

CEPEJ: 8th Evaluation Report on European Judicial Systems



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News

On 22 October 2020, CEPEJ published its eighth biennial evaluation [report](#) on the efficiency and quality of justice in Europe. The 2020 report contains data on the functioning of the judicial systems of 45 CoE Member States (Liechtenstein and San Marino were unable to provide data) and three observer states (Morocco, Israel, and Kazakhstan). It describes major trends and, for the first time, it also contains country profiles. For the seventh evaluation report à [euclid 3/2018, 164](#).

As with previous reports, CEPEJ highlighted the methodological difficulty of comparing significantly diverse legal systems (like the various approaches to courts organisation or the different statistical classifications to evaluate the systems). The methodology therefore relied heavily on the CEPEJ Scheme for Evaluating Judicial Systems (in the form of a questionnaire) and on support from CEPEJ's national correspondents and other specific actors.

The report evaluates the efficiency of justice systems based mainly on the following indicators:

- The availability and allocation of resources;
- The situation of prosecutors and judges and their interrelationship;
- The organisation of courts;
- The performance of the judicial systems.

The reference year for the evaluation cycle was 2018, and the online data collection period officially lasted from 1 March to 1 October 2019. Since then, various states have undertaken fundamental institutional and legislative reforms of their legal systems. For a more detailed analysis, reference can be made to "[CEPEJ-STAT](#)," a dynamic Internet database containing all data collected by CEPEJ since 2010.

According to the report, the main trends between 2010 and 2018 regarding courts were the following:

- There was a decrease in the number of courts in Europe, both in terms of legal entities and geographical locations;
- There was an increase in the specialization of courts, from 21% to 26,7%;
- Small claims were only slightly affected by the above developments.

In this context, the 2020 report especially highlights the following trends:

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Budgets allocated to justice:

The report defines adequate funding as necessary to enable courts and judges to comply with Art. 6 ECHR and national constitutional standards – and to perform their duties with integrity and efficiency. As resources are limited, it is also important that they be used efficiently. The budget allocations can be summed up as follows:

- In 2018, European states spent on average €72 per inhabitant per annum on the legal system (i.e., €8 more than in 2016) and 0,33% of the GDP. Although countries with a higher GDP per capita invested more per inhabitant in judicial systems, less wealthy countries had to allocate more budget as a percentage of GDP, thereby showing a greater budgetary effort for their judicial systems.
- 65% of budgets were allocated to courts, 24% to prosecution authorities, and 11% to legal aid. The less wealthy countries spent proportionately more on their prosecution authorities, while states with a higher GDP per capita invested more in legal aid. The most significant budgetary increase, equal to 13% on average, was recorded for courts, a development which seems to be related not only to the wealth of a country but also to the number of courts it has;
- There is a growing trend towards outsourcing of certain services;
- In accordance with the requirements of ECHR and ECtHR case law, almost all states have put in place a legal aid mechanism for criminal and non-criminal cases in order to ensure access to justice for all.

Justice professionals and the courts:

Trends and conclusions indicate that the number of professional judges has been stable across the board. Significant differences with regard to the number of judges between the states and entities remain, which can be partly explained by the diversity of judicial organisations, use of occasional professional judges and/or lay judges. There has been a focus on increasing the percentage of judges and prosecutors, in particular when recruiting and promoting them. The glass ceiling has remained firmly in place, however, for managerial positions. The salaries of judges vary widely between states and entities and between levels of jurisdiction. There are still significant disparities in the salary levels of public prosecutors, but more and more states are paying judges and prosecutors identical salaries, at the beginning and at the end of their careers. Although the number of lawyers is still increasing in Europe (with significant differences between states), the profession remains predominantly male.

Court users:

The report stresses the importance of including court users in the daily work of the judiciary and welcomes the fact that many states provide specific information to users, both on the judicial system in general and on individual court proceedings. Many examples are given of states addressing specific information and arrangements to vulnerable categories of users, offering the possibility to file complaints as regards the functioning of justice, putting in place compensation systems, carrying out user satisfaction surveys, and creating monitoring mechanisms in respect of ECHR violations.

In order to further improve social responsibility and trust in the judicial system, CEPEJ calls on Member States to devote additional resources to better communication with the users of justice. Information technology enables states to better inform users, to adapt the availability of information, and to create sustainable two-way communication with users. In addition, the analyses and use of data about the satisfaction of court users increases the legitimacy of judicial systems and helps advance the efficiency of justice.

Information and communication technology (ICT):

The use of information systems is crucial in the above-mentioned context, even though respectful human interaction remains central to ensuring fair decisions and building trust in the judiciary. ICT has become a constitutive part of justice service provision, and European judicial systems are increasingly moving from paper-based procedures to electronic ones – both for activities carried out in the courts and for communication exchanges between courts and all other parties. When striving to achieve the required balance between technical and judicial components, the report notes that most states tend to consider both aspects equally relevant, with a slight prevalence for the judicial element. As basic technologies are now generally fully deployed in Member States and entities, analysis has focused on court and case management tools, decision support tools, and tools for communication between courts, professionals, and/or court users, all of which show very high levels of application. However, CEPEJ cautions that the economic cost of such innovation should be considered carefully. This particularly affects the areas of decision support, e-communication, and remote proceedings, which have led to an increasing need to monitor the impact of these tools on the principles of fairness, impartiality, and judicial independence.

Performance of legal systems:

A number of states and entities have undergone or are currently undergoing significant justice sector reforms that influence the performance of their systems. Monitoring of the results must be paired with an understanding of the legal context in order to gauge the effectiveness of these reforms. Second-instance courts appear to be the most efficient when dealing with the case types analysed. Cases involving asylum seekers and the right of entry/right of residence for aliens continue to have a strong impact on European jurisdictions, which also results in productivity problems for many states, especially in Austria, Belgium, France, Germany, Italy, Spain, and Sweden. For the purpose of the report, the percentage of cases older than two years was available only for a limited number of states, but they showed that the percentage of older cases was constant.

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