the courts which can be concluded in order to facilitate the dialogue between main actors of the proceeding and in particular to improve timeframes of proceedings. Such agreements can concern the submission of files, the setting up of deadlines for submissions of elements, dates for hearings, etc.

Question 68

States should indicate in this question the total number of civil cases received by first instance courts, including non-litigious cases (e.g. change of civil status or measures to preserve rights).

Question 69

This question, which appears as a table, aims to gather data regarding the total number of litigious incoming cases (filed in the current year) and the length of proceedings (in number of days), first in civil and administrative matters in general, second as regards divorce without mutual consent (see below) and employment dismissal. The number of cases concerns first instance proceedings.

In the row *decisions on the merits*, States are required to count the total number of decisions on the substance which end the dispute at the level of first instance (provisional decisions or decisions regarding the proceeding should not be counted here). The average length of proceedings concerns the first and second instance proceedings. Only litigious cases are addressed here.

Pending cases by 1st January 2005 means cases which have not been completed in 2004.

If the average length of proceedings is not calculated from lodging of court proceedings, please specify the starting point for the calculation. Please calculate the timeframe until the judicial decision is given, without taking into account the execution procedure.

An *administrative case* means a case which is considered as such according to domestic legislation. It concerns generally a dispute between a private person and the State or one of its organs.

Data regarding *divorce* concern only adversarial divorce lodged to a court (in which the judge totally or partly settle the dispute). They do not concern divorce in which an agreement between parties concerning the separation of the spouses and all its consequences (procedure of mutual consent, even if they are processed by the court) or ruled through an administrative procedure. If your country has a totally non-judicial procedure as regards divorce or if you can not isolate data concerning adversarial divorces, please specify it and give the subsequent explanations. Furthermore, if there are in your country, as regards divorce, compulsory mediation procedures or reflecting times, or if the conciliation phase is excluded from the judicial proceeding, please specify it and give the subsequent explanations.

Data regarding *employment dismissal* concern only dismissals within the private sector and not dismissals of public officials following a disciplinary procedure, for instance. Dismissal means the end of the working relationships at the initiative of the employer.

Questions 70 to 72

The role of the prosecutor varies significantly among member States. Therefore it was difficult to get useful information from the questions of the Pilot Scheme. Another approach has been used this time: a non exhaustive list of his/her functions has been established, to be answered by yes or no. You can give further details about such functions.

In civil matters (question 71), the prosecutor can, in some member States, be entrusted for instance with safeguarding the interest of children or persons under guardianship. In administrative matters, he/she can, for instance, represent the interest of children vis-à-vis the State or one of its organs.

Question 72 aims to provide information about the number of criminal cases to be addressed by the prosecutor in first instance. As traffic cases represent a large volume of cases, please specify whether the data indicated includes or not such cases.

Discontinued criminal cases mean cases received by the prosecutor, not brought before the court without any sanction or other measure had been taken. If information on the number of cases is not available, it can be given in number of persons concerned (a same case may concern several persons). Please indicate the number of cases discontinued because the case could not be processed, either (i) because no suspect was identified or (ii) due to the lack of an established offence or (iii) a specific legal situation (e.g. amnesty).

Question 73

This question, which appears as a table, aims to gather the number of cases (filed during the current year) and the lengths of proceedings (in number of days), first in criminal matters in general, second as regards robbery cases and intentional homicides. The number of cases concerns only first instance proceedings for a criminal offence and excludes all decisions that the judge can take as regards the application of the sentence (e.g. pre-trial detention, release on parole).

Pending cases by 1st January 2005 refers to those cases which have not been completed in 2004.

The average length of proceedings concerns first and second instance proceedings.

If the average length of proceedings is not calculated from lodging of court proceedings, please specify the starting point for the calculation. The average length of proceedings excludes the police investigation period. Please calculate the timeframe until the judicial decision is given, without taking into account the execution procedure.

Robberies means stealing from a person with force or threat of force. If possible, these figures include: muggings (bag-snatching) and theft immediately followed by violence (cf. European Sourcebook of crime and criminal justice statistics). This notion does not include attempts.

Intentional homicides means intentional killing of a person (cf. European Sourcebook of crime and criminal justice statistics). This notion does not include attempts.

V. Career of judges and prosecutors

Questions 74 to 76

Question 74 concerns only judges and question 75 concerns only prosecutors. If judges and prosecutors are designated according to the same procedure, please indicate it.

Recruited and nominated refers to the whole procedure resulting in the nomination of a judge/prosecutor and not only the formal and official act to nominate the person as judge/prosecutor.

Question 76 on the mandate of judges and prosecutors specify two existing situations: mandate for an undetermined period or mandate for a determined period. If, in your country, judges or prosecutors generally belong to the first category, please specify if there are however exceptions to this "life term nomination" (e.g. for certain categories of elected judges). If, in your country, judges or prosecutors belong to the second category, please specify if the mandate is renewable.

Question 77

There are substantial differences among European States with respect to the initial training of judges. Some countries offer lengthy formal training in specialised establishments, followed by intensive in-service training. Others provide for a sort of traineeship under the supervision of an experienced judge, who imparts knowledge and professional advice on the basis of concrete cases.

Considering the complexity of cases, judges' specialisation in very specific fields (economy, financial cases, health law, sport law, etc.) has been made necessary. This training, which might result in specialised functions, is different from the general in-service training that judges shall or can follow during their career and which namely enables them to remain up to date as regards legislative or case law reforms.

To these two types of training can be added the training for specific functions (e.g. court president) which require from judges, in addition to their judicial functions, to have e.g. administrative, management or financial skills, for which they have not necessarily been trained within the framework of their initial or continuous training

Question 78

This question, which repeats the content of the question above, concerns the training of prosecutors and is accurate in particular for those judicial systems where the training of prosecutors is different from the training of judges. However this question does not specify, as regards prosecutors, specialised or specific functions, contrary to the question above. Should such a distinction appear to be relevant in your country, please specify it.

Questions 79 to 82

Please use the same definition of *salary* as the definition used in question 4.

Question 79

The question concerns the annual gross salary of a full time first instance professional judge at the beginning of his/her career. If a bonus given to judges increases significantly their income, please specify it and, if possible, indicate the annual amount of such bonus or the proportion that the bonus takes in the judge's income. This bonus does not include the bonus mentioned under question 85 (productivity bonus).

The gross salary is calculated before any social expenses and taxes have been paid.

Question 80

This question concerns the annual gross salary of a full time Supreme Court or last instance judge.

If a bonus given to judges increases significantly their income please specify it and, if possible, indicate the annual amount of such bonus or the proportion that the bonus takes in the judge's income.

The gross salary is calculated before any social expenses and taxes have been paid.

If it is not possible to provide for a determined amount, please indicate the minimum and maximum annual gross salary.

Question 81

The question concerns the annual gross salary of a full time prosecutor at the beginning of his/her career.

If bonus given to prosecutors increase significantly his/her income, please specify it and, if possible, indicate the annual amount of such bonus or the proportion that the bonus takes in the prosecutor's income.

The gross salary is calculated before any social expenses and taxes have been paid.

Question 82

This question concerns the annual gross salary of a full time prosecutor to the Supreme Court or the last instance court.

If bonus given to prosecutors increase significantly his/her income, please specify it and, if possible, indicate the annual amount of such bonus or the proportion that the bonus takes in the judge's income.

The gross salary is calculated before any social expenses and taxes have been paid.

If it is not possible to provide for a determined amount, please indicate the minimum and maximum annual gross salary.

Question 83

This question aims to provide information on financial advantages that judges and prosecutors might be given because of their functions.

Question 84

Teaching means for instance exercising as University professor, participation in conferences, in pedagogical activities in schools, etc.

Research and publication means for instance publication of articles in newspapers, participation in the drafting of legal norms.

Cultural function means for instance performances in concerts, in theatre plays, selling of his/her own paintings, etc.

If rules in this field exist in your country, which require in particular an authorisation to perform the whole or a part of these activities, please specify it.

Question 85

This question refers to the productivity bonus that judges could be granted, for instance based on the number of judgements delivered in a given period of time.

Question 86

This question, which appears as a table, specifies the number of disciplinary proceedings against judges or prosecutors and the sanctions actually decided against judges or prosecutors. If a significant difference between those two figures exists in your country, and if you know why, please specify it.

In the second column, *breach of professional ethics* (e.g. rude behaviours vis-à-vis a lawyer or another judge), *professional inadequacy* (e.g. systematic slowness in delivering decisions), *criminal offence* (offence committed in the private or professional framework and open to sanction) refer to some mistakes noticed from judges or prosecutors which might justify disciplinary proceedings against them. Please complete the list where appropriate. The same applies as regards the type of possible sanctions (*reprimand, suspension, dismissal, fine*).

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

VI. Lawyers

Questions 87 and 88

For the purposes of this chapter, *lawyers* refer to the definition of the Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer: a person qualified and authorised according to national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters.

As some countries had experienced difficulties to count precisely the number of lawyers according to this definition without taking into account the solicitors (lawyers who have not the competence to represent users in courts), please give a global figure, and specify whether this figure includes solicitors. If you have figures for both categories, please specify them. If possible, please indicate also whether this figure includes trainees.

Question 89

This question aims to get information concerning persons entitled, according to the type of cases, to represent their clients before courts and/or at measuring the scope of the "monopoly of lawyers".

The answer to this question might vary whether first or second instances are considered. If appropriate, please specify it.

Question 90

This question aims to know at which level is organised the profession of lawyer (for instance registration of lawyers, disciplinary procedures, representation of the profession vis-à-vis the executive power). It can be organised both at national and regional/local levels. Where appropriate, please indicate the number of regional or local bars.

Question 91

If a specific training or exam is not required, please indicate however if there are specific requirements as regards diploma or university graduation.

Question 93

Specialisation in some legal fields refers to the possibility for a lawyer to use officially and publicly this specificity, such as "lawyer specialised in real estate law".

Questions 94 and 95

As the systems for defining lawyers' fees vary significantly and taking into account the principle of freedom for defining fees in numerous countries, the pilot evaluation exercise has shown the quasi-impossibility to get detailed information on the amount of lawyers' fees.

Therefore these questions aim only to provide information on the way fees are determined and on the possibility for the users to have easily access to prior information on the foreseeable level of amount of fees (the fees that the lawyer estimates that he/she must request when he/she opens the file).

Question 98

The question refers to complaints which might be introduced by the users who are not satisfied with the performance of the lawyer responsible for their case. This complaint can concern for instance slowness of proceedings, the omission of a deadline, the violation of professional secrecy. Where appropriate, please specify.

Please specify also, where appropriate, the body entrusted with receiving and addressing the complaint.

Question 99

The question refers to disciplinary proceedings which are generally introduced, for instance by other lawyers or judges. This question, which appears as a table, specifies the number of disciplinary proceedings against lawyers from the sanctions actually decided against lawyers. If a significant difference between those two figures exists in your country, and if you know why, please specify it.

Where appropriate, please complete or modify the list of reasons for disciplinary proceedings and the type of sanctions mentioned in the second column.

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

VII. <i>Alternative Disputes Resolutions</i>

The pilot exercise of evaluation demonstrated that the drafting of a common definition of mediation is very difficult and that States are currently at various stages concerning the development of mediation.

Recommendation Rec(2002)10 of the Committee of Ministers of the Council of Europe gives a definition of the mediation in civil matters: it is 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.

Recommendation Rec(1999)19 of the Committee of Ministers of the Council of Europe gives a definition of the mediation in penal matters: it is any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the crime through the help of an impartial third party (mediator).

Generally, for the purposes of this Chapter, *mediation* is to be considered as a judicial process, or a process developed within a judicial context (e.g. required by a judge) in which a third party, who has no immediate interest in the matters in dispute, facilitates discussion between the parties in order to help them to resolve their difficulties and reach agreements.

Question 101

This question, which appears as a table, aims to indicate, for each type of cases, the degree of implementation and compulsion of the mediation in the framework of judicial proceedings and which are the persons authorized to act as mediator.

For the purposes of this specific question, "*civil cases*" exclude family cases and employment cases, to be addressed in the specific rows below in the table.

Question 102

For this question, presented deliberately open, please indicate, if possible, the number of accredited mediators, the modalities of their designation, their specific attributions, etc.

Question 103

This question is mainly directed to those States in which precise figures concerning mediation procedures by type of cases are available. If figures available do not enable you to reply completely to the question or, for example, if these figures cover partially the civil cases (divorce), please indicate it.

The interest of this question is to understand in which fields mediation is more used and considered as a successful procedure.

For the purposes of this specific question, "*civil cases*" exclude family cases and employment cases, to be addressed specifically below .

Question 104

While questions 101 to 103 concern judicial mediation, this question refers to all other types of alternative dispute resolution and in particular for cases which, being non litigious, are bringing out of the jurisdiction of the courts.

This question aims *inter alia* to identify the type of cases which can be, in some member States, addressed by non judicial bodies (for instance divorce cases addressed by Conciliation Boards in some Scandinavian countries).

Please specify the cases concerned by such ADR.

IX. Enforcement of court decisions

In accordance with the definition contained in Recommendation Rec(2003)17 of the Committee of Ministers of the Council of Europe on enforcement of court decisions: the enforcement agent is a person authorised by the state to carry out the enforcement process irrespective of whether that person is employed by the state or not.

Please note that questions 105 to 117 concern only the enforcement of decisions in civil matters (which include commercial matters or family law issues for the purpose of this Scheme).

Question 105

Some countries have court employed execution officers, some are in public service outside the courts and, in some countries, they work as private professionals (entrusted with public duties).

Question 108

This question aims to know at which level is organised the profession of enforcement agent (for instance registration, disciplinary procedures, representation of the profession). It can be organised both at national and regional/local levels.

Questions 109 and 110

These questions aim to provide information on the way enforcement fees are determined and on the possibility for the users to have easily access to prior information on the foreseeable level of amount of fees in order for an enforcement agent to execute the judicial decision.

Question 111

Enforcement agents are entrusted with public duties. It is therefore important to know who supervises them, even if their status can be very different.

Question 113

The pilot exercise of evaluation demonstrated that all countries that answered the questionnaire provide in their legislation for complaints which can be filed by users against enforcement agents. The answers should give deeper knowledge about the reasons of such complaints.

Question 114

Please indicate, where appropriate, which are the items that your country wishes to improve, which are the foreseen or the adopted measures undertaken to improve the situation and, where appropriate, which are the difficulties in this field. In other terms, please evaluate the situation in the State concerning the enforcement procedures.

Question 115

This question refers to the setting up of a statistical system, which can also be used for measuring the length of judicial proceedings, enabling to indicate, in number of days for example, the length of the enforcement procedure as such, from the service of the decision to the parties. One of the reasons of the difficulty to have statistics in this field can be that, in civil matters, the execution of the decision depends on the wish of the winning party.

Question 116

The aim of this question, which appears as a specific case, is to compare the situation between countries concerning the notification of the judicial decision enabling the beginning of the enforcement procedure.

Question 117

This question, which appears as a table, specifies the number of disciplinary proceedings against enforcement agents from the sanctions actually decided against them. If a significant difference between those two figures exists in your country, and if you know why, please specify it.

If appropriate, please complete or modify the list of reasons for disciplinary proceedings and the type of sanctions mentioned in the second column.

If the disciplinary proceeding is undertaken because of several mistakes, please count the proceeding only once and for the main mistake.

Questions 120 to 122

Functions and status of notaries are very different in member States. These questions aim to define only the status, the judicial functions exercised by the notaries (e.g. drawing up friendly settlements) as well as the nature of the supervision when exercising these functions.

Question 123

As a general conclusion, this open question offers the possibility to indicate general or more specific remarks concerning the situation in the replying State and the necessary reforms to be undertaken to improve the quality and the efficiency of justice.

Though it is not compulsory to reply to this question, concrete suggestions from national experts would be very useful for the future work of the CEPEJ.

Thank you very much for your valuable co-operation!