JUSTICE SECTOR INSTITUTIONAL INDICATORS FOR CRIMINAL CASE MANAGEMENT

Efforts on supranational and national level, Bulgarian and Polish perspective

CENTER FOR THE STUDY OF DEMOCRACY

Acknowledgments

This publication reviews the existing practices of courts' performance measurement and criminal cases management based on the concepts of efficiency and effectiveness, transparency, quality care, benchmarking, result orientation and accountability. These efforts are considered on supranational and national level as two components of the process of implementing a quality model in the justice sector, growing increasingly intense at EU level. At national level, the report examines the achievements in implementing performance indicators in England and Wales, Germany, Netherlands, Finland, Belgium, France and Spain, as well as in Romania. The normative, policy and strategic framework of Bulgaria and Poland is also tackled in order to cover the prospects for introduction of such indicators in the two target countries.

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1. Introduction

In recent years, the debate on the implementation of a quality model in the justice sector has grown increasingly intense at EU level. This debate is linked to the process of reform and modernisation undertaken by most of the EU Member States in order to tackle the critical number of problems faced by their judicial systems, among which in particular: a considerable case backlog, unbalanced caseloads of individual courts and judges, and excessive length of court proceedings.

Although it may be true that judicial systems have been late to adopt the principles of performance measurement, the endorsement by the judiciary administration of new jargon such as 'efficiency and effectiveness', 'transparency', 'quality care', 'benchmarking', 'result orientation' and 'accountability' demonstrates that these principles have become one of the cornerstones of their updated management policies.[1] At different levels of the judicial chain, numerous useful experiences and methods can already be highlighted in the area of quality of justice evaluation systems. All of these initiatives are designed to achieve a better organisation of justice that is capable of restoring and reinforcing the diminished confidence of citizens in the courts.

Comparing national experiences also enables to highlight the core challenges or tensions at work between the managerial objective of evaluating judicial performance and the preservation of an autonomous judiciary. Under the classic theory of division of powers, the judiciary should indeed be independent from the other branches of government, in order to guarantee its specific constitutional mission: the protection of citizens' rights. The independence of the judiciary is thus a fundamental element of a democracy based on the rule of law. The key question in this respect is: how can such fundamental requirement be combined or reconciled with quantification, standardisation and control which are the basis of most performance management instruments? When defining the objective to be achieved by the judiciary as a public administration, should one favour the 'effectiveness' or the 'quality' of its outcomes?

Until recently, the traditional and primary method of controlling the effectiveness of courts relied on legal accountability mechanisms, whose most typical elements include holding open proceedings, and publishing judges' reasoning, which allow public scrutiny, as well as appeals procedures and other methods permitting internal scrutiny carried out by the judiciary. In this framework, judicial accountability is

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[1] Colson, Renaud et Stewart Field. Les transformations de la justice pénale [The transformations of criminal justice], Paris, L'Harmattan, 2011.

imposed by the judiciary itself, and may consequently be seen as a way of avoiding the risk of external influence.

A separate approach, whose application has increased substantially in recent years, consists in applying performance indicators to measure the ability of courts to attain the results for which they are mandated. This approach refers to the concept of managerial accountability and tends to define administration of the judiciary as the management of resources that are necessary to ensure the proper functioning of the justice system, including human resources, budget and infrastructure. In this framework, the evaluation of judicial systems performance is based on a cost-benefit analysis and is generally carried out by third parties, such as High Judicial Councils.

Even though the diversity of national experiences clearly illustrates that there is no single model for managerial accountability of the judiciary and many countries are still very much within an experimental phase in this field, the traditional main indicators used to benchmark or measure the performance of judicial systems can easily be identified as follows:

- number of pending cases, or the caseload;
- duration of the procedure, or the time necessary to close a case;
- indicators concerning the quality of the case handling procedure;
- available resources in the system, as per the number of cases to be handled: human resources, equipment, courts (and their respective budgets and organisation of courts).

While the approach often privileged by governments consists in equating performance with efficiency, in an area where performance is very difficult to measure, several national initiatives undertaken by EU Member States also demonstrate that the issue of judicial **time or performance** management is not the only orientation adopted. The topic of 'quality for the judiciary', not only providing figures but also qualitative information, is also becoming a significant focus with a view to hold the judiciary accountable to its primary beneficiaries or final recipients: the citizens.

This concept paper on the development of justice sector indicators will include a review of the supranational efforts in the area – mainly the work of the European Commission for the Efficiency of Justice (CEPEJ), in terms of what parts of its methodology can be built into a national context, as well as the efforts of an international research consortium on trust in justice. Further on, national achievements in implementing indicators in the experience of **England and Wales, Germany, Netherlands, Finland, Belgium, France and Spain, as well as the results of a recent study carried out in Romania,** will also be mentioned.

The situation and prospects for **Bulgaria** and **Poland** on the issue will also be tackled in the following aspects: normative, policy and strategic framework for the possible introduction of indicators on national level and key efforts so far.

2. Supranational efforts

2.1. CEPEJ's comparative overview on the efficiency of European judicial systems

In spite of the challenges previously mentioned, it is beyond doubt that the focus on and practice of judicial performance measurement has increased substantially in recent years. In addition to the statistics produced by national authorities and the judiciaries themselves, a substantial number of international organisations do now provide data about the comparative performance of judicial systems. This is notably the case of the European Commission for the Efficiency of Justice (CEPEJ), established by the Council of Europe in 2002.

The evaluation of European judicial systems occupies an important part in the work of the CEPEJ.[2] Managed by the Commission's Working Group on the evaluation of judicial systems (CEPEJ-GT-EVAL), the process looks at the efficiency of judicial systems, but also at their quality and effectiveness. The 'Evaluation report of European judicial systems – Edition 2010 (2008 data): Efficiency and quality of justice'[3] (hereinafter, the CEPEJ report) is the 4th report in the series CEPEJ publishes, reflecting the 2008 – 2010 evaluation cycle. It presents a detailed review of the judicial systems of 45 European states, using a comprehensive evaluation scheme, including the following broader categories of information:

- demographic and economic data;
- access to Justice and to all courts;
- organisation of the court system;
- fair trial;
- career of judges and prosecutors;
- lawyers;
- Alternative Dispute Resolution;
- enforcement of court decisions;
- notaries;
- court interpreters;
- foreseen reforms.

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2 More information on the evaluation activities of CEPEJ could be found at http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp (Access date: 14 December 2011).

3 For the full text of the report see https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ%282010%29Evaluation&Language=lanEnglish&Ver=original&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864 (Access date: 14 December 2011).

Based on the information collected, a 'genuine database' of the judicial systems of the Council of Europe's Member States is created, allowing for comparing quantitative data, always taking into account countries' specificities.[4] In the CEPEJ report, the data is looked at under different headings and a number of comparisons are made, with the necessary caveats, some of which may prove as useful indicators for the quality and efficiency of criminal cases management. Finally, the evolution of many components is observed, where possible, throughout different periods of time.

Under the heading of **public expenditures allocated to courts, prosecution system and legal aid**,[5] the CEPEJ report introduces the important indicators of **total annual public budget allocated to all courts, public prosecution and legal aid per inhabitant,** as well as **part (in %) of the GDP per capita,** whether as separated budgets or a single one in accordance with countries' specificities, with further breaking down into components (courts, prosecution, legal aid) to be looked at in the respective chapters**.** It is expressly noted that budgetary amounts are taken as voted and not as effectively spent. A distinction is also made between the budget of courts and the budget of the 'overall justice system', which may in different countries include the prison systems' budget, the operation of the Ministry of Justice or other institutions such as the Constitutional Court or the Council of Justice, the judicial protection of youth, etc. Composition of the court budgets may also be looked at (in %), divided into components, such as gross salaries of staff, IT (computers, software, investments and maintenance), court fees (such as the remuneration of interpreters or experts), costs for hiring and ensuring the operation of buildings, investments in buildings, training.

In the chapter on **access to justice**,[6] legal aid is looked at as an essential factor in equal access to justice for all. In the part on legal aid budget, the CEPEJ report reviews the **number of cases granted with legal aid per 100,000 inhabitants and average amount allocated in the public budget for the legal aid per case,** further disaggregated into criminal and 'other than criminal' cases**.** A note is made that 'the amounts allocated per case can be fully analysed only when considering the volume of cases concerned'.

Under another sub-heading, the report discusses the **share of court fees (or taxes) in the court budget (as receipts)**, taking into account national specifics as to whether there is free access to court for non-criminal cases and whether land or business registers are part of courts, therefore feeding considerable revenue into the system.

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4 For a highly useful overview of the CEPEJ report, see http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/Synthese_en.asp (Access date: 14 December 2011).

5 CEPEJ report, p. 15 et seq.

6 CEPEJ report, p. 49 et seq.

In the section on **courts**,[7] two important ratios are discussed: **number of first instance courts of general jurisdiction/specialised first instance courts per 100,000 inhabitants** and **number of all courts (in terms of geographical locations/ premises) per 100,000 inhabitants.**

The **alternative dispute resolution** chapter[8] discusses **the number of accredited mediators per 100,000 inhabitants**.

The section on **judges**[9] deals with **full-time professional judges**, **professional judges**, **adjudicating on an occasional basis** and **non-professional judges** (lay judges, justices of the peace) and their respective **ratios per 100 000 inhabitants**. Where possible, **the ratio of non-professional judges per one professional judge** is also explored.

Regarding **non-judge staff,**[10] the report introduces the categories of **the 'Rechtspfleger' function,** meaning, in some countries, independent judicial bodies, defined by the tasks, attributed to them by law, **non-judge staff whose task is to assist judges directly** such as registrars, **staff responsible for different administrative matters and court management** and purely **technical staff.** The **percentages of the different categories** within the overall number of non-judges staff is discussed, as well as the **distribution of non-judge staff in courts per 100,000 inhabitants** and **number of non-judge staff per one professional judge.**

Under **fair trial and court activity**,[11] the CEPEJ report presents the key performance indicators, used throughout national judicial systems. One is the **clearance rate**, which is obtained when the number of resolved cases is divided by the number of incoming cases and the result is multiplied by 100:

$$\text{Clearance Rate (\%)} = \frac{\text{resolved cases}}{\text{incoming cases}} \times 100$$

A clearance rate close to 100 % indicates the ability of the court or of a judicial system to resolve more or less as many cases as the number of incoming cases within the given time period. A clearance rate above 100 % indicates the ability of the system to resolve more cases than received, thus reducing any potential

7 CEPEJ report, p. 83 et seq.

8 CEPEJ report, p. 107 et seq.

9 CEPEJ report, p. 117 et seq.

10 CEPEJ report, p. 127 et seq.

11 CEPEJ report, p. 135 et seq.

backlog. Essentially, a clearance rate shows how the court or judicial system is coping with the in-flow of cases.

The **disposition time** indicator provides further insight into how a judicial system manages its flow of cases. The disposition time compares the number of resolved cases during the observed period and the number of unresolved cases at the end of the observed period. The ratios measure how quickly the judicial system (or a court) turns over received cases – that is, how long it takes for a type of case to be resolved.

The relationship between the number of cases that are resolved during an observed period and the number of unresolved cases at the end of the period can be expressed in two ways. The first measures the proportion of resolved cases from the same category within the remaining backlog. The case turnover ratio is calculated as follows:

$$\text{Case Turnover Ratio} = \frac{\text{Number of Resolved Cases}}{\text{Number of Unresolved Cases at the End}}$$

The second possibility, which relies on the first data, determines the number of days necessary for a pending case to be solved in court. This prospective indicator, which is of direct interest for the users, is an indicator of timeframe, more precisely of disposition time, which is calculated by dividing 365 days in a year by the case turnover ratio as follows:

$$\text{Disposition time} = \frac{365}{\text{Case Turnover Ratio}}$$

The translation of the result into days simplifies the understanding of what this relationship entails. This conversion into days also makes it more relevant to compare a judicial system's turnover with the projected overall length of proceedings or established standards for the duration of proceedings.[12]

In terms of **legal representation in court,** the report discusses **the percentage of first instance judgements in criminal matters where the accused person does not attend in person or is not represented by a legal professional during the court session.**

[12] A related indicator in the US system is the 'age of active pending caseload', measured by reports, calculating the time, in days, from filing of the case until the date established for the reporting period being examined (e.g., last day of the month, last day of the year) – see, for example, http://www.ncsconline.org/D_Research/CourTools/Images/courtools_measure4.pdf (Access date: 5 January 2012).

Further on, the CEPEJ report divides criminal cases into **severe criminal cases** and **minor offences (misdemeanours)** and discusses their **ratios per 100,000 inhabitants** and **between themselves,** as well as their **clearance rates.**

For various types of cases, including different criminal ones, categories like **appeal percentage** (% of decisions appealed), **long pending cases** (for more than 3 years) and **average length of proceedings** (at various instances, as well as total of procedure) are discussed.

Similar to the judges, in the chapter on **prosecutors,**[13] the number of **prosecutors, non-prosecutor staff** and their **ratio among themselves and per 100,000 inhabitants** are discussed. Further on, prosecutors' case management is presented in terms of **cases received and closed at first instance** (the number of closed cases as a sum of discontinued cases, cases concluded by a penalty or a measure and cases brought before the courts) **per one public prosecutor** to explore the balance in prosecutors' workload. Going deeper into disaggregating, the report presents also **the number of cases concluded by a penalty or a measure imposed or negotiated by the prosecutor per one public prosecutor/100,000 inhabitants** and **cases brought by the prosecutor before courts per one public prosecutor/100,000 inhabitants.**

On **status and career of judges and prosecutors**,[14] **gross annual salaries of first instance professional judges and public prosecutors at the beginning of their careers** are listed and **their ratios to national average gross annual salaries**. Same calculations are made on **salaries at the end of judges' and prosecutors' careers at superior instances**. A **comparison between starting and ending gross annual salaries** is also made.

Regarding discipline, **the number of disciplinary proceedings** and **sanctions pronounced per 100 judges/prosecutors** is given as an important indicator.

In the section on lawyers,[15] the **absolute number of lawyers and legal advisors, number per 100,000 inhabitants and number per professional judge** is discussed. Also**, the number of disciplinary proceedings** and **sanctions pronounced per 1,000 lawyers** (without legal advisors) is pointed.

[13] CEPEJ report, p. 181 et seq.

[14] CEPEJ report, p. 195 et seq.

[15] CEPEJ report, p. 237 et seq.

2.2. Trust in justice – Euro-Justis project

The Euro-Justis project was funded under the European Commission's 7th Framework Programme for Research and comprised nine partners in seven EU Member States, including the Bulgarian Center for the Study of Democracy. Its aim was to develop social indicators on trust in justice to enable evidence-based public assessment of criminal justice across Europe. The following paragraphs present some of its findings, based on its final report.[16]

According to the report, few member states currently place the necessary emphasis on trust in justice. If those factors are ignored, states' criminal policies risk 'becoming skewed towards short-term crime control strategies at the expense of ensuring that the justice system commands legitimacy and that citizens feel safe and secure'.[17] The report also claims that 'As a result, policy is not driven by scientific and transparent measurement of public attitudes to justice. Member states need well-designed indicators of public trust and institutional legitimacy if they are to devise, track and evaluate criminal justice policies'.[18]

Elaborating on how to measure trust,[19] the report claims that most member states assess the success of their crime policies by reference to levels of crime, i.e. the so called 'normative welfare indicators', measuring welfare objectively, while the Euro-Justis project advocates greater use of subjective, perceptual indicators to assess criminal policy and practice against criteria of public trust. Further on, the report lists the options countries have for implementing those survey indicators, which, in contrast to most policy indicators, which are derived from administrative records, require a special data collection process. States may use the fifth European Social Survey (ESS), where a module on trust in justice was included, to mount a free-standing survey, to insert questions in an established survey instrument, such as a national crime survey, or to buy space in a commercial 'omnibus' survey.

The Euro-Justis project developed a full suite of questions on matters like public assessments of fairness, effectiveness and value-expressive aspects, contact with the police, intention to support (e.g. reporting crimes, giving evidence in court), knowledge about the criminal justice system, and perceived legitimacy. Questions

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[16] Hough, M. and M. Sato (eds.) (2011). Trust in Justice: Why It Is Important for Criminal Policy, and How It Can Be Measured: Final Report of the Euro-Justis Project, Helsinki, HEUNI (hereinafter, Euro-Justis Final Report), also available at http://eurojustis.eu/fotoweb/HEUNI_Report_70_revised_09112011.pdf (Access date: 9 January 2012).

[17] Hough, M. and M. Sato (2011). Why Measure Trust in Justice?, in: *Euro-Justis Final Report*, p. 14-15.

[18] Hough and Sato, p. 15.

[19] Hough, M. (2011). How to Measure Trust? Survey Measures of Trust in Justice, in: *Euro-Justis Final Report*, p. 18 et seq.

were designed to enable analysis to identify the relationships between different concepts relating to trust in justice, divided into concepts and sub-concepts.

The report asserts that, which questions to include, will depend on policy priorities.[20] If an overall indicator of trust in institutions is only required, then top-level indicators are recommended in the following form:

'Taking into account all the things the [police/courts] are expected to do, would you say they are doing a good job or a bad job? Choose your answer from this card. [Very good job/Good job/Neither good or bad job/Bad job/Very bad job]'

If there are to be also indicators of the sub-concepts that constitute overall trust in the police or the courts, it would be necessary to ask the battery of questions measuring trust in police or court effectiveness, distributive fairness and procedural fairness. More information on the questions themselves and how they were piloted in Bulgaria, Italy and Lithuania is to be found in the full text of the Euro-Justis final report.

[20] Hough, M. (2011). How to Measure Trust? Survey Measures of Trust in Justice, in: *Euro-Justis Final Report*, p. 20.

3. Country experiences

In a special sub-chapter on quality and performance of the courts,[21] the CEPEJ report outlines countries' experiences in measuring the quality of, inter alia, case management.

A large number of the states surveyed (26 of 45 Council of Europe member states) turn out not to have any quality standards defined or specialised staff entrusted with quality policy. Another 14 states have specific quality standards defined, but no specialised court staff for dealing with these standards. Only 4 states – Croatia, "the former Yugoslav Republic of Macedonia", the Netherlands and UK-Scotland have both quality standards defined and specialised court staff. All member states surveyed, except Belgium, Luxembourg, Malta and San Marino, have indicated that they have defined performance indicators for court activities.

There are four main indicators highlighted by the responding states:

- **indicator of pending cases and backlogs;**
- **indicator of the length of proceedings;**
- **indicator of the number of closed cases;** and
- **indicator of the number of incoming cases.**

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

- **productivity of judges and court staff** is one of the main indicators in 11 states: Bosnia and Herzegovina, Cyprus, Denmark, Finland, France, Greece, Latvia, Lithuania, Montenegro, Slovenia and Turkey;
- **judicial quality and organisational quality of the courts** is evaluated in 10 states: Albania, Cyprus, France, Georgia, Greece, Latvia, Montenegro, the Netherlands, Sweden and "the former Yugoslav Republic of Macedonia";
- **percentage of cases that are dealt with by a single sitting judge** was highlighted by 6 states: Albania, Azerbaijan, Estonia, Georgia, Moldova and the Netherlands;
- **satisfaction of clients regarding the services delivered by the courts** is one of the priorities for 5 states or entities: Denmark, Spain, Switzerland, UK-Northern Ireland and UK-Scotland;
- **enforcement of penal decisions** is stressed as one of the main indicators in

[21] CEPEJ report, p. 97 et seq.

France and UK-England and Wales;
- **costs of the judicial proceedings are** mainly evaluated in 2 states: Estonia and Switzerland;
- **satisfaction of employees** is looked at in UK-Scotland.

Sixteen states or entities report having defined performance targets for individual judges and at the court level. However, still 12 states or entities do not have any targets.

One of the relatively underrepresented systems is the **monitoring for postponed cases**. This system is applied in 35 states or entities.

Some other elements are monitored in 22 states or entities. For instance, in Albania, the **cases adjudicated by individual judges are also measured**, and in Poland and the Russian Federation the "stability" of judgements is monitored (**ratio of court decisions being annulled or reversed within appeal procedures**).

Often the number and type of criminal offences are evaluated (France, Latvia, Turkey, UK-Scotland) and in Denmark the most violent types of offences are being monitored.

A large majority of states (36) use also a system to measure the backlogs in civil, criminal and administrative matters. Most of the time, the states that apply a measurement system for backlogs also monitor the length of proceedings (timeframes).

Both England and Wales, and Finland, examples from where follow, fall into the category of countries, where specific quality standards are defined, but there is no specialised court staff for dealing with these standards (Germany did not participate into the CEPEJ exercise).

3.1. England and Wales, and Germany

As indicated by researchers,[22] while both England and Wales, and Germany have a rather similar judicial system, at least from a general point of view, differences do exist, both in the way courts' systems are structured and the in consequential matrix created for their evaluation. Moreover, England and Wales, particularly its judiciary, represents the common law tradition, while Germany represents the Germanic branch of the civil law tradition. A comparison between the systems of England and

[22] Source of data for the whole chapter: "Judicial indicators as electronic tools for measuring the efficiency of justice in England and Wales, and Germany", in: *E-tools for criminal case management within selected EU Member States*, Center for the Study of Democracy, 2011, p. 171 et seq.

Wales, and Germany, shows in practice how some of the measurements, indicated above, relate to each other.

For example, Germany has almost no entry barriers for prospective litigants seeking to use the judiciary, which allows many minor cases to slip into the system. This may lead to high **performance figures**. However, performance may be mitigated by the German complex court structure. England and Wales, by contrast, have a high threshold for entering the judiciary system, as a result of which the judiciary will ultimately address only complex cases. As a consequence, performance figures tend to be rather low. In principle, **stronger filter mechanism** often coincides with **lower performance**. It is also an important determinant of differences in the costs of the judiciary system: a stronger filter mechanism often coincides with **lower total costs of the judiciary system**. However, low performance figures, as applied to any country, are by no means indicative of the efficiency of a judiciary system. It may well be argued that a judiciary system that succeeds in filtering out the less complex cases, as the British system does, is highly efficient exactly for that reason.

Performance measures (i.e. cases concluded per Euro spent or per employee) reveal no clear picture, either. Germany, for instance, has the lowest number of concluded cases per employee for criminal law, whereas it has a middle ranking in terms of civil law.

Insufficient data is available regarding the rather fundamental issue of **cost of litigation** in both countries. Some surveys suggest that litigation is relatively expensive in England and Wales (due to the necessity of engaging two professionals, the fees charged by London city firms and court delays), and relatively inexpensive in Germany (due to the fixed-fee system, as well as the high percentage of citizens benefiting from a legal expense insurance).

On the other hand, indicators such as '**number of concluded cases per capita**' reveal great differences across countries and types of law in terms of the number of cases concluded per 1,000 inhabitants. Germany has less than 15 concluded criminal cases per 1,000 inhabitants indicating strong filter mechanisms in criminal law. England and Wales has only weak filter mechanisms for criminal law: over 40 criminal cases per 1,000 inhabitants are concluded.

3.1.1. Sources of data

For England and Wales, the most common sources used for obtaining data to get indicators are:

- calculation of production information;
- calculation of personnel information;

- calculation of information on judges;
- calculation of information on other personnel;
- calculation of expenditures;
- calculation of personnel costs;
- calculation of non-personnel costs.

The organisational structure of the English and Welsh judiciary system comprises three parts: Court Service, Magistrates' Courts and House of Lords.

Data on The Court Service come from three sources:

- the Court Service Annual Report;
- the Court Service Business Plan;
- the Lord Chancellor's Department's Judicial Statistics.

Data on the Magistrates' Courts are also obtained from two sources:

- Magistrates' Courts Business Report, Annual Reports (Department for Constitutional Affairs);
- Criminal Statistics.

For Germany, the publication "Zahlen aus der Justiz" (Figures about Justice) by the Ministry of Justice is based on figures from the Federal Statistical Office. This publication offers some additional details on personnel and also includes case processing time information; it presents the numerical data and correlative diagrams. The breakdown of figures according to the different sectors of the judiciary system, particularly criminal and civil, requires additional information that is only available at the level of the individual federal states or even the individual courts. All publications are in German only, and data available discriminated by Lander in a non-homogeneous way of presentation.

3.1.2. Judicial indicators measuring efficiency, costs and quality

England and Wales largely use judicial indicators meant to measure proper levels of manpower and expenditure, and improvement towards scheduled outcomes to which the courts and other related institutions are committed. Those programmed outcomes stem from general goals set up by the Ministry of Justice.

To this end, England and Wales have developed one of the most complete systems of judicial indicators, among them being indicators to measure performance, quality and efficiency in criminal cases from charge to disposal, keeping records of performance all throughout stages of trial within the target timescale. As stated

by the English and Welsh Ministry of Justice – in what is called "The Corporate Plan", issued yearly – the goal of judicial indicators is to contribute to the creation of a safe, just and democratic society. The affirmed objectives and priorities are allocated to four Departmental Strategic Objectives (DSOs). The main outcomes are also proposed in the Minister of Justice Corporate Plan, drawing clear lines of accountability to and ownership of the citizens.

The following indicators are used by the Minister of Justice to assess the importance given by society to the work of judges, and the good or flawed use by the judicial system of the resources allocated to it:

- **judiciary system expenditures as a percentage of GDP;**
- **judiciary system expenditures as a percentage of tax revenues;**
- **number of judges per capita;**
- **number of cases concluded per capita.**

The numbers or percentage obtained as indicators in the first three cases represent to a certain extent the relevance of the judiciary system given by the society upon professional, government-regulated jurisdiction. The figures may also reflect the inefficiency or ineffectiveness of the official judicial administration.

The indicator **'numbers of concluded cases per capita'** is a comprehensive measure, which offers a description of the judiciary system in terms of qualitative descriptors. Special attention in the evaluation is paid to features of the legal and judicial system influencing the flow of cases into the courts.

For Germany, the statistics on the **number of cases concluded** are differentiated between "Straf", "Zivil", "Familie", "Verwaltung", "Arbeit", "Sozial", and "Finanz". Incidentally, the distinction between criminal and civil is different for the two systems under review. As for the **number of judges**, they are only known according to type of court.

3.1.3. Productivity

In order to evaluate the work of judges from a strict point of view of their professionalism, the British government has developed **indicators for assessing performance**. They are an e-tool to evaluate the relation between resources and services delivered by the magistrates and other personnel in the court system. To this purpose the concept of **productivity** has been introduced, which generally refers to organisational structures and social preferences.

The judiciary system, consisting of courts of law and other judicial institutions, converts resources (judges, clerks, buildings) into services (concluded cases). The

performance of the judiciary system can be defined in many ways. A natural measurement of performance is the **productivity ratio**.

In a single-resource single-service sector, productivity is measured as the ratio of service provided to resource consumed.

$$\text{productivity} = \frac{\text{services}}{\text{resources}}$$

However, most public sector entities provide multiple services and use multiple resources. In such a case, services and resources must be aggregated into quantity indexes. Ideally, the service and resource quantity indexes would include service and resource prices to act as weights, but these are often missing in the public sector.

$$\text{productivity} = \frac{\text{p1 service1} + \ldots + \text{pm service m}}{\text{w1 resource1} + \ldots + \text{wn resource n}}$$

As to how many, and which, resources and services should be included in devising judicial indicators and how they should be weighted in the aggregation process, the selection of relevant or useful resources and services is of great importance. However because of data limitations measured productivity may be flawed, one of the reasons being the deficiency of incorporating the right variables and constraints.

Both England and Wales, and Germany include the **number of cases concluded** as a measurement of services of the judicial system. Services provided by the judiciary are very heterogeneous: differences in types of cases among civil, criminal or administrative may cause distorted measurement of productivity. Unfortunately, researchers are sometimes forced to use partial measures of productivity, such as the quantity of a single service provided per employee, or the number of concluded cases per employee. Although these are easy to compute and to understand, they yield a two-dimensional characterisation of an inherently multidimensional problem. Such problem is not resolved even by applying partial productivity measures, such as the number of concluded cases per employee and total factor productivity. Even worse, they can send conflicting signals concerning relative performance, and so they must be interpreted with extreme caution.

Because **productivity** depends on **many factors, such as structure of the service, extensive or restrictive use of state of the art or old technology, the efficiency with which the technology is implemented, and the characteristics of the operating**

environment in which service provision occurs, Germany, and England and Wales as well have devised judicial indicators taking those factors into account.

British scholars convincingly argue that increasing the scale of production may well deteriorate the quality (defined in terms of revisions and citations of court decisions) of service provided by the judiciary.

Low productivity may have its origin in poor use of technology or inadequate management. Often a flawed or deficient management prevents optimal values of services and resources from being accomplished. This is evaluated through **inefficiency indicators**, which can be defined as the **ratio of observed to maximum feasible service provision obtained from given resources, or vice versa**. Expensive purchases, wrong mix of resources, high absenteeism and low occupancy rates as a result of inadequate planning inevitably ends up in low efficiency.

In designing judicial indicators to define the type of performance, efficiency index, other factors have to be included in the equation:

- number of concluded cases per employee, including judges;
- number of concluded cases per judge;
- number of concluded cases per Euro spent.

3.1.4. Descriptors evaluating Cases Concluded and Processing Time (C, T)

The number of criminal law cases concluded by judges ranges from fewer than 200 cases a year in Germany to 900 cases a year in England and Wales.

The number of indicators that assess the number of concluded cases per employee or per Euro spent of the judiciary system reflects the differences in the judiciary systems' legal requirements and quality. Some more commonly used quality indicators are:

- **number of appeals as a percentage of concluded cases;**
- **number of judges as a percentage of total employees;**
- **average personnel costs per employee;**
- **average duration of concluded cases.**[23]

The **number of appeals as a percentage of concluded cases** represents an indicator of the quality of justice, as well as a measure of appeal barriers (e.g. cost) and cultural

[23] In criminal cases, the rates of pre-trial detention (prison inmates untried and unsentenced) have been used as proxy indicators for delay – see Reiling, D., L. Hammergren, and A. di Giovanni. Justice Sector Assessments, A Handbook, World Bank, 2007, p. 56.

preferences (e.g. honour, equity). There are two reasons why the rate of appeals serves as a key indicator for 'explaining' differences. First, appeals to the Higher Court generally require more means of production. Second, a low rate of appeals may reflect high quality of justice, which may correspond to high costs for the initial cases. In England and Wales, the percentage of appeal cases out of concluded cases is less than 2 %, while in Germany it is less than 7 %.

The indicators of **labour productivity (LP)**, **judges' productivity (JP)** and **concluded cases per Euro spent (CCE)** are widely used. These are defined as follows:

$$LP = \frac{\text{cases concluded}}{\text{utilisation of personnel}}$$

where utilisation of personnel is measured in full-time equivalents.

$$JP = \frac{\text{cases concluded}}{\text{utilisation of judges}}$$

The number of judges working on cases is measured in full-time equivalents.

$$CCE = \frac{\text{cases concluded}}{\text{total cost}}$$

3.1.5. Examples of indicators

As for the indicator of **improving the delivery of justice by increasing the number of crimes for which an offender is brought to justice,** an offence is considered to have been brought to justice when a recorded crime results in an offender being convicted, cautioned, issued with a penalty notice for disorder, given a cannabis warning, or having an offence taken into consideration.

Indicators measuring completion are aimed to measure improvement toward achieving earlier and more proportionate resolution of legal problems and disputes by increasing advice and assistance to help people resolve their disputes earlier and more effectively and increasing the opportunities for people involved in court cases to settle their disputes out of court, as well as reducing delays in resolving those disputes that need to be decided by the courts.

The **indicator measuring percentage cases completion within X time** is subject of an annual government analysis by the Ministry of Justice of England and Wales.

3.2. Netherlands

Netherlands might be considered as one of the European countries, where major developments concerning performance measurement at the court level have taken place. The Dutch system, *Rechtspraaq*, is openly inspired from TCPS,[24] but has been developed and modified to a considerable extent to fit the national specificities. For instance, in the *Rechtspraaq* the five judicial performance standards have an explicit reference to the principles stated by the Article 6 of the *Convention for the Protection of Human Rights and Fundamental Freedoms* (the European Convention on Human Rights): judges should be independent and impartial, be accessible to anyone, conduct fair and public hearings, and pass judgments within reasonable time.

Considering the specific problems faced by the Dutch judicial system, with regard to the length of court proceedings, a lack of unity of law, and lack of public trust, the evaluation system was designed to emphasize and tackle these particular aspects. The Dutch system consists of a comprehensive set of 59 performance indicators which courts and court sectors use to get an overview of the quality of their performance in these areas.

The Netherlands also applies statistical data as a founding tool for the allocation of human resources and budgets. The so-called Lamacie-model identifies 48 categories of cases, and for each category – a standard amount of time, needed for judges to handle the cases, defined by a committee of judges, who determined the average degree of complexity for each type of case. At the beginning of each year, on the basis of the Lamicie case categorisation, the Judicial Council makes an estimation of the number of incoming cases as well as of the number of full-time equivalent judges each court needs. This information is then used by the Judicial Council to negotiate with both courts and the Ministry of Justice about resource allocation. If a court fails to meet certain quantitative or qualitative standards, this may bear negative consequences for the budget allocated by the Council.

[24] The US Trial Court Performance Standards (TCPS), which were developed from 1987 on, are a measure of the aggregate performance of judges and other staff in a given court, and have essentially been intended to provide feedback for internal debate and self improvement. Second, they have attempted to measure against what citizens are expected to want from courts. The core idea is that the unit of measurement should be at the organisational (court) level, and that the standards should be derived from expectations about what society wants from courts.

3.3. Finland[25] and Denmark

Since 1995, the Finnish judiciary has employed a system to assess the courts' performance using **productivity, economy** and **effectiveness** indicators.

Productivity is calculated in terms of the number of decisions per judge or per unit of administrative staff.

The principal indicator of the **economy or efficiency** of the court is the cost per decision, calculated by dividing the annual budget of a particular court by the number of decisions made by its judges.

The calculation of **effectiveness** is more complex. It is based on the assumption that expeditious proceedings are fundamental to the judicial process and their rights of the citizens. Consequently case processing times are taken as the key measure of effectiveness.

Courts' performance is assessed in Finland on the basis of indicators measuring productivity, cost effectiveness and courts' competences.

Like in other Scandinavian countries (Denmark and Sweden), in Finland there is no individual assessment of the work of judges, but the work of courts is monitored according to quantitative and qualitative criteria.

Officials of the Court Administration Department in the Finnish Ministry of Justice carry out interviews in each court about annual performance figures. This process serves to encourage courts to improve their performance, as well as to negotiate on permanent staff numbers and possible employment of judges and/or other personnel for a certain period of time, determine case-processing deadlines, discuss various issues and problems in connection with improving efficiency of courts and agree on funds needed for courts' work.

The state budget approved by the Parliament includes a determination of concrete performance targets for every public authority, including courts (for example, target time-limits for processing various types of cases and for various courts, as well as key areas which need to be upgraded). The annual report published by the Ministry of Justice specifies fulfilment of these aims, according to quantitative and qualitative criteria. The quality of judicial processes and decisions is assessed by observation of procedural rules, application of the European Convention on Human Rights,

[25] "Electronic tools for criminal justice in Finland – best practice case", in: *E-tools for criminal case management within selected EU Member States*, Center for the Study of Democracy, 2011, p. 93 et seq.

proper implementation of substantive law and organisation and quality of services provided to 'customers', including active provision of information and supervision of the inflow of cases and volume of work. Although having no automatic effect on resource allocation, the resulting analysis forms the basis of further budgetary discussions between courts and the Ministry of Justice, thus making it likely to have an impact on the behaviours of judges.[26]

In **Denmark**, the allocation of resources and benchmarking of court performance has also been a major focus of the judiciary since the establishment in 1999 of the independent Judicial Council to administer the courts.[27]

Since 2000 the performance with regard to timeliness and productivity of each district court is recorded in an annual court report which compares the court's performance with average performance, top-performance and national targets. The introduction of this type of performance measurement, like in Finland, aimed at stimulating courts to improve performance, which according to the available documentation seems to have been the case since 2000.

Interestingly, the Danish judiciary has also developed a methodology for measuring judicial quality which is to be integrated with the indicators mentioned above. This model focuses on measuring 1) the quality of judicial decisions; 2) the degree to which court officials treat the parties in a case with due respect; 3) impartiality; and 4) the quality of court management. These indicators are to be measured by a mix of audits, statistical data and user surveys.

3.4. Evaluating the performance of courts in France and Belgium

As most Western countries, France and Belgium have undertaken to develop relevant tools to measure and improve their courts' performance. However, the approaches favoured by these two countries are different: a top-down 'macro' and authoritative approach in France through the Loi organique relative aux Lois de finances (LOLF) and a more gradual path in Belgium based on the involvement of the judiciary in the elaboration of performance indicators.

The challenges faced by these two countries in their attempts to establish an evaluation process of their judicial systems highlight the main two dilemmas structuring the debate on performance evaluation in this sector: 1. the opposition

[26] Contini, F. and R. Mohr. 'Reconciling independence and accountability in judicial systems', in: *Utrecht Law Review*, 3(2), December 2007, pp. 26-43.

[27] Wittrup, J. et al. 'Quality and Justice in Denmark', in Fabri, M. et al. (eds.), *The Administration of Justice in Europe: Towards the Development of Quality Standards*, 2003, p. 494.

between two definitions of performance (performance as efficiency or as quality) and between the two visions of courts' functioning: the managerial and the legal one; 2. the contradiction between the professional independence of judges (universally considered as an essential condition for 'good justice') and the external control which performance measurement would increase.

These dilemmas have generated intense tension between the judiciary and the promoters of performance evaluation, hindering so far the determination of consensual performance measurement tools for courts in both countries, especially in Belgium.

3.4.1. France: a top-down approach[28]

In France, the first written document about systematic gathering of data about the characteristics and performance of judges dates back to 1850, and its evaluation system is probably much older. Obviously, nowadays, the system adopted for evaluation of judges has evolved into highly formalised procedures, as shown by the two following instruments: the LOLF system, implemented since 2006, and a productivity bonuses system, created by a decree in December 2003. These two instruments of performance measurement have different purposes: global monitoring of courts' budgeting and spending, accountability of courts' managers for the first one, staff motivation for the second one.

The LOLF has been established with a view to promote a cost-effectiveness or results-based financial perspective for the management of the judicial system. The LOLF indicators seem thus more designed to control expenditures and to link the performance to the output of the court (how many cases are dealt with and at what costs) rather than to address the aspect of quality management in the justice sector.

Among the objectives given to the mandate of the judicial system within the framework of the LOLF system, we can mention 'the quality of judicial rulings in civil cases', 'the quality of rulings in criminal cases', 'the proper enforcement of criminal rulings', 'the limitation of justice expenditures'. Each of these objectives, which correspond to legal quality criteria of civil and criminal rulings, is associated with various indicators. Most of these indicators are related to the average length of proceedings, the judicial backlog, the number of cases dealt with per judge, the rate of appeal, the rate of verdicts reversed on appeal, the rate of verdicts rejected by the *Casier judiciaire national* or the rate of verdicts effectively enforced. Such figures can

[28] Marshal D. L'impact de la LOLF sur le fonctionnement des juridictions, *Revue française d'administration publique*, n° 125, 2008, p. 121-131; Viessant C., T. Renoux. La LOLF et la Justice, *Revue française de finances publiques*, n° 97, 2007, p. 87-98 ; Arthuis J. LOLF: culte des indicateurs ou culture de la performance?, Rapport d'information n° 220, Sénat, 2005; Luart R. La mise en œuvre de la LOLF dans la Justice judiciaire, Rapport d'information n° 478, Sénat, 2005.

only inform the decision-makers about the efficiency of courts and the individual productivity of judges. Moreover, these performance measurements are mainly designed to help the government and the Parliament to negotiate budgets on a large scale, and also to contain the rise of judicial expenditures (outsource technical services).

A smaller-scale performance management tool, inspired by a bonus system which already existed in other administrations, such as the Finance Ministry, was introduced in the courts in 2003.[29] However, the criteria defined by the decree for the evaluation of individual performance are very vague and can hardly be used as performance indicators based on which the presidents of jurisdictions could objectively distribute the bonuses. For example, concerning the judges of the courts of appeal, the decree mentions as criteria the 'seniority in the position', the 'contribution to the proper fulfilment of the courts' mission' and the 'availability to the jurisdiction'. Globally, the decree of 2003 is considered as a failure, most of the judges having opposed to an instrument which they fear could reduce their professional autonomy and lead to an increased control by their superiors or by the executive power.

3.4.2. Belgium: in search of a global performance policy[30]

In the aftermath of the Dutroux scandal, the Belgian government promoted various measures and working methods in order to improve the management and functioning of the Belgian judicial system, among these being the Octopus-reform and the Copernican renewal of the federal government.

The Octopus Agreement introduced a High Council of Justice. It has authority for the following matters: proposing candidates for appointment as judges or members of the Public Prosecutor's Office, access to the profession of magistrate, training of judges and members of the Public Prosecutor's Office, issuing opinions and proposals concerning the general functioning and organisation of the courts, general supervision and promotion of the use of internal control methods, receiving and following up complaints concerning the functioning of the courts and initiating inquiries into such matters without being empowered to take disciplinary measures or institute criminal proceedings.

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[29] Decree n° 2003-1283 of December 26th 2003.

[30] Bernard, Benoît, Anne Drumaux and Jan Mattijs. Foresight as a strategic public management tool: six Scenarios for the Belgian Criminal Justice, Working Papers CEB 10-050, ULB (Université Libre de Bruxelles), 2010; Ficet, J. Evaluating the Performance of Courts in France and Belgium: A Difficult Circle to Square, Working Paper, ECPR conference POTSDAM, 10-12 September 2009; Conings V., et al. Etude de faisabilité de la mise en œuvre d'un instrument de mesure de la charge de travail destiné au siège, SPF Justice, 2007; Schoenaers, F. Le Nouveau Management Judiciaire: tentative de définition et enjeux, in: Schoenaers F. and C. Dubois (ed.), *Regards croisés sur le nouveau management judiciaire*, Editions de l'Université de Liège, 2008, p. 15-40.

In addition to the Octopus reform and the Copernican renewal, a number of initiatives have been undertaken to resolve the lack of case-management strategy in most courts, to speed up and smoothen judicial procedures, as well as to improve the quality of the judicial services for the citizens and the users of the courts. However, most of these initiatives and projects took place locally and focused on a smaller-scale issue: the rationalisation of human resources management through the measurement of judges' individual workload. Despite many managerial reforms in the Belgian State since the end of the 1990s, the Belgian governments never came up with a global performance policy or management system like the LOLF.

The notion of 'workload measurement' has been introduced in the Belgian *Code judiciaire* in 2001 for clear cost-effectiveness purposes: to determine exactly how many judges were necessary for the functioning of each jurisdiction in order to contain the constant expansion of courts' staff. However, two competing approaches to the problem have jeopardized the elaboration of a consensual instrument.

In 2002, the Presidents of the country's five Courts of Appeal took the initiative and developed their own instrument, called the MUNAS system. This tool proposed to measure the judges' average annual workload for each type of litigation (civil, criminal, youth protection, etc.) through a simple ratio between each court's global output (number of cases dealt with on an annual basis) and the number of judges working in that court. This average workload could then be used to compare courts' performance and decide objectively where human resources should be allocated with priority. The system was briefly experimented in the five Courts of Appeal but faced the hostility of the government which was not interested in evaluating the activity of each court as a whole.

A more managerial instrument was then adopted to control and motivate the judges individually, inspired by the Dutch Lamicie method. Between 2002 and 2004, all the judges of the five Courts of Appeal were asked to complete systematically time sheets indicating for each case the type of litigation, its degree of complexity, the size of the file and the time spent for each step of the procedure (preparation, hearing, writing of the ruling, etc.). However, the precision of the time sheets was such that many judges refused to commit themselves to such a time-consuming activity for more than a few months. Moreover, the categories were interpreted so differently in the various courts that results could not be compared and the definition of an average length for each judicial operation turned out to be impossible.

Interestingly, opinion surveys have also been institutionalised to measure the citizens' satisfaction toward the Belgian judicial system as a basis for the evaluation of its quality.

In 2002, Belgian authorities have created the *baromètre de la Justice* (barometer of Justice), a general public survey conducted every four years. The results of the second *baromètre* have been published in 2007 (Conseil supérieur de la Justice, 2007) and widely publicised in the media. About three thousand citizens had been asked to appraise the judicial institution as a whole, its various actors (judges, lawyers, experts, etc.), the length and cost of proceedings, etc. Having said that, the results of this survey focusing on society's satisfaction, due to the use of too abstract indicators, have proven to be a weak operational path for performance evaluation and did not provide any reliable guidelines for decision-making on new reforms.

Although the assessment of performance evaluation models in the courts of France and Belgium may appear generally negative, one should not underestimate the fact that these attempts have also contributed to legitimise the process of managerial change in courts and led judicial actors to take initiative. Many courts have started developing their own more or less formalised performance indicators. Such local 'good practices' could ultimately foster the elaboration of adequate and consensual performance management systems.

3.5. Measuring the effectiveness of justice in Spain

In Spain, the *Consejo General Judicial* (General Council of the Judiciary) has among its main significant tasks to set indicators and collect data in order to make a detailed assessment of the state of justice.

Therefore, the most important study about the quality of justice in Spain is carried out each year by the General Council of the Judiciary and is elaborated to provide an overview of the complex activity of the judiciary in that country. The last report 'The Justice System: all the facts' sets out the key statistics for 2010 relating to the various elements making up the Spanish court system, including several comparisons with data compiled in the years before.

This report includes a chapter on the quality of the court system that details all data collected in the judicial system. Most of the information was provided by the General Council of the Judiciary itself, although other official sources were also used. This document evaluates into detail judgments by type of judge, courts of appeal, estimated length of proceedings, average time of pending proceedings and complaints, separating the data by region.

In Spain, the criteria developed to analyse the functioning of courts and the judiciary are similar to those used for the assessment of the work of individual judges. In monitoring the work of judges the data collected do not cover just the number of verdicts rendered but also number of decisions by type of subject-matter. The results

of the assessment combined with a structure of incentives may affect the careers of judges in that they may be used in disciplinary proceedings or have very tangible consequences for particularly efficient judges. Judges' quotas are set by measuring time used for each procedural action to be performed in a case; adding up these times results in the expected time needed to resolve a given case. This figure is compared and combined with the time needed by the most efficient courts to process cases, resulting in a target time a little less demanding than that in the best courts. Judges that manage to process a larger amount of cases than the set limit would receive increased remuneration.

The tables in the Annex illustrate the use of the relevant indicators to assess the performance and the quality of the criminal justice system in Spain. Some of these are:

Judgments by type of Judge

One indicator of the quality of judgments is the percentage decreed by professional judges who have undergone the official competitive examination process. The data provided in the third column (Temporary Judges) of the following tables refer to non-professional judges.

Courts of appeal

Another indicator of the quality of justice is the result arising from the appeals. The percentage of the judgments of the appellate courts which end with the upholding, full reversion, partial reversion or quashing of decisions is presented for different types of courts.

Estimated length of proceedings

The average length of proceedings is another very important indicator of the quality of justice. As the judicial statistics does not offer direct data on length, we present a set of estimations produced by a mathematical model (based on Queuing Theory) which offers an estimation of the average length of the cases ended in each period. The lengths are stated in months.

Average time of proceedings pending at the end of the year

Another way to measure the length of proceedings is to consider the time that the cases, which have not yet been decided at the end of the year, have been in court. This 'time of duration' has been calculated by a mathematical model according to the data from General Council of the Judiciary. The lengths are stated in months.

Complaints

Interestingly, the report also provides useful data regarding the claims and complaints (by type, area of law and judicial body concerned) issued by citizens against courts. This type of data provides a more precise 'social' evaluation of the effectiveness of the judicial system than the general level of perceived satisfaction captured by public polls or surveys.

3.6. Romania: possible performance indicators for the courts and prosecutor's offices

In a recent study produced in the framework of the project 'Performance indicators – a fundamental instrument for the improvement of the quality in Romanian judicial act',[31] two sets of relevant performance indicators for the Romanian courts (13 in total) and for the prosecutor's offices (11 in total), have been identified to measure the quality of the judicial activity in Romania.

As stated in the report, the results of these indicators should not be interpreted singularly, but, as stated before, within the general context of the judicial acts' enforcement, which implies actions by a number of other state organs other than courts or prosecutor's offices, observance of the adversary character of the proceedings, experts' or lawyers' involvement and, last but not least, the existence of certain procedural terms that should be respected, of some procedural rights that impose a certain procedural path or some issues that should be taken upon concretely, for every single case.

The calculations to which these indicators led were based on the statistical data sent by the courts and prosecutor's offices, upon Institute for Public Policy (IPP) public information requests. A total of 180 requests have been sent to the courts and the prosecutor's offices (all Courts of Appeal and the prosecutor's offices next to them, 2 tribunals under each Court of Appeal and the prosecutor's offices next to them, respectively 3 country courts under these Tribunals and the prosecutor's offices next to them). The response rate was 78.72 % for the courts and 64.98 % for the prosecutor's offices.[32] Consequently, the values presented therein have representative character regarding the institutions that supplied the data requested and they are presented for practically arguing the way in which the indicators are calculated.

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[31] This project was developed by the Institute for Public Policy (IPP) in partnership with the National Institute of Magistracy (NIM), financed by the European Commission through Phare 2005 – Consolidating Democracy in Romania. The study was issued in June 2008.

[32] The reference material was released by IPP, based on the public information requests addressed under the *Law nr. 544/2001* and took place in the period March – May 2008.

Table 1. Set of Performance Indicators Developed by IPP

Courts	Prosecutor's offices
Celerity	
Ind. 1: **Procedure efficiency index =** nr. of cases solved within the *reasonable term*/nr. of cases entered within the *reasonable term**	Ind. 1: **Procedure efficiency index =** nr. of cases solved** within the *reasonable term*/nr. of cases entered within the *reasonable term****
Human resources management	
Ind. 2: **Optimal number of judges per court =** nr. of cases of the court within one year/nr. of cases at the national level within one year x total nr. of judges at the national level for the respective year	Ind. 2: **Optimal number of prosecutors per prosecutor's office =** nr. of cases of the prosecutor's office within one year/nr. of cases at the national level within one year x total nr. of prosecutors at the national level for the respective year
Ind. 3: **Optimal number of clerks per court =** nr. of cases of the court within one year/nr. of cases at the national level within one year x total nr. of clerks at the national level for the respective year	Ind. 3: **Optimal number of clerks per prosecutor's office =** nr. of cases of the prosecutor's office within one year/nr. of cases at the national level within one year x total nr. of clerks at the national level for the respective year
Ind. 4: **Optimal activity charge =** nr. of cases solved within one year/nr. of judges of the court for that year	Ind. 4: **Optimal activity charge =** nr. of cases solved within one year/nr. of prosecutors of the prosecutor's office for that year
Ind. 5: **Average cost of case solving =** expenditure of the court within a year/nr. of cases solved for that year	Ind. 5: **Average cost of case solving =** expenditure of the prosecutor's office within a year/nr. of cases solved for that year

* *To be determined; for the civil cases, this term shouldn't be longer than one year.*

** *With solution for trialing/not trialing.*

*** *For the prosecutor's office, still to be determined.*

Table 1. Set of Performance Indicators Developed by IPP (Continued)

Courts	Prosecutor's offices
Human resources management	
Ind. 6: **Managerial index =** nr. of management positions in the court scheme/total nr. of positions in the scheme	Ind. 6: **Managerial index =** nr. of management positions in the prosecutor's office scheme/total nr. of positions in the scheme
Transparency and trust in the quality of the judical act	
Ind. 7: **Citizens' contentedness index =** nr. of citizens who have answered they were satisfied and very satisfied with the way in which the court acted	
Ind. 8: **Impartiality perception index =** nr. of citizens who have answered the judges were impartial during the session	
Ind. 9: **Transparency index =** nr. of public information requests answered by the courts/total number of public information requests sent to the courts x 100	Ind. 7: **Transparency index =** nr. of public information requests answered by the prosecutor's offices/total number of public information requests sent to the prosecutor's offices x 100
Ind. 10: **Trust index =** nr. of challenging request formulated + nr. of displacement requests/total number of cases solved by the court within one year	Ind. 8: **Trust index =** nr. of complains against non trialing solutions/total number of cases solved within one year
Quality of the judical act	
Ind. 11: **Cassation index =** nr. of cassations per year/total number of cases solved by the court within one year	Ind. 9: **Criminal pursuit restore index =** nr. of files restored to the prosecutor's office within one year/total number of cases solved within one year

Table 1. Set of Performance Indicators Developed by IPP (Continued)

Courts	Prosecutor's offices
Quality of the judical act	
Ind. 12: **Imputable cassation index =** nr. of imputable cassations within one year/total number of cases solved by the court within one year	Ind. 10: **Repeal index for the non trialing solutions =** nr. of repealed non pursuing resolutions and ordinances + nr. of repealed resolutions and ordinances for expelling from the criminal pursuit + nr. of repealed cessation (of the criminal pursuit) resolutions and ordinances/total number of cases solved within one year
System predictability	
Ind. 13: **Number of measures enforced by the court towards jurisprudence uniformity**	Ind. 11: **Number of measures enforced by the prosecutor's office towards jurisprudence uniformity**

Source: *Performance Indicators – a step ahead for a (more) effective justice, IPP.*

4. Indicators for criminal cases management: a Bulgarian perspective

As witnessed by the CEPEJ report,[33] Bulgaria points to no quality standards defined or specialised staff entrusted with quality policy, but as almost all CoE member states, allegedly has defined performance indicators for court activities. In its answer to the CEPEJ evaluation scheme,[34] the country lists among its indicators incoming cases, length of proceedings (timeframes), closed cases, pending cases and backlogs. This section of the concept paper will attempt to sketch the normative, policy and strategic framework, where those indicators, or a possible future expanded indicator system, (could) work, as well as the existing authoritative and research efforts in the area.

4.1. Normative, policy and strategic framework

4.1.1. Responsible authorities

Court statistics and information systems are the subject of a special section of the *Law on the Judicial System* (LJS).[35] According to its provisions, the Supreme Judicial Council requests and summarises, every 6 months, information from the courts, the Prosecutor's Office and the National Investigation Service on their activity (Art. 30, par. 1, item 13, LJS). It also provides to the National Institute of Statistics statistical data for publishing (Art. 377, LJS). The current Supreme Judicial Council has formed two relevant committees: Committee on professional qualification, information technology and statistics and Committee on analysing and reporting the workload of the bodies of the judiciary.

Specifically for the Prosecutor's Office, every 6 months the Prosecutor General prepares and submits to the Supreme Judicial Council, its Inspectorate and the Minister of Justice summarised information on the institution, movement and closing of files (Art. 142, par. 3, LJS). The Supreme Prosecutor's Office of Cassation has a special Division on Information, Analysis and Methodological Supervision.

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[33] CEPEJ (2010). Evaluation report of European judicial systems – Edition 2010 (2008 data): Efficiency and quality of justice, Figure 5.15, p. 98.

[34] Available at http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2010/2010_Bulgaria.pdf (Access date: 20 December 2011).

[35] *Law on the Judicial System*, promulgated SG issue 64/7 August 2007, last amendments SG issue 93/25 November 2011.

The information servicing of the activities of the judiciary is done by the Supreme Judicial Council with the assistance of the Ministry of Finance, the Ministry of Regional Development and Public Works, by granting access to the National Population Database, the National Institute of Statistics and the Bulgarian Institute of Standardisation, including by providing personal data electronically or remotely (Art. 385, LJS).

The system of utmost interest for a future framework of indicators for criminal cases management is the Unified Information System for Counteracting Crime (UISCC),[36] regulated in Art. 378 et seq. of the LJS and in the special Regulation on the UISCC.[37] It has been developed as an inter-institutional automated information system for providing information in the course of counteracting crime in the Republic of Bulgaria. It is designed to include all instances of recorded crime and to allow monitoring of the work on every crime, offender, criminal proceeding, etc. Each criminal proceeding is given a common identification and is kept into a single case file. Each crime is also given common identification. The system is governed by an interinstitutional council. In 2011, it is still under construction.

UISCC is a combination of automated information systems and consists of a central component (core unit), which is connected to systems of the judiciary and the executive, processing information about events and objects of criminal proceedings and the execution of penalties thus creating an overall information support of the activities for counteracting crime. The system also comprises automated workstations for queries to the system.

The core unit of the UISCC accumulates information from the following institutions:

- courts;
- Prosecutor's Office;
- investigation authorities;
- police;
- military police under the Ministry of Defense;
- Directorate General Execution of Penalties which comprises probation services, places of detention and pre-trial detention facilities on the pre-trial proceedings in the police, military police, the investigation authorities and the Prosecutor's

[36] An additional source of information on the UISCC, reviewing its normative framework, has been the article "Status and problems in the use of ICT in the judiciary in Bulgaria", in: *E-tools for criminal case management within selected EU Member States*, Center for the Study of Democracy, 2011, p. 15 et seq.

[37] *Regulation on the Unified Information System for Counteracting Crime*, adopted by a Decree of the Council of Ministers № 262 of 5 November 2009, promulgated in SG, issue 90 of 13 November 2009, in force as of 1 December 2009.

Office, on the proceedings for execution of penalties in the Prosecutor's Office, on the trial proceedings in the courts and on the execution of penalties and detained persons.

Information is also fed on the criminal records of persons (by the Ministry of Justice and the regional courts), on the Bulgarian identity documents (by the Ministry of Interior), on the civil registration of physical persons by the National Population Database and on the BULSTAT registration by the Registry Agency.

The bodies of the judiciary, the Ministry of Interior, the State Agency for National Security, the Ministry of Defense, the Ministry of Justice and the Ministry of Finance create, maintain, use and develop their own institutional information systems, which are part of the UISCC or exchange information with it. They also provide from their budgets financing for the institutional components of the UISCC. They are obliged to provide the information, needed for the functioning of the UISCC.

The core unit of the UISCC, as well as its connections with the institutional information systems, are built by the Prosecutor's Office. Access to the data in the UISCC is only granted to duly authorised persons, but a 'public access circle' could possibly be opened with the central unit, which could contain data, regulated by law.

4.1.2. Analytical capacities and their future improvement

According to an analytical report,[38] the Registration subsystem of the UISCC has the following modules:

- investigative activities in investigation services;
- investigative activities in police departments;
- prosecutorial activities;
- detained persons;
- trial proceedings before the first instance;
- trial proceedings before the appellate instance;
- trial proceedings before the cassation instance;
- execution of penalties in places of detention.

The UISCC's subsystem 'Reports' provides tools for defining and customising queries and managing the reports on the results produced. The execution of the queries is a process, which the user can only influence indirectly and to a limited extent through the parameters in the query, related to its execution.

[38] Dan Consulting. Analytical report of the development of information technologies in the Judiciary and their interaction with the information systems of the Executive, the regulatory and the preceding strategic papers in the field including the entire generation process, 2010 (hereinafter, Analytical report), p. 36.

The Reports subsystem offers three types of reports: thematic, standard and statistical. The latter two are pre-defined prototypes, while the thematic reports provide the user with the opportunity to define dynamically complex structures of objects and links between them, depending on his/her status in the system.

In its strategic part,[39] the analytical report stands for an effective reporting system and reliable statistics. In this regard, the proposals are:

- unification and harmonisation of statistics among the different branches of the judiciary and the Ministry of Interior;
- improving the reliability of statistics, including additional mechanisms for external control and verification;
- linking statistical data with **indicators**, reflecting to a larger extent the viewpoint of the 'user' and society and not only of the institutions.

In its proposed project 'Further development and improvement of UISCC', the Prosecutor's Office plans to, *inter alia*, develop other types of reports and outputs of the UISCC core unit.

The IT Strategy of the Bodies of the Judiciary in the Republic of Bulgaria for 2011 – 2013[40] provides for the creation of automated and standardised statistical instruments. Moreover, it envisages automation of the process of creating reports on judicial statistics through specialised statistical instruments, which are:

- to be integrated with the case and human resources management systems so that data from them could be retrieved automatically;
- to include a mechanism for reporting on classified cases.

4.2. Existing efforts for using indicators for criminal cases management

4.2.1. Authoritative efforts

In accordance with its powers, listed above, the Supreme Judicial Council maintains detailed statistical forms for the courts, published on its website.[41] Courts keep statistics, *inter alia*, on:

- the **percentage of cases, closed within 3 months, out of all closed cases** (kept for each instance)**;**

[39] Analytical report, p. 111.

[40] Author: Dan Consulting.

[41] See: http://vss.justice.bg/bg/statistick.htm (only in Bulgarian, access date: 21 December 2011).

- the **cases, where appeals were made**; as well as on
- the **workload of judges by official staff number** and the **actual workload** (based on the number of judges actually working throughout the period and the number of months they have actually worked). Further on, the workload is calculated **as to all cases under consideration** and **as to all cases closed.**

The Prosecutor's Office keeps statistics,[42] *inter alia,* on:

- the **ratio between the files**[43] **ruled upon and all files opened**;
- the **percentage of refusals to institute pre-trial cases out of the overall number of files ruled upon** as an indicator of how often the Prosecutor's Office is seized on actions, which do not constitute crimes;
- the **ratio between newly instituted pre-trial cases and all pre-trial cases** within the tendency of terminating the cases, for which the statute of limitations has expired;
- the **ratio between the pre-trial cases, where investigations are closed, and all cases**;
- the **ratio between the pre-trial cases, ruled upon by the prosecutor, and all cases**;
- the **ratio between prosecutorial acts, submitted to court, and all pre-trial cases ruled upon by the prosecutor**;
- the **ratio of case files, sent back from the courts to the Prosecutor's Office for further work, and all prosecutorial acts, submitted to court** as an indicator of the prosecutors' quality of work;
- the **percentage of prosecutors' requests for defendants' detention in custody, granted by the court,** as an indicator of prosecutors' requesting detention only if it is absolutely necessary;
- the **percentage of pre-trial proceedings, finished within the terms, prescribed by law** is indicated in the description of the work on pre-trial proceedings;
- the **ratio between the persons, sentenced/sanctioned by a final court act, and all persons, sent to trial by the Prosecutor's Office**;
- the **ratio between the sentences, the execution of which has started, and all sentences sent to the Prosecutor's Office for execution**.

Similar indicators are produced separately for the so called **'cases of particular public interest'**, namely the cases of organised crime, corruption, crimes affecting the financial interests of the EU, money laundering, tax and other financial crime, human and drug trafficking, allowing for a comparison between the results achieved on them and the results on all crime.

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[42] See, for example, Summarised Information on the Institution, Movement and Closing of case files and cases in the Prosecutor's Office of the Republic of Bulgaria for the first semester of 2011, available at http://www.prb.bg/uploads/documents/docs_2213.pdf (only in Bulgarian, access date: 22 December 2011).

[43] Files become pre-trial cases, if the prosecutor finds sufficient grounds for instituting a case.

The **workload** of prosecutors is calculated, based on the **volume of work** and the **number of prosecutors actually working throughout the period** (as opposed to courts, which also calculate by official staff number). Notably, the Prosecutor's Office has just changed the methods of calculating workload. Until 2010, the volume of work taken into account included main prosecutorial acts and participations in court sessions on criminal, administrative and civil cases. Since 2010, a 'comprehensive' method has been introduced, comprising all activities and acts, issued by prosecutors, and their participation in court sessions, plus their activity, related to the execution of sentences, coercive measures and requests for recognition of foreign judgements. Notably, while the workload of judges is calculated in number of cases, the workload of prosecutors is quite a vague number, including the number of prosecutorial acts,[44] number of 'participations' and number of 'other activities'.

4.2.2. Research efforts

Some of the key research efforts in Bulgaria, regarding the effectiveness of case management in terms of their cost, have been the two consecutive studies by the Open Society Institute – Sofia 'The Cost of Justice in Bulgaria: an Assessment of the Dynamics and Effectiveness of Public Expenditure on Justice and Order in 1998 – 2008' and 'The Cost of Justice in Bulgaria: an Assessment of Public Expenditure on Justice and Internal Order in 2009 – 2010'.[45] In them, interdisciplinary teams of lawyers and economists outline the budgetary process in the judiciary and the police and the main tendencies in the public expenditure on justice (including the budgets of the judiciary, the Ministry of Justice and the Bulgarian Asset Forfeiture Commission), the second report also adding a more detailed assessment of the public expenditure on the Ministry of Interior. Within their framework of assessment, the two studies use existing indicators for effectiveness of criminal justice management and introduce others, partly based on the new 'programmatic' budgets of institutions, containing effectiveness indicators.

In the first study, a comparative table is proposed on the **number of police officers per 100,000 inhabitants**, based on data by Eurostat.[46] Again using Eurostat data, a

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[44] Prosecutorial acts include those, submitted to courts, but also rulings within the various types of supervision, entrusted to prosecutors, as well as orders, guidelines, analyses, reports and opinions. This extensive concept of 'acts' undoubtedly contributes to the vagueness in calculating prosecutors' workload.

[45] Институт „Отворено общество" София [Open Society Institute Sofia], Цената на правосъдието в България: Оценка на динамиката и ефективността на обществените разходи за правосъдие и ред 1998 – 2008 г. [The Cost of Justice in Bulgaria: Evaluation of the Dynamics and Efficiency of Public Costs on Justice and Security 1998 – 2008], София, 2009 и Институт „Отворено общество" София, Доклад Цената на правосъдието в България: Оценка на обществените разходи за правосъдие и вътрешен ред 2009 – 2010 г. [The Cost of Justice in Bulgaria: Evaluation of the Public Costs on Justice and Security 2009 – 2010], София, 2011.

[46] Not all police officers are directly engaged in the criminal justice process.

table is given on the **expenditure on public order and security as percentage of the GDP**.

CEPEJ data is used to outline the **annual budget of courts and prosecutor's offices as percentage of the GDP per capita,** the **percentage of fees in the courts' budgets** and the **ratio between judges' starting salaries and the average salary for the country**.

In its chapter on effectiveness, the study calculates **the ratio between the annual budget of the Prosecutor's Office and the number of files ruled upon/the number of pre-trial cases, where investigations are closed/the number of prosecutorial acts, submitted to court**, thus providing **the cost per one file ruled upon/pre-trial case, where investigation is closed/prosecutorial act submitted to court**. Based on that, the report examines the trend in how much resources prosecutors need to ultimately submit an act (indictment) to court.

Further on, the effectiveness of courts and magistrates is elaborated upon, using CEPEJ data on **the number of criminal cases per 100,000 inhabitants, the average expenditure of courts per one case and, specifically, per one criminal case heard, the number of professional judges and prosecutors per 100,000 inhabitants, the number of files per 100,000 inhabitants, the number of newly arrived files per one prosecutor, the budget of the Prosecutor's Office as to the number of files as percentage of the GDP per capita.** The workload of judges is calculated in accordance with the methods, used by the Supreme Judicial Council (see above).

In the second study, several important categories are looked at in detail.

Capital costs are calculated as **percentage of the overall expenditure on justice/ budget of the judiciary**.

The budgets of the judiciary and the Ministry of Justice are disaggregated into **salaries and social security payments, maintenance costs and capital costs. The revenues** of the Ministry of Justice and the judiciary are looked at as **percentage of their overall budget.**

Annual budgetary costs per one employee and monthly average costs for salaries and social security payments per one employee are calculated for the Asset Forfeiture Commission, the judiciary and the Ministry of Justice. Based on the programmatic budgets of the Ministry of Justice, the report introduces the **ratio between the number of recidivists and the overall number of persons, deprived of their liberty.**

For the **budget on police, internal order and security** (including the budgets of the Ministry of Interior, the State Agency for National Security, the National

Guard Service and the National Intelligence Service), the **percentage of capital costs** (also specifically for the Ministry of Interior) is outlined and the **annual budgetary costs per one employee for the Ministry of Interior** are compared to those in the judiciary, Ministry of Justice, the Asset Forfeiture Commission and other institutions. The **revenue of the Ministry of Interior**, traditionally relatively low due to the specifics of police work, is calculated as **percentage of its overall budget**. Eurostat data is used to present **police costs as percentage of the GDP and of the overall budget expenditure**, with the necessary caveat about the secrecy of some units of the Ministry and the unclear staff numbers presented publicly. Again based on Eurostat data, the **number of police officers per 100 000 inhabitants and as percentage of those employed in the economy is given**.

4.3. Institutional and technological setup for a future system of indicators for criminal case management

4.3.1. Responsible authorities

If the development of justice sector indicators is to become a priority for criminal justice authorities, their implementation is undoubtedly to be provided with a proper institutional setup.

The present state of affairs in Bulgaria displays quite comprehensive, yet fragmented efforts by various bodies to set effectiveness indicators for themselves. As shown by the description of the authoritative efforts in the area so far, institutions are still seeking the right approach to calculate their workload, to build a thorough picture of case disposition time and case turnover.

In order for a framework of indicators to cover the whole system of criminal justice, it is essential that it is placed on a supra-institutional level, where it could be appropriately regarded as a joint priority of all stakeholders. For Bulgaria, this could be achieved by including the indicators among the capacities of the Unified Information System for Counteracting Crime. Such a solution would have a number of benefits:

- it is **regulated on a legislative level** – in the *Law on the Judicial System*, details contained in the special Regulation on the UISCC – whose provisions contain relatively strongly phrased obligations, including financial commitments, for the institutions involved;[47]

[47] Law on the Judicial System (promulgated in the SG No. 64 of 7 August 2007, last amended in the SG No. 93 of 25 November 2011): 'Bodies of the judiciary… shall create, maintain, use and develop institutional information systems, part of the UISCC…' – Art. 378, par. 2; 'The Bodies under par. 2 shall provide from their budget financing…' – Art. 378, par. 3; 'The bodies and institutions, whose automated information systems connect with the UISCC, shall be obliged to provide the information, necessary for its functioning' – Art. 378, par. 5.

- it is, to a very large extent, **inter-institutional** – besides a central unit, it has institutional components and gathers information both from authorities within the criminal justice system and bodies outside it, which nevertheless operate information, crucial for its work;
- it is governed by a **Council, representing all major stakeholders** – which is also open to participation (although without voting rights) by any other institution concerned. The Council benefits from the assistance of an inter-institutional expert committee and could form expert working groups. It is recommendable that those also comprise representatives from non-governmental research institutes.

However, the System is still not operational. As of October 2010,[48] there was no target financing for the 3-year Programme for its development, which limited the activities only to those, which could be performed, using institutions' own resources. Several important institutional systems, including the one of the Ministry of Interior, are still to be connected to the UISCC.

In sum, the placement of the future system of indicators within the framework of the UISCC should be a matter of a well elaborated strategic choice, made by all stakeholders. This choice should take into account the System's still unknown date of fully operational status, but also the numerous benefits it could offer to the high level analytical and policy activity of implementing justice sector indicators.

4.3.2. Technological setup

From a general research point of view, the following technical steps could be taken to integrate successfully a system of criminal case management indicators into the UISCC, based on its current state:

- the modules of the Registration subsystem should include the data, necessary for the implementation of indicators;
- specifically, a new module could be included, where budgetary and other financial information could be provided, in view of reviewing how effectively the system spends its allocations;
- the Reports subsystem should include capacities for processing the indicator data, fed into the Registration subsystem, and producing results both as standardised and as thematic (customised) queries. In this sense, the set of indicators could be divided into main and supplementary ones, which could, respectively, be followed in a regular or *ad hoc* manner.

[48] Analytical report, p. 33-38.

5. Criminal case management in Poland

By determining whether and how the Polish judicial system can effectively use e-tools, this chapter aims to reveal possible means to improve the system and the work of its bodies.

Relevant results from the research carried out by CEPEJ will be highlighted to provide useful insights on the general functioning of justice in Poland.

5.1. Research efforts by the Helsinki Foundation for Human Rights[49]

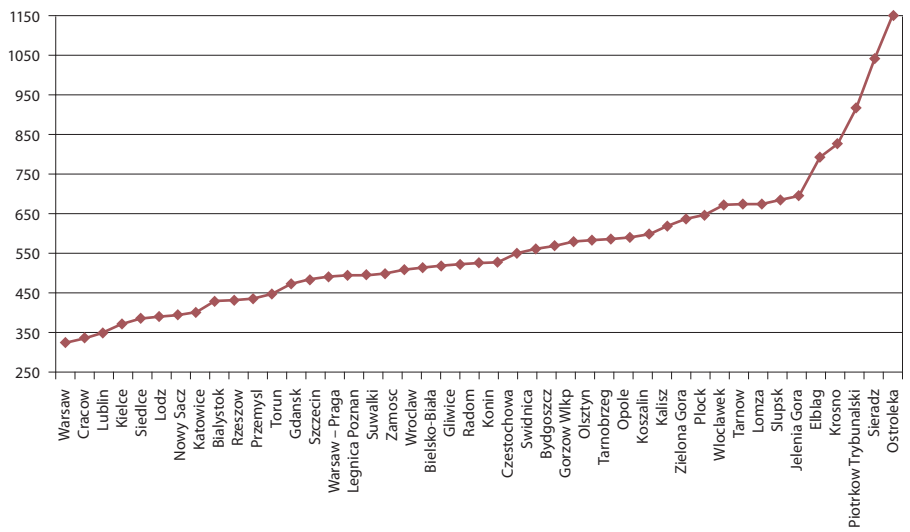
In 2010, The Helsinki Foundation for Human Rights (HFHR) conducted a study on the effectiveness of the Polish judicial system. Using indicators and evaluative techniques developed by international and domestic researchers, HFHR conducted quantifiable and reliable measurements of the effectiveness and efficiency of the Polish judicial system. Included among the indicators used were time and litigation costs, in their interrelation, and, as hypothesised, costs increase in proportion to the duration of court proceedings. The report produced reveals the shortcomings of the judicial system in Poland, **the most important among these being**:

- inefficient management of public funds for justice;
- overgrowth of functional duties carried out by judges and preventing them from hearing cases;
- the lack of a workload management system in individual courts and for judges.

The figure below shows the levels of workload ranging by types of courts and by regions. These are failed to be addressed due to the lack of a workload management system.

[49] For more information about Helsinki Foundation for Human Rights please check: http://www.hfhr.pl/

Figure 1. Number of Cases per One Judge



Source: *HFHR, based on Ministry of Justice data.*

These results correspond to the ones presented by CEPEJ.[50]

5.2. The situation in Poland on a practical level

Information obtained through CEPEJ and domestic sources has enabled analysts to obtain a clear understanding of the general situation of justice in Poland – and more specifically, the important role of electronic tools in the administration of justice. Without a doubt, these tools have a favourable influence on the work of courts and prosecutors' offices. The experiences of countries that have a longer tradition of working with such tools demonstrate that electronic tools can be a solution to many problems plaguing the judiciary.

[50] CEPEJ (2010). Scheme for Evaluating Judicial Systems 2009: Poland.

5.3. Authorities responsible for the implementation of new technologies

As a direct result of the separation of functions of the Minister of Justice and the Attorney General, which took place in Poland in 2010, the responsibilities for the implementation of electronic tools were also separated. The Ministry of Justice is the unit responsible for the courts, while the Prosecutor General's Office is responsible for public prosecutors' offices. This separation can cause problems in the development of indicators for case management for the entire criminal justice system, and during every stage of their preparation the differences arising from the competences of those bodies should be taken into account.

As a result of the separation, the Ministry of Justice's Department of Computerisation & Court Registers is currently responsible for all IT-related matters.

The Department of Computerisation & Court Registers is primarily responsible for:[51]

- dealing with matters relating to the computerisation of the department of justice;
- providing IT support for IT solutions existing at the Ministry of Justice, including the direct operation of certain solutions;
- working on IT development in the department of justice;
- developing and carrying out computer system projects for the department of justice;
- carrying out tasks relating to the operation of computer systems implemented in the department of justice;
- implementing IT tasks financed by the EU, Norwegian Financial Mechanism assistance funds, etc.;
- supervising and coordinating tasks relating to the implementation and operation of the Electronic Monitoring System for offenders.

In the computerisation area specifically, this Department is primarily responsible for:

- determining computerisation-related matters of the department of justice, including:
  - analysing the needs of the courts, prosecutors' offices and the Ministry in the IT implementation area;
  - drafting schedules of planned activities, determining priorities and presenting

[51] http://ms.gov.pl/en/organisational-structure/department-of-computerisation--court-registers/ (Access date: 02.03.2012).

them to the management of the Ministry for approval;

- coordinating department of justice computerisation activities in accordance with approved lines and plans, including the implementation of key tasks;
- co-operation with the Ministry's organisational units in determining funds for the implementation of tasks relating to the computerisation of the department of justice, participation in IT related financial planning, and the management of the spending of funds earmarked for the tasks of the Department of Computerisation and Court Registers;
- cooperation with the Department of International Cooperation and European Law and with Polish and foreign organisations and institutions in obtaining and use of assistance funds earmarked for the Department's tasks;
- carrying out tasks arising from the department of justice computerisation strategy;
- introducing central computer systems in the department of justice and monitoring their operations;
- introducing and carrying out the process-based management of IT services in the department of justice;
- carrying out IT tasks in the form of services for the prosecution service and prisons;
- coordinating activities to secure the proper functioning of computer systems already existing in the organisational units of the department of justice, and standardising and advising on their procurement;
- preparing IT standards for the department of justice based on the existing international quality standards and those adopted for state administration, and monitoring their application;
- organising seminars, training and advice sessions relating to IT projects implemented by the department;
- creating IT human resource structures in the department of justice in cooperation with the Department of Human Resources.

Regarding the provision of IT support for the Ministry's IT solutions, this Department is primarily responsible for:

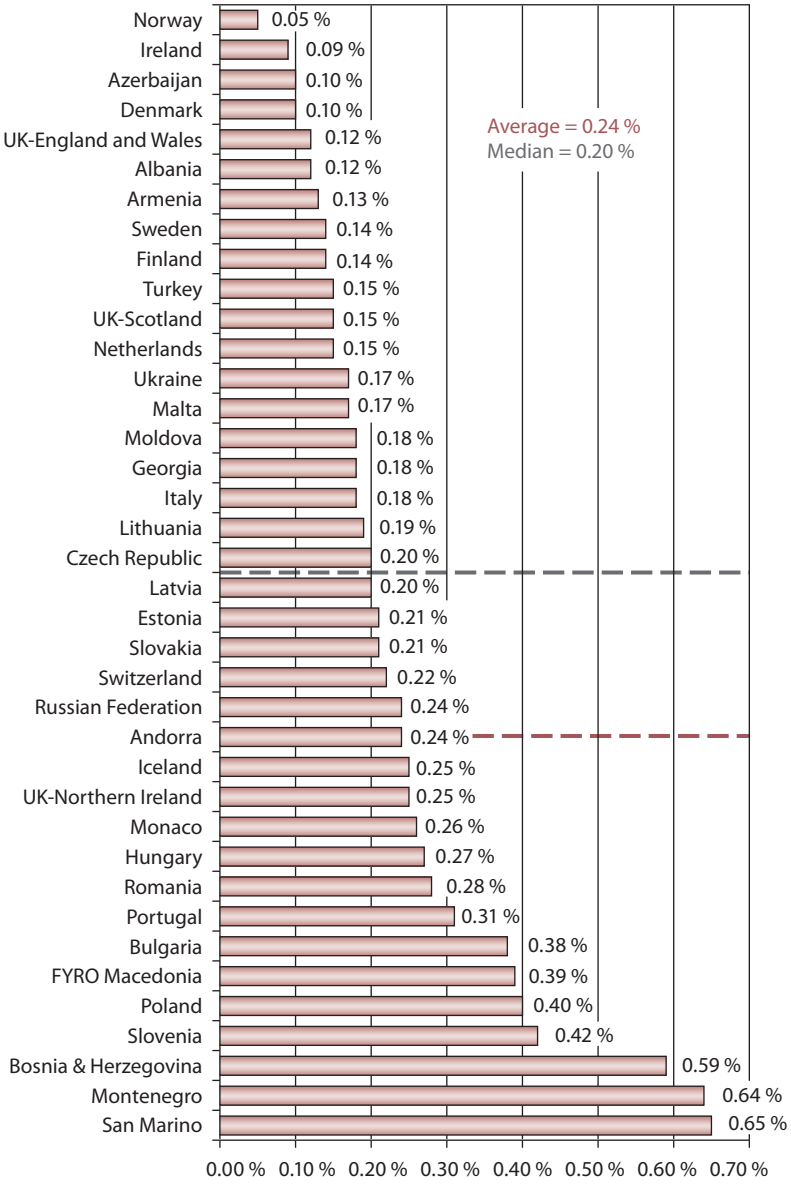
- ensuring supervision over all IT support existing at the Ministry and provided by its departments and bureaus;
- providing technical support for computer systems in the selected organisational units of the Ministry and support for department of justice systems operated at the Ministry;
- carrying out monitoring to ensure the proper protection of IT resources in the organisational units of the department of justice;
- specifying hardware users and hardware relocation; cooperating with the Bureau of Administration & Finance in the hardware management area and keeping individual staff equipment sheets.

The Department for Informatics Systems operating at the Department of Labour, Visitation and Informatics Systems in the Prosecutor General's Office is responsible for the implementation of IT tools in the Polish public prosecutor's offices. Its tasks often overlap with the duties performed by the Department of Computerisation & Court Registers in the Ministry of Justice.

5.4. Current efforts

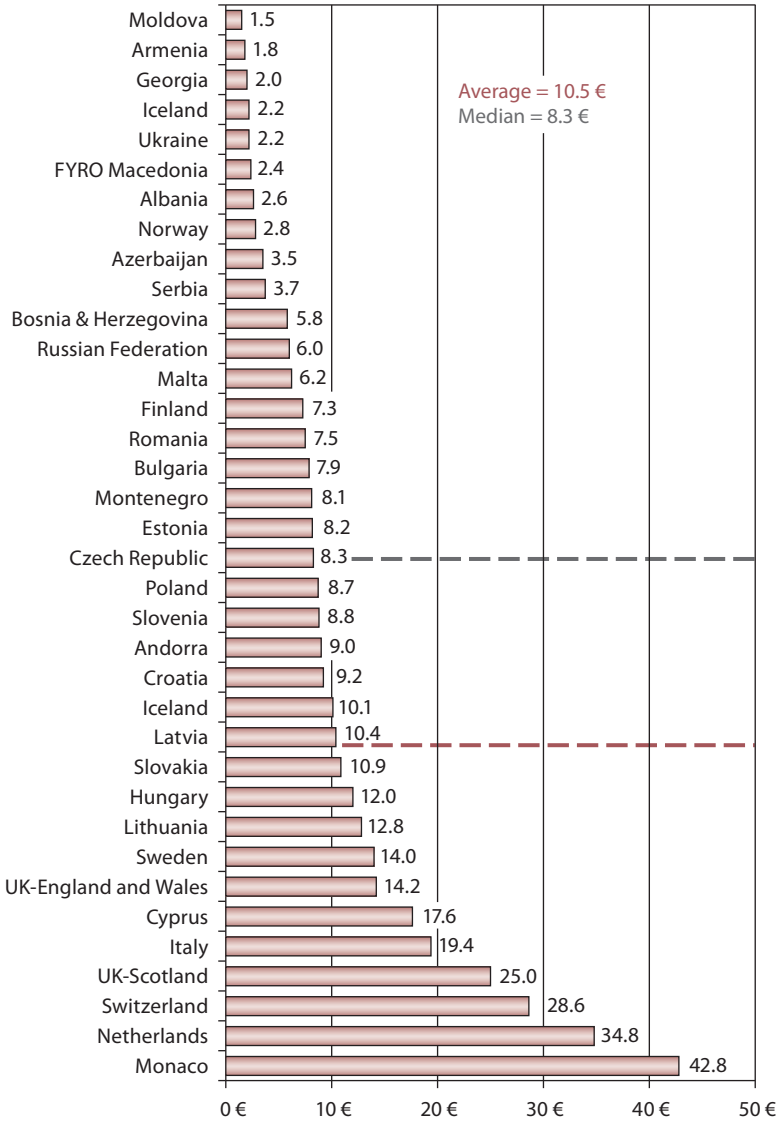
Both the prosecution offices and courts are working on fundamentally changing the functioning of these entities in the management of criminal cases. There has been an important paradigm shift in criminal case management, manifested by the replacement of paper documentation by electronic documentation. This is by far the biggest undertaking of its kind in the structures of the criminal justice system. Such efforts require huge financial outlays, because the implementation of new technology generates significant costs. The expenditure involves primarily: the purchase of dedicated software, desktop computers and a number of courses and training for those directly benefiting from these tools. Additionally, one must remember that these are not one-time costs because maintenance of electronic tools also generates regular, fairly high costs. As noted in the diagram below, which ranks countries by the percentage of their respective state budgets for courts and prosecutors, Poland remains at the forefront of countries that spend the most money on the functioning of judicial systems (including the costs associated with the aforementioned transformation).

Figure 2. Annual Public Budget Allocated to All Courts (excluding prosecution and legal aid) as Share of the GDP per Capita in 2008



Source: *CEPEJ, 2010.*

Figure 3. Annual Budget per Inhabitant Allocated to the Prosecution Service in 2008



Source: *CEPEJ, 2010.*

6. Benefits and threats of using e-tools and indicators for criminal cases management

6.1. Benefits of e-tools and indicators for criminal cases management

As seen in the experience of countries, already implementing **e-tools for criminal cases management**, and of those, just starting to develop such, their implementation for general use in the judicial systems has the potential of solving many problems related to the systems' functioning and primarily to their effectiveness:

Facilitation of the processing of cases by:

- reducing the time spent on data recording;
- automatic generation of case documentation;
- digitisation of documents;
- acceleration of the document flow and exchange of data among authorities;

Reduction of costs in terms of:

- office expenses due to storing paper documents;
- expenses for transmission of documents among the authorities;
- expenses for serving documents to parties in legal proceedings;
- expenditure on staff overtime.

As regards developing **indicators for measuring the efficiency and effectiveness of the criminal justice system,** their benefits can also be seen on two levels:

Benefits on policy level

On policy level, indicators will:

- help the criminal justice system manage better its budgetary allocations;
- facilitate the short-term and long-term strategic planning of the development and activities of the criminal justice system;
- streamline the efforts of the different branches of government into reforming/improving the work of the criminal justice system;
- mitigate the effects of the frequent internal tensions within the judiciary itself because of its complicated structure and varied functions;
- help achieve a fair balance between the independence of the judiciary and the

need for it to be transparent and accountable for its actions and expenditure of public funds, thus increasing the public trust in police, prosecution and courts.

Benefits on a practical level

On a practical level, indicators will:

- help regulate the resources of criminal justice agencies in accordance with their workload;
- contribute to the development of regulations on the status, career path, duties and evaluations of magistrates;
- clearly outline the different aspects of the general negative tendencies in the criminal justice system (case backlog, unreasonable disposition time, etc.), thus suggesting which ones can be remedied by legislative amendments and which ones can be neutralised by regulatory changes on a lower level.

By streamlining the work of the criminal justice system, those benefits will ultimately reduce the time devoted to any particular case, help achieve greater efficiency of the judiciary and assist the effort against excessive length of proceedings and backlog, paralysing the flow of cases.

6.2. Threats

When implementing electronic tools and indicators, there are also a number of risks that must be taken into consideration.

First and foremost, there is the issue of overloading the system. Electronic tools are often implemented to address already overly-lengthy court proceedings – but depending on the specificities of the case at hand, this 'solution' could in fact further prolong proceedings through excessive and unnecessary digitisation. E-tools have significant benefits both for complicated cases, including organised or economic crime, and for minor and uncomplicated cases. The digitisation of court proceedings, however, must not be a mere electronic repetition of the paper-based procedures, with their faults and duplication of effort/data, but must be carefully considered in order to bring actual streamlining of processes and facilitation of the work of professionals involved.

Another factor to be considered is the application of unified standards in the implementation of electronic systems – and the repercussions resulting from a failure to do so. This aspect is of particular significance in situations where the responsibility for the application of electronic tools at various stages of criminal proceedings rests on several independent entities. Lack of agreement and standardisation could

hinder the transmission of data among police, prosecutors and courts, resulting in duplication of effort and poor handling of the ever-increasing volume of criminal cases. This will cause a significantly longer case processing cycle in the judiciary, which will have a detrimental effect on the total length of the proceedings in any particular case.

Finally, as detailed in this paper's conclusion, there should not be a collision between the quantity and quality aspects in measuring the performance and efficiency of the criminal justice system. Numbers and ratios should be followed in parallel with taking into account the complexity and specificities of each case to serve the ultimate goal of advancing rights of citizens.

7. Conclusions

Improving performance indicators through a mixed managerial and quality-based approach

As highlighted in this concept paper, several types of performance measuring tools have been or are being implemented in the EU Member States. Different countries have different challenges with regard to improving judicial performance and different judicial traditions, and the performance measurement system should be tailored to cope with these particular challenges. Furthermore, there is no perfect or ideal set of performance indicators, also because figures or statistics alone will never provide a fully accurate picture of court or judicial system performance.

Despite this lack of unitary approach, several common trends can be identified regarding the levels and the criteria adopted for measuring the performance of judicial systems.

What level of performance evaluation?

Most of the tools developed in the EU Member States have been designed to measure performance at the three following different levels:

- at a "micro-level": to measure the productivity of judges or employees,
- at a "meso-level": to measure the performance of each court,
- at the "macro-level": to measure costs and means of the judicial institution as a whole up against its global output or outcome.

These different levels of performance measuring serve different purposes.

Ideally, the formal evaluations of individual judges enable to measure the quantity (results) and to evaluate the quality of the judges' work, i.e. their competence and capabilities, as well as their commitment and integrity. The results of such individual assessments are generally not made available for public scrutiny and are very specific focusing on the evaluation of each magistrate's career. Therefore, these results are of limited value with regard to the comparative assessment of either courts or the judicial system as a whole.[52]

[52] As noted by the Consultative Council of European Judges, an evaluation of the "quality" of the judicial system, through the performance of the system of courts taken as a whole or those of every court of group of courts, should not be mistaken for the evaluation of the professional capacities of each individual judge. The professional evaluation of judges, especially as regards decisions that influence their status or career, is a task that meets other goals and should be

Consequently, several countries have also developed specific tools and procedures to measure and benchmark judicial performance at the court level, which enables to support a process of continuous evaluation and learning, provide a foundation for more efficient budgeting and allocation of resources, as well as useful documentation for its main stakeholders. The results of the evaluation provided at this level can help to devise appropriate caseload and workload policies. This can vary from the monitoring of the workload of the courts and judges (such as the Lamicie workload model developed in the Netherlands) to the stimulation of alternative dispute resolution outside the courts, the filtering of cases, the use of a flexible case assignment system (France), the extension of tasks to be carried out by court staff, the limitation of extra judicial activities of judges (Hungary) and the stimulation of a one-sitting judge instead of a panel of judges (Italy).

Finally, it has also become customary for national judiciaries to provide some data about the performance of the entire judicial system. Providing information at system level responds to the vision of the judicial system as a public service that should respond for its effectiveness, even though the data provided might sometimes be too general to act upon.

Which criteria of evaluation: quality or performance?

The approach often privileged by governments consists in equating performance with efficiency or timeliness, that is, the capacity of an organisation to maximise productivity and achieve its goal at a minimal cost. This means that the evaluation of the performance of courts is done through a mere ratio between their output and their budget or between their output and the number of their staff (judges or other employees). This approach might imply the risk of reducing the complexity of the core of judicial decisions, by using a few indicators as guidelines for budget downsizing or as arguments in political debate.

The quality of a judicial proceeding's outcome depends to a large extent on the quality of the prior procedural steps (as initiated by the police, prosecutor's office, or parties), so an evaluation of the judicial performance is impossible without an evaluation of every distinct procedural context. Judicial performance therefore involves more than just the work of judges and other legal professionals acting in courts.

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undertaken on the basis of objective criteria, with all the appropriate guarantees for judicial independence (see Opinion #2 (2001) of the Consultative Council of European Judges (CCEJ) in the attention of the Council of Europe Ministerial Committee, concerning the financing and administration of courts with reference to the efficiency of the judicial system and Article 6 of the ECHR).

Many countries closely monitor the judicial system productivity, by tracking the volume of cases passing through courts (usually as the ratio between the number of cases filed and the number of cases disposed) as well as the time it takes for courts to process these cases.[53] Court systems also analyse this kind of information according to the type of offence, court, and individual judge presiding, tracking ratios over time to distinguish between seasonal disturbances and more meaningful trends.

A converse approach, which is generally adopted by judges, lawyers and human rights organisations, is to link performance to the "quality" of proceedings and judicial verdicts. This means that the quality of justice should not be semantically reduced to the judicial system's 'productivity'. As far as justice is concerned, the criteria of quality are defined by the law, jurisprudence or international conventions such as the European Convention on Human Rights: conformity of verdicts to the law, fair trial, independence of the judge, transparency, reasonable length of proceedings. According to these actors, the development of efficiency-driven performance measurement instruments would lead to the standardisation of proceedings and de-humanisation of the judicial work, as well as affect the balance of power inside the courts and between the judiciary and political authorities.

In the framework of this quality-based approach, citizens as primary beneficiaries of judicial systems are considered to have a legitimate interest in holding them accountable. The idea is that citizens are entitled to legal certainty. As stated by Art. 6, para. 1 of the European Convention on Human Rights, '[i]n 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'. On could reasonably argue that effective or efficient judicial administration constitutes a necessary element to guarantee this fundamental right.

In other terms, social indicators should also be developed in order to evaluate the level of public trust and institutional legitimacy in the judiciary demonstrated or generated by the way courts operate.[54] User surveys at the court level or broad polls at system level are therefore carried out at either systemic or ad hoc basis by several European countries to evaluate citizens' perceptions of the effectiveness of the service provided by the judicial system. Some of them, such as Spain, have even gone further by analysing the quality of legal proceedings through the number and type of complaints and claims issued by citizens against courts. This information provides a more precise evaluation of the effectiveness of the judicial system than the general level of perceived satisfaction captured by public polls or surveys.

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53 In most European states this is sometimes referred to as the "Cappelletti-Clark" index.

54 Jackson, J. et al. "Developing European indicators of trust in justice", in: *European Journal of Criminology*, July 2011, vol. 8, no. 4, pp. 267-285.

Improving judicial time and quality through the use of e-tools

In many documents that have been produced by CEPEJ on the topic of length of judicial proceedings and timeframes, it is clear that one of the tools to manage and improve their timeliness is the use of ICT (information and communication technology).

ICT may provide useful support to the judges' work in many areas: organising their tasks, information management and retrieval, legal research, document production (through the use of search engines and text mining techniques) and sharing (the use of e-mail and forums) as well as decision-making (development of sentencing support and automated judgment systems).[55]

ICT may also improve the timeliness of court proceedings by introducing electronic exchange of information between parties and the courts, the development of case-tracking and case management electronic system database, the use of standard templates for certain judicial decisions, as well as the use of audio and video technology in courtrooms.

Normative changes have been introduced in several countries to allow the experimental implementation of these technologies. For example, in Italy, video technologies are specially applied in criminal proceedings dealing with organised crime. In this way, it is possible to avoid the transfer of inmates from prisons to court facilities with a reduction of cost and hearing times. Case management systems can be found in Austria where the Linz District Court uses electronic legal communication to file cases electronically, and to exchange data between the courts and the parties.

Although Case Management Systems (CMS) are less widespread than case-tracking systems, they have the potential to allow more efficient scheduling, assignment and processing of court cases, for complex cases as well as for simple ones. Case management involves the monitoring and managing of cases in the court docket from the time the action is filed to the moment it is finally disposed of by way of trial, settlement or otherwise. CMS can monitor the courts' output and performance, and simplify the planning and organisation of their activities and allocating

[55] These systems have the potential to improve the quality and timeliness of judgments and result in more consistent sentences in the long run, although present technologies might not yet be capable of coping with the nature and complexity of these tasks. The complexity, variability, flexibility and discretion that are typical of judicial decisions are not easily tackled by computer automated systems. Nonetheless, improvements in semantic technologies and data mining foster hopes for the future at least in the areas characterised by more predictable, repetitive and bulk cases. See M. Taruffo, "Judicial Decisions and Artificial Intelligence, 1998 *Artificial Intelligence and Law* 6, pp. 311-324, and Dory Reiling "Technology for Justice How Information Technology Can Support Judicial Reform" Leiden University Press, 2009.

their resources efficiently. The more sophisticated CMS packages provide useful information about the court workflow on a daily, weekly and monthly basis. Tracking case typologies can be used to highlight critical situations and later the allocation of personnel, judges and other resources accordingly. Another interesting area in which CMSs are innovating is the opening of case-tracking and Case Management System databases to external users like lawyers and parties, enabling them to check the progress of the case in which they are involved without having to go to court.[56]

If many technologies to support and ease judges' activities are 'individual tools', the majority of tools aimed at improving the efficiency of courts are 'organisational tools', which require a high degree of standardisation in order to produce visible results. Organisational tools may lead to a higher resistance, due to judges' independence and the nature of the tasks they perform. Having said that, just like the introduction of new managerial procedures and policies, the potential of e-tools in incrementing judicial performance and quality has led to a number of significant initiatives undertaken by courts or judges themselves. The close involvement of these stakeholders will be essential in order to translate the variety of these local good practices into a global policy that could improve the quality and performance of judicial systems for the sake of its direct beneficiaries.

[56] Since 2004, the French administrative justice has been experimenting with a system called 'Sagace'. This web interface permits litigants and their lawyer to consult the court CMS data via a code provided by mail when the case is filed. In other cases, such as the Italian Polis Web, only lawyers can access the CMS available through a more complex PKI infrastructure.

ANNEX: INDICATORS USED TO ASSESS THE PERFORMANCE AND THE QUALITY OF THE CRIMINAL JUSTICE SYSTEM IN SPAIN

Table 2. Key Indicators – Criminal Jurisdictions

Tasas

	2009	2010	Evolution
Disposal	1.00	1.00	0.0 %
Pending	0.17	0.18	4.5 %
Clearance	1.17	1.18	0.6 %

Set down cases per magistrate

2009	2010	Evolution
2,546.2	2,448.6	-3.8 %

Percentage of judgements which have been appealed

2009	2010	Evolution
8.4 %	9.5 %	13.0 %

Percentage of judgements by magistrates members of the Judiciary

2009	2010	Evolution
84.4 %	84.0 %	-0.4 %

Litigation rate (Number of cases set down per 1.000 inhabitants)

2009	2010	Evolution
144.2	141.0	-2.2 %

Judgements per magistrate

2009	2010	Evolution
274.7	267.8	-2.5 %

Percentage of the Judgments of the appellate courts which end with the upholding

	2009	2010	Evolution
Appeals	74.9 %	75.8 %	1.2
Cassation appeals	86.4 %	85.3 %	-1.2 %

Estimated length of proceedings

	2009	2010	Evolution
First Instance	1.96	2.04	4.0 %
Appeals	2.22	2.23	0.8 %
High Court	6.47	5.84	-9.7 %

Source: *The Spanish Judiciary in Figures 2010.*

Table 3. Key Indicators – All Jurisdictions

Rates

	2009	2010	Evolution
Disposal	0.96	0.99	3.0 %
Pending	0.34	0.35	2.2 %
Clearance	1.35	1.35	0.4 %

Set down cases per magistrate

2009	2010	Evolution
1,980.4	1,890.8	-4.5 %

Percentage of judgements which have been appealed

2009	2010	Evolution
14.4	14.2	-1.5 %

Percentage of judgements by magistrates members of the Judiciary

2009	2010	Evolution
86.2 %	86.1 %	-0.2 %

Litigation rate (Number of cases set down per 1.000 inhabitants)

2009	2010	Evolution
204.7	199.0	-2.8 %

Judgements per magistrate

2009	2010	Evolution
336.0	335.3	-0.2 %

Percentage of the Judgments of the appellate courts which end with the upholding

	2009	2010	Evolution
Appeals	72.4 %	72.5 %	0.1 %
Cassation appeals	87.4 %	88.0 %	0.7 %

Estimated length of proceedings

	2009	2010	Evolution
First Instance	3.7	4.1	9.1%
Appeals	5.0	5.1	3.7%
High Court	14.3	12.6	-11.6%

Source: *The Spanish Judiciary in Figures 2010.*

Judgments by type of Judge

Table 4. Share of Criminal Court Acts by Type of Judge Who Decreed Them

Courts of Criminal Jurisdiction

	Judge appointed to the Court	Judge from another body	Temporary Judges	Supple-mentary	Other
Magistrates' Courts	86.0	2.5	9.9	1.5	0.1
Courts of First Instance and Enquiry	75.0	1.2	23.2	0.5	0.2
Violence against Women	75.0	4.6	20.3	0.1	0.1
Juvenile Courts	92.0	1.0	6.6	0.2	0.1
Criminal Courts	78.3	1.3	18.6	1.7	0.1
Provincial Courts. Criminal Division	86.2	0.0	7.7	4.8	1.3
Provincial Courts. Mixed Divisions	94.7	0.0	4.9	0.2	0.2
H.C.J. Civil and Criminal Chamber	100.0	0.0	0.0	0.0	0.0
Central Criminal Courts	88.0	0.0	12.0	0.0	0.0
National Court. Criminal Chamber	96.9	0.0	0.3	0.3	2.4
High Court 2nd. Chamber	76.9	0.0	19.1	4.0	0.0

Table 4. Share of Criminal Court Acts by Type of Judge Who Decreed Them (Continued)

Criminal Courts

	Judge appointed to the Court	Judge from another body	Temporary Judges	Supplementary	Other
Andalusia	83.9	2.1	12.8	1.2	0.1
Aragon	92.1	0.7	7.1	0.0	0.1
Asturias	94.7	0.5	4.8	0.0	0.0
Balearic Islands	96.1	1.5	2.5	0.0	0.0
Canary Islands	59.6	0.7	38.4	1.3	0.1
Cantabria	90.9	1.6	7.5	0.0	0.0
Castille and Leon	72.1	2.7	22.1	2.2	0.9
Castille-La Mancha	86.4	2.3	7.5	3.6	0.2
Catalonia	72.9	0.8	26.4	0.0	0.0
Valencian Region	73.2	0.5	22.0	4.3	0.1
Extremadura	84.5	1.1	14.3	0.0	0.1
Galicia	89.1	0.4	10.6	0.0	0.0
Madrid	68.8	1.8	23.4	5.6	0.0
Murcia	79.0	1.9	19.1	0.0	0.0
Navarre	88.3	0.6	10.9	0.0	0.3
Basque Country	82.7	0.7	16.6	0.0	0.0
Rioja (La)	62.2	0.0	37.7	0.0	0.1
Total	**78.3**	**1.3**	**18.6**	**1.7**	**0.1**

Source: *The Spanish Judiciary in Figures 2010.*

Courts of appeal

Table 5. Share of Appellate Court Judgements by Type of Outcome

Courts of Criminal Jurisdiction

	Appeals submitted/ Judgements	Upheld	Reversed in full	Reversed in part	Quashed
Magistrates' Courts and First Instance and Enquiry Courts	5.8	76.6	11.7	9.2	2.5
Violence against Women	4.9	72.4	15.2	10.0	2.4
Criminal Courts	20.9	75.0	9.8	14.3	1.0
Juvenile Courts	7.8	81.1	8.8	9.3	0.8
Provincial Courts	3.8	86.0	4.3	8.3	1.4
National Court. Criminal Chamber	32.0	61.9	13.1	21.43	3.57
Central Criminal Courts	13.9	90.91	0	9.09	0

Table 5. Share of Appellate Court Judgements by Type of Outcome (Continued)

Appeals in the Criminal Courts

	Appeals submitted higher Court/ Judgements	Upheld	Reversed in full	Reversed in part	Quashed
Andalusia	17.7	76.6	10.5	11.9	1.0
Aragon	23.2	81.5	6.5	11.7	0.3
Asturias	15.5	81.9	6.7	10.6	0.8
Balearic Islands	12.2	80.1	7.0	12.3	0.5
Canary Islands	18.1	71.1	11.6	16.5	0.8
Cantabria	28.4	74.7	10.3	14.8	0.2
Castille and Leon	17.6	76.8	8.0	15.0	0.2
Castille-La Mancha	18.9	81.5	7.2	10.6	0.7
Catalonia	22.2	72.9	10.1	16.3	0.7
Valencian Region	18.6	77.5	9.1	13.0	0.4
Extremadura	13.4	86.7	6.3	6.5	0.5
Galicia	20.2	73.9	10.5	14.7	0.9
Madrid	34.4	73.1	9.6	15.8	1.5
Murcia	11.6	62.9	17.5	17.1	2.6
Navarre	15.4	76.6	9.1	13.5	0.8
Basque Country	20.7	70.3	11.4	16.4	1.9
Rioja (La)	25.7	91.3	3.9	4.4	0.5
Total	**20.9**	**75.0**	**9.8**	**14.3**	**1.0**

Source: *The Spanish Judiciary in Figures 2010.*

Table 6. Share of Appellate Court of Cassation Judgements by Type of Outcome

Cassation appeals in the Provincial Courts for Criminal Judgments

	Appeals submitted higher Court/ Judgements	Upheld	Reversed in full	Reversed in part	Quashed
Andalusia	4.1	83.2	7.3	8.3	1.1
Aragon	5.4	82.6	6.6	9.9	0.8
Asturias	4.5	77.8	1.9	14.8	5.6
Balearic Islands	2.9	82.9	0.0	4.9	12.2
Canary Islands	4.6	90.2	1.9	5.7	2.3
Cantabria	2.0	95.5	4.6	0.0	0.0
Castille and Leon	2.3	75.0	7.5	15.0	2.5
Castille-La Mancha	3.2	81.1	7.6	10.4	0.9
Catalonia	4.1	87.8	4.1	7.1	1.0
Valencian Region	3.6	86.8	3.5	7.7	2.1
Extremadura	3.7	81.3	6.3	12.5	0.0
Galicia	2.5	80.2	2.5	14.1	3.3
Madrid	4.4	90.1	2.6	7.1	0.3
Murcia	2.5	76.2	7.1	16.7	0.0
Navarre	3.2	84.4	0.0	15.6	0.0
Basque Country	3.5	86.3	4.6	7.2	2.0
Rioja (La)	2.2	72.7	0.0	27.3	0.0
Total	**3.8**	**86.0**	**4.3**	**8.3**	**1.4**

Source: *The Spanish Judiciary in Figures 2010.*

Estimated length of proceedings

Table 7. Average Length of Proceedings in Criminal Courts (in months)

Courts of Criminal Jurisdiction

	2010	2009	2008	2007	2006
Magistrates' Courts and of First Instance and Enquiry Courts	1.9	1.8	1.8	1.8	1.8
Juvenile Courts	7.5	7.1	7.1	7.3	7.8
Prison Supervisory Courts	1.3	1.1	1.0	1.0	1.0
Criminal Courts	9.3	8.1	7.1	6.2	5.8
Provincial Courts	2.7	2.7	2.7	2.5	2.4
H.C.J. Civil and Criminal Chamber	2.1	1.9	1.7	1.4	1.6
Central Enquiry Courts	4.5	5.3	5.5	5.9	6.0
Central Criminal Courts	6.5	4.1	3.1	4.5	4.5
National Court. Criminal Chamber	2.2	2.1	2.4	2.4	3.3
High Court 2nd Chamber	5.8	6.5	6.3	5.7	6.5

Source: *The Spanish Judiciary in Figures 2010.*

Table 8. Average Length of Proceedings in Provincial Courts (in months)

Provincial Courts. Jury Cases

	2010	2009	2008	2007	2006
Andalusia	5.0	3.8	4.8	4.8	4.6
Aragon	3.3	7.4	6.1	5.2	4.3
Asturias	5.9	9.1	13.9	15.2	11.1
Balearic Islands	2.7	3.8	2.0	2.9	2.6
Canary Islands	7.7	6.4	4.3	6.7	9.3
Cantabria	6.6	6.1	5.6	9.1	6.8
Castille and Leon	4.1	7.4	5.6	3.6	3.0
Castille-La Mancha	7.2	9.0	6.6	6.5	5.7
Catalonia	7.2	7.3	8.3	7.6	7.5
Valencian Region	4.5	4.2	5.4	5.1	5.4

Table 8. Average Length of Proceedings in Provincial Courts (in months) (Continued)

Provincial Courts. Jury Cases

	2010	2009	2008	2007	2006
Extremadura	10.8	10.0	9.4	12.0	11.1
Galicia	4.1	5.2	6.0	4.1	4.2
Madrid	5.4	4.7	6.2	6.9	7.6
Murcia	5.9	5.8	5.7	6.3	9.7
Navarre	4.0	5.0	5.3	17.3	12.0
Basque Country	14.0	15.6	12.4	9.2	10.4
Rioja (La)	7.7	14.0	36.0	-	-
Spain	**5.9**	**6.0**	**6.5**	**6.5**	**6.7**

Provincial Courts. Criminal Appeals

	2010	2009	2008	2007	2006
Andalusia	1.7	1.6	1.4	1.3	1.3
Aragon	1.1	1.6	2.7	3.2	2.7
Asturias	1.0	0.8	0.7	0.7	0.7
Balearic Islands	3.8	3.5	2.9	2.9	3.9
Canary Islands	3.3	5.5	7.1	5.9	5.4
Cantabria	1.9	1.7	1.4	1.1	1.0
Castille and Leon	1.8	1.2	1.1	1.0	1.1
Castille-La Mancha	2.6	2.0	2.0	1.6	1.4
Catalonia	3.8	4.0	3.5	3.0	3.2
Valencian Region	1.3	1.4	1.2	1.0	0.9
Extremadura	0.3	0.4	0.5	0.4	0.4
Galicia	2.2	2.1	1.8	1.7	1.7
Madrid	2.1	1.8	1.9	1.8	1.7
Murcia	2.9	2.0	2.0	1.3	2.0
Navarre	2.9	2.7	2.9	2.7	2.8
Basque Country	1.8	1.6	1.3	1.0	1.2
Rioja (La)	1.8	1.6	1.7	1.5	1.8
Spain	**2.2**	**2.2**	**2.2**	**2.0**	**2.0**

Source: *The Spanish Judiciary in Figures 2010.*

Average time of proceedings pending at the end of the year

Table 9. Average Length of Pending in Criminal Courts (in months)

Courts of Criminal Jurisdiction

	2010	2009	2008	2007	2006
Magistrates' Courts and First Instance and Enquiry Courts	0.9	0.9	0.9	0.9	0.9
Juvenile Courts	3.5	3.8	3.7	3.6	3.8
Courts of Penitentiary Surveillance	0.7	0.7	0.5	0.5	0.5
Criminal Courts	4.9	4.5	3.8	3.4	3.0
Provincial Courts	1.3	1.3	1.4	1.3	1.2
H.C.J.Civil and Criminal Chamber	1.1	1.0	0.9	0.7	0.9
Central Enquiry Courts	2.0	2.5	2.8	2.8	3.0
Central Criminal Courts	3.7	3.0	1.3	2.0	2.3
National Court. Criminal Chamber	1.0	1.0	1.3	1.0	1.3
High Court 2nd Chamber	2.8	2.9	3.6	2.8	2.9

Provincial Courts. Preliminary Investigations

	2010	2009	2008	2007	2006
Andalusia	3.7	3.9	4.6	4.6	4.1
Aragon	5.3	6.2	7.0	6.2	5.0
Asturias	6.5	6.4	5.6	5.1	6.6
Balearic Islands	1.8	1.8	5.1	9.1	2.7
Canary Islands	4.0	6.6	5.0	5.9	5.6
Cantabria	6.4	7.5	7.6	5.2	5.7
Castille and Leon	2.5	3.1	3.8	3.1	2.2
Castille-La Mancha	5.0	5.3	6.7	5.4	5.8
Catalonia	6.4	6.4	6.4	6.7	7.3
Valencian Region	4.7	3.7	2.9	2.6	2.3
Extremadura	9.7	10.0	8.3	8.7	6.7

Table 9. Average Length of Pending in Criminal Courts (in months) (Continued)

Provincial Courts. Preliminary Investigations

	2010	2009	2008	2007	2006
Galicia	5.3	4.5	5.0	5.0	4.5
Madrid	4.2	4.0	3.7	4.0	3.8
Murcia	7.6	8.7	6.7	5.1	4.4
Navarre	5.0	7.9	6.5	6.7	7.7
Basque Country	6.1	5.0	4.6	5.3	5.2
Rioja (La)	8.7	7.0	9.6	6.4	6.0
Spain	**4.4**	**4.5**	**4.5**	**4.7**	**4.1**

Source: *The Spanish Judiciary in Figures 2010.*

Table 10. Average Length of Pending in Provincial Courts (in months)

Provincial Courts. Jury Cases

	2010	2009	2008	2007	2006
Andalusia	2.8	2.0	2.1	2.7	2.0
Aragon	2.0	2.6	4.2	1.3	3.0
Asturias	4.5	2.0	6.0	7.9	7.5
Balearic Islands	1.7	1.5	1.3	1.0	1.7
Canary Islands	3.8	4.0	1.8	2.7	3.7
Cantabria	3.8	3.4	2.2	4.3	5.0
Castille and Leon	2.0	3.6	3.5	1.8	1.9
Castille-La Mancha	3.2	5.3	3.5	3.3	3.3
Catalonia	3.8	3.4	3.8	4.1	3.7
Valencian Region	2.6	2.1	2.2	2.7	2.5
Extremadura	5.0	6.0	4.0	4.8	6.9
Galicia	1.9	2.2	3.2	2.4	2.2
Madrid	3.4	2.4	2.5	3.1	4.0
Murcia	3.5	2.8	3.3	2.7	4.8

Table 10. Average Length of Pending in Provincial Courts (in months) (Continued)

Provincial Courts. Jury Cases

	2010	2009	2008	2007	2006
Navarre	2.0	2.0	2.0	6.0	11.3
Basque Country	8.0	6.0	9.6	4.5	4.6
Rioja (La)	3.0	4.0	18.0	18.0	18.0
Spain	**3.3**	**2.9**	**3.1**	**3.2**	**3.4**

Provincial Courts. Criminal Appeals

	2010	2009	2008	2007	2006
Andalusia	0.9	0.9	0.8	0.7	0.6
Aragon	0.5	0.5	1.1	1.7	1.5
Asturias	0.5	0.4	0.4	0.3	0.5
Balearic Islands	1.9	1.9	1.8	1.2	1.5
Canary Islands	1.6	1.8	3.4	3.2	3.0
Cantabria	0.9	0.9	0.8	0.6	0.6
Castille and Leon	1.0	0.8	0.6	0.5	0.6
Castille-La Mancha	1.5	1.1	1.1	0.8	0.9
Catalonia	1.7	2.0	2.0	1.7	1.4
Valencian Region	0.6	0.8	0.6	0.5	0.5
Extremadura	0.2	0.1	0.2	0.2	0.2
Galicia	1.0	1.1	1.0	0.9	0.8
Madrid	1.1	1.0	0.9	1.0	0.9
Murcia	1.5	1.4	0.9	0.8	0.6
Navarre	1.4	1.4	1.3	1.5	1.5
Basque Country	0.9	0.8	0.8	0.6	0.5
Rioja (La)	0.9	0.9	0.8	0.7	0.9
Spain	**1.1**	**1.1**	**1.1**	**1.1**	**1.0**

Source: *The Spanish Judiciary in Figures 2010.*

Complaints

Table 11. Feedback by Citizens Broke Down by Type

Claims, complaints, suggestions and written requests for information, according to the body whose action is sought

	2009	2010	Growth %
Unit of Public Assistance of the GCJ	10,839	9,888	-9 %
Other Central Bodies	2,371	2,214	-7 %
Inspection Department	1,788	880	-51 %
Total	**14,998**	**12,982**	**-13 %**

Reasons for the claims, complaints, suggestions and requests for information

Overview	Number	Percentage
Relating to the operation of tribunals and courts	12,433	74.5 %
Dissent with a ruling	2,379	14.3 %
Unclassifiable or uninvolved matter	1,233	7.4 %
Requests for information	489	2.9 %
Suggestions	107	0.6 %
Expressions of gratitude	53	0.3 %
Total	**16,694**	**100.0 %**

Breakdown of reasons for claims and complaints relating to the operation of tribunals and courts

Modern and open Justice	
Transparency	990
Comprehensibility	9
Attentiveness	4,567
Answerability to the public	202
Speed and use of modern technologies	5,347
Total for Modern and Open Justice	11,115

Table 11. Feedback by Citizens Broke Down by Type (Continued)

Breakdown of reasons for claims and complaints relating to the operation of tribunals and courts

Justice that protects the weakest members of society	
Protection of Crime victims	36
Protection of Children	4
Protection of disabled People	94
Immigrants and Justice	13
Total for Justice that protects the weakest members of society	**147**
A trusting relationship with lawyers and solicitors of the courts	
Ethically sound conduct	116
Adequately informed citizens	4
Public-Funding and quality of Justice	168
Total for A trusting relationship	**288**
Other reasons not provided for in the Charter of Citizens' Rights	
Professionals' Practice	160
Manner in which the professionals perform their duties	723
Total for Other reasons not provided for in the Charter	**883**
Total for Reasons relating to the Operation of Tribunals and Courts	**12,433**

- The first three classes relate to the Charter of Citizens' Rights before Justice.

The following matters prompted the largest number of complaints in relation to *Attentiveness in justice*:

- The right to a reduction in waiting times (1,282)
- The right to be treated respectfully (963)
- The right to an adequate time (905)
- The right to waiting and being attended to in rooms that is suitably adapted to such purposes (485)

Table 11. Feedback by Citizens Broke Down by Type (Continued)

In the class with the most instances, *Speed and use of modern technologies in justice*, the following matters prompted the largest number of complaints:

- The right to a speedy processing of the issues that concern them and to be informed of the reasons for any delays (3,812).
- The right to be provided with suitably designed forms (701).

Claims and complaints by area of law (*)

Area of law	No. of claims	Percentage
Registration of births, marriages and deaths	5,804	37 %
Criminal	3,678	23 %
Civil	2,083	13 %
Government-related	865	5 %
Civil – family	652	4 %
Penitentiary Surveillance	371	2 %
Labour	358	2 %
Criminal – Violence against Women	261	2 %
Administrative	256	2 %
Civil – Commercial	99	1 %
Juvenile	51	0 %
Unspecified	1,264	8 %
Total	**15,742**	**100 %**

(*) *The Reports Section of the Inspection Department does not provide any information on the complaints it receives. Therefore, such complaints have not been included in the chart.*

Claims and complaints by type of claimant
Gender perspective

Type of person	Number	Percentage
Male	8,007	60.0 %
Female	4,898	36.7 %
Other	258	1.9 %
Legal entity	153	1.1 %
Judicial body	36	0.3 %
Total	**13,352**	**100.0 %**

Table 11. Feedback by Citizens Broke Down by Type (Continued)

Legal status

Type of petitioner	Number	Percentage
Private individuals	10,811	81.0 %
Legal professionals	1,178	8.8 %
Penitentiary centre convicts	826	6.2 %
Anonymous	137	1.0 %
Groups/associations	95	0.7 %
Businesses	91	0.7 %
Public officials	84	0.6 %
Unspecified and others	58	0.4 %
Judicial Bodies	36	0.3 %
Public bodies	19	0.1 %
Technical bodies of the GCJ	17	0.1 %
Total	**13,352**	**100.0 %**

Claims and complaints by judicial body concerned

Judicial bodies	Number	Percentage
Court of First Instance and Enquiry	3,999	35.4 %
Court of First Instance	2,208	19.6 %
Magistrates' Courts	1,113	9.9 %
Criminal Court	654	5.8 %
Exclusive Public Registry	635	5.6 %
Judicial Site	621	5.5 %
Provincial Court	321	2.8 %
Labour Court	261	2.3 %
Prison Supervisory Court	236	2.1 %
Central Registry Office of Births, Marriages and Deaths	276	2.4 %
Administrative Court	140	1.2 %
High Court of Justice	128	1.1 %
Justices of the Peace	135	1.2 %
Common Offices	125	1.1 %

Table 11. Feedback by Citizens Broke Down by Type (Continued)

Claims and complaints by judicial body concerned

Judicial bodies	Number	Percentage
Court of Violence Against Women	96	0.9 %
Commercial Court	86	0.8 %
Juvenile Court	26	0.2 %
Supreme Court	73	0.6 %
Exclusive Senior Court	58	0.5 %
National Court	32	0.3 %
Central Enquiry Court	26	0.2 %
Central Juvenile Court	19	0.2 %
Central Administrative Court	14	0.1 %
Services Support Jurisdiction	3	0.0 %
Central Military Court	1	0.0 %
Total	**13,164**	**100.0 %**

Breakdown of other bodies that have been the subject of claims and complaints

Judicial bodies	Number	Percentage
Professional Lawyers' Associations	206	8 %
Legal Counselling Offices	133	5 %
Forensic Clinics and Forensic Medicine Institutes	97	4 %
Public Prosecutors' Offices	87	3 %
Administration with judicial powers	65	2 %
General Council of the Judiciary	65	2 %
Others administrations	53	2 %
Prisons	50	2 %
Professional Solicitors' Associations	15	1 %
State Security Forces	15	1 %
Free Legal Aid Committees	9	0 %
Office of complaints	7	0 %
Electoral Boards	1	0 %
Constitutional Court	9	0 %

Table 11. Feedback by Citizens Broke Down by Type (Continued)

Breakdown of other bodies that have been the subject of claims and complaints

Judicial bodies	Number	Percentage
Others	12	0 %
Not specified	995	38 %
General	800	31 %
Total	**2,619**	**100 %**

Territorial distribution of the courts/judicial bodies

Autonomous Regions	Number
Andalusia	1,779
Aragon	205
Asturias	176
Balearic Islands	185
Canary Islands	816
Cantabria	120
Castille and Leon	462
Castille-La Mancha	562
Catalonia	1,620
Valencian Region	1,714
Extremadura	158
Galicia	438
Madrid	2,744
Murcia	386
Navarre	100
Basque Country (*)	333
Rioja (La)	60
Central bodies	518
Military territories	1
Unspecified	1,528
Total	**13,905**

(*) *In the Basque Country there are not boxes for complains in judicial sites. This fact could affect the results.*

Table 11. Feedback by Citizens Broke Down by Type (Continued)

Number of claims that had been entertained and what type of measures had been taken for improvement

Type of measure approved	Number	Percentage
Disciplinary	26	1.21 %
Material resources	24	1.11 %
Personnel resources	1,190	55.25 %
Organisation of the judicial office	136	6.31 %
Procedural	774	35.93 %
Transfer to a different competent body	4	0.19 %
Total	**2,154**	**100.00 %**

Source: *Data 2010 of the Citizens Service Unit of the GCJ.*