

## Methodological issues in the comparative analysis of the number of judges, administrative personnel, and court performance collected by the Commission for the Efficiency of Justice of the Council of Europe

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### Abstract

This paper raises some methodological issues when a comparative approach is used to compare the number of judges, court personnel, and court performance in European judiciaries. Data come from the Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, which also is the main source for the European Union Justice Scoreboard. Some proposals are made to improve the collection of data and, then, increasing their comparability. The paper shows how an assessment on the number of judges and court personnel can benefit from a cross country comparative perspective, but only if quantitative analysis come together with in-depth qualitative studies.

### Key words

Commission for the Efficiency of Justice; CEPEJ; judges; comparative analysis

### Resumen

Este artículo plantea algunos problemas metodológicos que surgen cuando se abordan desde una perspectiva comparativa el número de jueces, el personal judicial y la actuación judicial en diferentes ámbitos judiciales europeos. Los datos provienen de la Comisión Europea para la Eficacia de la Justicia (CEPEJ, en inglés), del Consejo Europeo, que es también el origen principal de los Indicadores Europeos de la Justicia. Se hacen algunas propuestas para mejorar la recolección de datos y para aumentar su comparatividad. El artículo muestra que se puede hacer una mejor valoración del número de jueces y de miembros del personal judicial desde una perspectiva comparativa entre países, pero sólo si los análisis cuantitativos corren parejas con estudios comparativos en profundidad.

### Palabras clave

Comisión para la Eficacia de la Justicia; CEPEJ; jueces; análisis comparativo

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## 1. Introduction

An efficient judicial system that is capable of settling disputes and penalising behaviour considered deviant with certainty, rapidity and fairness, constitutes one of the foundation for a democratic society and is considered important for the smooth running of the market economy (North 1990).

New procedures, information and communication technologies, innovative ways to settle disputes, timeframes, quality management, and efficient court management practices are just some examples of actions that can be undertaken to improve the functioning of courts, which are the institutional cornerstones of justice systems.

However, courts remain complex labor intensive organizations, so while they certainly benefit by innovative procedures, technologies, and ideas, they still need an *adequate number* of judges and administrative personnel to address the citizens' justice demands.

The assessment of that *adequate number* is a quite complicated issue. It has been tackled by various justice systems in different ways. For example, the number of judges to be allocated in each court can be calculated based on historical data of incoming, resolved, and pending cases, backlogs, and population to be served. Some more sophisticated analysis can take into consideration the above mentions factors plus some other variables such as number of business, number of lawyers, and resources used, applying regression analysis, and other statistical techniques. Another way is the weighted caseload, which weights cases based on their complexity, and then the time and the court personnel needed to process them (Flango and Ostrom 1996, Lienhard and Kettiger 2011, Gramckow 2012).

A legitimate curiosity, and a possible starting point to assess if each country has an *adequate number* of judges and administrative court personnel to deal with its caseload, is to compare the number of judges, and administrative personnel, across countries. This approach is also a very promising way to increase knowledge of the functioning of the different justice systems. The comparative method<sup>1</sup> is a powerful heuristic tool to explore how the 'others' do the same thing, increasing knowledge, and identifying practices that may positively affect the functioning of justice systems.

However, as far as the number of judges is concerned, what appears to be an easy task is in reality quite challenging, as John Macdonnell already pointed it out in 1902:

I have endeavoured to obtain information as to the number of judges in some other countries with a view to institute a comparison between them and England in this respect [...] I am enabled to present information which, though very incomplete, has, so far, as I know, never hitherto been collected. Such a comparison is more difficult than at first sight would appear. The term 'judge' is very ambiguous. (Macdonnell 1902)

On the same tone, Ramseyer and Rasmusen (2010): "Measuring the number of judges is not as simple as it seems, since judges is an ambiguous term when several different levels of adjudicators exists. Moreover, we lightly passed over the problem that judges deal with criminal as well as civil cases, and the ratio between the two cases different between countries".

These observations suggest that there are several concerns about the comparability of the number of judges across countries. Are these concerns founded? If they are, what kind of comparisons are possible, and which ones should be avoided?

<sup>1</sup> This is not the paper to address more in detail the comparative method. Several works have analyzed pros and cons of the comparative method, with different perspective and approaches. Among them Przeworski and Teune 1970, Lijphart 1975, Smelser 1976, Sartori 1991, Bartolini 1993.

This paper will try to answer these questions, considering the data available on the number of judges and court personnel in Europe, and identifying some methodological problems when a comparative approach is used. As we will see, data mainly come from the Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe. Some data available on court performance will also be taken into consideration, because that is often related to the number of judges and judges' productivity. Finally, I will make some proposals to improve the collection of data, and then, hopefully, increasing their comparability.

## 2. The data available

In 1953, the Council of Europe established the European Court on Human Rights, based on article 19 of the European Convention of Human Rights signed in Rome in 1950. The Court has constantly seen an increase in its incoming cases over the years, in particular cases that deal with the excessive length of judicial proceedings, breaching the requirement of 'reasonable time' stated by article 6 of the Convention.<sup>2</sup>

Due also to this increasing caseload, in 2002, the Committee of Ministers of the Council of Europe established the Commission for the Efficiency of Justice (CEPEJ, Commission Européenne pour l'Efficacité de la Justice) "for improving the quality and efficiency of the European judicial systems and strengthening the court users' confidence in such systems" (CEPEJ n.d.) CEPEJ's mission is to propose pragmatic solutions as regards judicial organization, to enable a better implementation of the Council of Europe's standards in the justice field, to contribute toward relieving the caseload of the European Court of Human Rights by providing states with effective solutions to prevent violations of the right to a fair trial within a reasonable time (Ibid.)

The CEPEJ has 47 members appointed by the 47 Member States, and it is supported by a Secretariat within the Directorate General of Human Rights and Legal Affairs of the Council of Europe. Its work is organized in plenary sessions and working groups that deal with some specific issues.<sup>3</sup>

In particular, one group deals with the "Evaluation of European Judicial Systems", which collects quantitative and qualitative data on several topics of the functioning of the justice systems of the Member States. The collection is carried out through a questionnaire with more than 200 questions, which is filled in by the Member States national correspondents – a working group within the CEPEJ – every two years. This is a unique collection of data and information about the functioning of European judicial systems since 2004, which has no equal in any other study carried out by international organizations or researchers.

Another working group: 'The Saturn Centre for Judicial Time Management' is charged with collecting data and information about the length of judicial proceedings in the Member States, sharing practices, and developing tools and innovative ideas to improve the pace of litigation, and to prevent violations of the right for a fair trial within a reasonable time.

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<sup>2</sup> Article 6 of the European Convention on Human Rights (Council of Europe 1953) states the right to a fair trial. "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".

<sup>3</sup> According to its Statute, the CEPEJ must "(a) examine the results achieved by the different judicial systems (...) by using, amongst other things, common statistical criteria and means of evaluation, (b) define problems and areas for possible improvements and exchange views on the functioning of the judicial systems, (c) identify concrete ways to improve the measuring and functioning of the judicial systems of the member states, having regard to their specific needs".

A third working group is dealing with the broad subject of 'quality' of judicial systems, promoting practices and customers' satisfaction surveys for the improvement of court functioning.

The CEPEJ also has an intense international cooperation activity in several European and not European States to support reform processes and implement CEPEJ recommendations. This activity has been constantly increasing in the last few years (CEPEJ 2017).

The Commission for the Efficiency of Justice, and its working groups, represent an extraordinary laboratory of innovations and changes. The different judicial systems within the 'extended Europe' make for a plurality of examples, at times contrasting, of the use of law, procedures, governance settings, technology applications, access to justice, and institutional reforms in the administration of justice.

The different approaches and solutions that have been adopted in single countries, from a technical, judicial, organizational point of view, together with the policies developed, give rise to a unique chance to study and reflect upon the challenge to improve the administration of justice. In particular, data collected through the 'Evaluation exercise' every two years are the most complete systematic collection of information on the functioning of the European justice systems.

The data collection organized by the CEPEJ also is the basis for the 'European Union Justice Scoreboard'.<sup>4</sup> The Scoreboard is published every year since 2013, and compiles data only from the European Union countries. The Scoreboard is "an information tool aiming at assisting the EU and Member States to achieve more effective justice by providing objective, reliable and comparable data on quality, independence and efficiency justice systems in all Member States" (European Commission 2016, 1). Since the first edition, data on judges, court personnel, resources, and performance are provided by the CEPEJ, then some other data coming from other sources have been added over the years.<sup>5</sup> The CEPEJ questionnaire is divided into several sections that collect data about the budget of the judiciary, the number of courts and court's personnel, the access to justice (legal aid), the usage of information and communication technologies, the caseload, the monitoring of the length of proceedings, and some other topics.

Over the years, the CEPEJ Evaluation working group, the secretariat, and the countries' national correspondents, who provide the data from each judiciary, have constantly worked together to improve the reliability and consistency of the data collected. A quite detailed 'Explanatory note' has been drafted and periodically amended to assist the national correspondents (CEPEJ 2012, 2013, 2015) and in so doing to ensure that concepts are addressed according to a common understanding.

Countries replies to the questionnaire come often with further comments that are very informative and valuable to give a better interpretation of numbers. This allows grasping several important features of the different system. However, as I will discuss below, quite often, they are still not good enough to make 'safe comparisons' across countries.

The CEPEJ study n. 20 published in 2014, with data referring to 2012, offers a wide synthesis of the data collected in the 47 Member States. In addition, the single country reports are available on-line, offering all the details and comments supplied by the country in the questionnaire compilation.

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<sup>4</sup> An interesting description and perspective of the Scoreboard is given by Dori (2015).

<sup>5</sup> For example, a flash survey carried out by Eurobarometer on the citizens' perceived independence of the EU judiciaries. Eurobarometer was established in 1974. It carries out standard, special, and flash surveys on different issues related to the European Union. See: European Commission n.d. For a full list of other sources, please see European Commission 2017.

The last CEPEJ study (2016, 6 October) on the evaluation of judicial systems, is almost half the number of pages of the previous one. It focuses only on some key issues (budget of judicial systems, judicial staff and lawyers, court organisation and court users, efficiency and quality of the activity of courts and public prosecutors, court personnel, legal aid). Full data are presented through an interactive database (CEPEJ 2016b) that allows the extraction of data for single country, or for several countries, on the same issue dealt with in the questionnaire.<sup>6</sup>

There have been other efforts to collect comparable data on European justice systems. The United Nation Office on Drugs and Crime made an effort to developing standards in justice and home affairs statistics in 2010. It found that that “Work on the development of standards for justice and home affairs statistics at EU level is progressing fast, but much of it remains in its infancy, especially because of the complexity of reaching comparability” (United Nations Office on Drugs and Crime 2010, 10).

Eurostat, the European Union statistics office, collects data on crimes and criminal justice “to make policy-relevant information and analysis available in a timely manner to the European community” (Eurostat 2015). However, “providing data on crime in the EU is complicated by considerable differences in the methods and definitions used in the Member States”, therefore data are not compared cross country but only over time.<sup>7</sup>

Some other collections of data have been carried out in the criminal field<sup>8</sup> but, as of today, the most current data on the number of judges and, more in general, on the functioning of justice systems, is the CEPEJ collection. For the purposes this paper, I will use the CEPEJ data collection focussing on figures and information about judges, court personnel, and court performance, as they are often put in relation with the units of personnel in service. The CEPEJ’s work is an outstanding effort but, how we will see, one that has to be ‘handled with care’, particularly in comparative perspective, to avoid possible misinterpretation and fallacies.

### **3. Making comparative assessments using judges and administrative personnel in the CEPEJ questionnaire on European judicial systems**

The 2014, EU Justice Scoreboard, based on CEPEJ data, stated that “the gathering of objective, comparable and reliable data on the effectiveness of justice systems covering all Member States remains a challenge. This may be for different reasons: lack of availability of data due to insufficient statistical capacity, lack of comparability due to procedures or definitions which may vary significantly or the unwillingness to cooperate fully with the CEPEJ” (European Commission 2014, 27).

In addition, data need interpretations that are not objective.<sup>9</sup> “It is naive to think that words have meaning in an objective and defined sense; they have meaning

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<sup>6</sup> “A dynamic data base to the public on the internet, including a data processing system, which will allow all stakeholders to analyze independently, and according to their needs, a comprehensive volume of data for a specific group of States, or for all States concerned” (CEPEJ 2016b, 5).

<sup>7</sup> “European countries differ widely in the way they organise their criminal justice systems, the way they define their legal concepts, and the way they collect and present their statistics on crime and criminal justice. The lack of uniform definitions, of standardized instruments and of common methodology makes comparisons of crime data between jurisdictions difficult (...). For the above reasons, direct comparisons of crime levels in different countries should be avoided. As a general rule, comparisons should be based upon trends rather than upon levels, on the basis that the characteristics of the recording system within a country remain fairly constant over time. European Union trends have been calculated only to give an approximate indication of the change over time.” (Eurostat n.d.).

<sup>8</sup> For example, European Institute for Crime, Prevention and Control 2014.

<sup>9</sup> “It is reasonable to assume that some variations occurred when national correspondents interpreted the questions for their country and tried to match the questions to the information available to them. The reader should bear this in mind and always interpret the statistical figures given in the light of their attached narrative comments and the more detailed explanations given in the individual national replies

only in so far as it is ascribed to them in a given context. Their meaning depends on that context - on its values, understandings, and history - and on the interpreter and his specific and individual values and concerns within that context" (Galligan 1986, 293. See also Kritzer 1996).

As I will show, not only these figures, but all the data included in the CEPEJ collection, need a careful analysis contextualized for each country to avoid hazardous comparisons and, if abruptly compared, misleading results<sup>10</sup>. Indeed, the CEPEJ reports over the years are full of warnings to avoid superficial comparisons or, even worst, meaningless ranking of the Council of Europe Member States. In the CEPEJ's words: "The report aims to give an overview of the situation of the European judicial systems, not to rank the best judicial systems in Europe, which would be scientifically inaccurate and would not be a useful tool for the public policies of justice" (CEPEJ 2014, 10).

This message was repeated in 2016: "Only a careful reading of the report and a rigorous comparison of data make it possible to draw analysis and conclusions. Data cannot be read as they are, but must be interpreted in the light of the methodological notes and comments. Compare is not ranking" (CEPEJ 2016a, 6).<sup>11</sup>

In the constant process to improve the consistency of the data collected, several definitions have been refined, even though some of them still create some problems to be consistently used in the various countries. Usually, these definitions are the result of a difficult process to include in common categories several different situations in the Member States. This 'mediation process', on the one hand, cannot always grasp the wide gamut of differences in the 47 European countries, on the other hand, brings out the interesting nuances across the countries, particularly in the comments attached to the replies.

Therefore, figures cannot be passively taken but must be interpreted in the light of qualitative information that can explain the situation. In this respect, comments included in the questionnaire are very useful to provide a better understanding of 'cold figures'.

In addition, national correspondents who fill in the questionnaire do not always comment with sufficient clearness on the situation of their country, or they adopt an interpretation that it is not always consistent with the one given by others, this is a further limitation in the comparison of data across countries.

Let us see more in detail what kind of data are collected and the problems in comparing them.

#### 4. Judges and court personnel: European figures

As mentioned, the first problem to address in the data collection is that of consistency in the definition of the 'unit of analysis' of what is required to be counted. For example, the CEPEJ defines, a 'judge' "a person entrusted with giving, or taking part in, a judicial decision opposing parties who can be either natural or physical persons, during a trial. This definition should be viewed in the light of the European Convention on Human Rights and the case law of the European Court of

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[...]. The comparison of quantitative figures from different countries [...] should be approached with great caution" (CEPEJ 2014, 8).

<sup>10</sup> On this respect is quite highlighting the example of the definition of small claims, which go from a claim whose value is less than 500 to 45,000 Euro. See CEPEJ 2014, 120, Table 5.6.

<sup>11</sup> "Comparing quantitative figures from different States or entities, with different geographical, economic, and judicial background is a difficult task which must be addressed cautiously. To compare the judicial systems of various States, it is in particular necessary to highlight the specificities, which explain variations from one State to another (level of wealth, different judicial structures, data collection). Careful attention has been paid to the terms used and to the definition and use of concept, which were clarified with the national correspondents entrusted with the coordination of data collection in the States or entities." (CEPEJ 2016a, 6)

Human Rights. More specifically, the judge decides, according to the law and following organized proceedings, on any issue within his/her jurisdiction" (CEPEJ 2016, 81).

The CEPEJ collects figures about judges by dividing them into three categories: *Professional judges* "those who have been trained and who are paid as such, and whose main function is to work as a judge and not as a prosecutor. The fact of working full-time or part-time has no consequence on their status"; *Professional judges practicing on an occasional basis* "paid as such"; *Non-professional judges* "who are volunteers, who are compensated for their expenses and who give binding decisions in courts" (CEPEJ 2016, 81).

The CEPEJ suggests that judges, and other court personnel, be counted using the "Full Time Equivalent" (FTE) method,<sup>12</sup> to try to ensure consistent data and provide a starting point for any comparative analysis.

The *first problem* to be addressed with further investigations is that the FTE method does not seem to have been applied by all the countries. Indeed, as the CEPEJ 2014 report (p. 156) states that "only some states have indicated details (judges seconded to the ministries, judges on maternity leave, for instance)". Further doubts about the appropriate use of the FTE method are evident from the comments about the data supplied by some countries. For example, Slovakia reports "The total number of judges in the records of the Ministry of Justice is 1,344 (497 males, 847 females) and includes also all of the judges not performing the function of a judge, e.g. judges temporarily assigned to other institutions (the Ministry of Justice, the Judicial Academy, other judicial institutions including international), judges on maternity leave etc." (CEPEJ 2014, 159).

An inconsistent application of the FTE method for the counting of judges in the various countries can create serious problems in any further analysis.

A *second problem* in judges' figures is connected to the structure of the various judiciaries and their jurisdictions. As it is known, courts' jurisdiction can be quite different in European countries, and this can affect significantly the counting of both judges and courts' personnel.

Generally speaking, there are four major jurisdictions: civil, criminal, administrative, financial/tax. On the one hand, depending on the institutional judicial setting of every country, civil and criminal matters are quite often considered 'ordinary jurisdictions', and are dealt with by 'ordinary courts' divided into two or more specialized units or departments. On the other hand, administrative and tax matters can be quite often two autonomous jurisdictions dealt with by different court organizations, specialized judges, and court personnel.

Countries figures and comments do not always clarify what kind of jurisdictions have been considered in counting the number of judges, and then the number of court personnel. In addition, it is not always clear in which countries administrative and tax judges have been included in the judges' figures. For example, France appears to include in the number of judges the administrative judges, while this is not the case for Italy, even though both countries have similar specialized jurisdictions for administrative matters.

A *third problem* is that in some countries, 'specialized' civil or criminal cases (e.g. labour, small claims, commercial, misdemeanour) can be dealt with by different kind of judges, and it is not clear if these judges have been counted and then, in which of the three proposed categories (professional, occasional, non-professional).

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<sup>12</sup> "The *full-time equivalent* indicates the number of persons working the standard number of hours; the number of persons working part time is converted to *full-time equivalent*. For instance, when two people work half the standard number of hours, they count for one "full-time equivalent", one half-time worker should count for 0.5 of a full-time equivalent" (CEPEJ 2013, 2).



In particular, for large countries, this can alter significantly the numbers reported and jeopardize any further cross-country analysis, unless an in-depth qualitative analysis is carried out.

To have an idea of the numbers reported, the following tables taken by the CEPEJ reports 2014 and 2016, compile the number of judges in the Council of Europe Member States plus Israel.<sup>13</sup>

As mentioned, the figures below should indicate data about professional judges in terms of FTE, but, as mentioned, there are several doubts that this has been really done for most of the countries.

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<sup>13</sup> Starting with the 2014 edition of the report, the questionnaire has also been filled out by Israel.

TABLE 1

Table 3.7 Categories and number of judges in 2014 (Q1, Q46, Q48, Q49, Q50)

States/entities	Professional judges (FTE)		Professional judges sitting in courts occasionally (gross figures)		Non-professional judges (lay judges) (gross figures)		Trial by jury
	Absolute number	Per 100 000 inhab.	Absolute number	Per 100 000 inhab.	Absolute number	Per 100 000 inhab.	
Albania	363	13	NAP	NAP	NAP	NAP	
Andorra	24	31	2	3	NAP	NAP	
Armenia	226	8	NAP	NAP	NAP	NAP	
Austria	1620	19	NAP	NAP	NA	NA	
Azerbaijan	600	6	NAP	NAP	NAP	NAP	
Belgium	1602	14	61	1	4026	36	
Bosnia and Herzegovina	993	26	101	3	254	7	
Bulgaria	2220	31	NAP	NAP	NAP	NAP	
Croatia	1734	41	NAP	NAP	NA	NA	
Cyprus	97	11	NAP	NAP	NAP	NAP	
Czech Republic	3028	29	NAP	NAP	5669	54	
Denmark	341	6	5	0	12000	212	
Estonia	231	18	NAP	NAP	802	61	
Finland	988	18	NAP	NAP	1738	32	
France	6935	10	510	1	24921	38	
Georgia	254	7	NAP	NAP	NAP	NAP	
Germany	19323	24	NA	NA	97306	120	
Greece	2231	21	NAP	NAP	NAP	NAP	
Hungary	2813	29	NAP	NAP	4500	46	
Ireland	160	3	NAP	NAP	NAP	NAP	
Italy	6939	11	NAP	NAP	3068	5	
Latvia	488	24	NAP	NAP	NAP	NAP	
Lithuania	754	26	NAP	NAP	NAP	NAP	
Luxembourg	227	40	NAP	NAP	NA	NA	
Malta	41	10	15	3	NAP	NAP	
Republic of Moldova	384	11	NAP	NAP	NAP	NAP	
Monaco	36	95	16	42	139	368	
Montenegro	254	41	13	2	NAP	NAP	
Netherlands	2359	14	1185	7	NAP	NAP	
Norway	559	11	47	1	43000	832	
Poland	10096	26	NAP	NAP	13933	36	
Portugal	1990	19	NAP	NAP	NAP	NAP	
Romania	4577	21	NAP	NAP	NAP	NAP	
Russian Federation	NA	NA	NAP	NAP	NAP	NAP	
Serbia	2700	38	NAP	NAP	2564	36	
Slovakia	1322	24	NAP	NAP	NA	NA	
Slovenia	924	45	NAP	NAP	3445	167	
Spain	5353	12	1193	3	7687	17	
Sweden	1150	12	266	3	8318	85	
Switzerland	1290	16	1900	23	1635	20	
The FYROMacedonia	629	30	NAP	NAP	1376	67	
Turkey	8835	11	NAP	NAP	NAP	NAP	
Ukraine	8089	19	NAP	NAP	NAP	NAP	
UK-England and Wales	1893	3	7000	12	19253	34	
UK-Northern Ireland	69	4	589	32	NAP	NAP	
UK-Scotland	177	3	96	2	389	7	
Israel	686	8	52	1	437	5	
Average	2376	21	812	9	12192	109	
Median	993	18	99	3	4026	38	
Minimum	24	3	2	0	139	5	
Maximum	19323	95	7000	42	97306	832	
Nb of Yes							20
Nb of No							26

Table 1. Number of judges in Europe in 2014.

Source: CEPEJ 2016, 90.

NAP stands for not applicable; NA stands for not available; NC stands for not calculated.

TABLE 2

States/entities	Professional judges (FTE)		Professional judges sitting in courts occasionally (gross figures)		Non professional judges (lay judges) (gross figures)	
	Absolute number	Per 100 000 inhab.	Absolute number	Per 100 000 inhab.	Absolute number	Per 100 000 inhab.
<b>Albania</b>	380	13,5	NAP	NC	NAP	NC
<b>Andorra</b>	24	31,5	2	2,6	NAP	NC
<b>Armenia</b>	219	7,2	NAP	NC	NAP	NC
<b>Austria</b>	1 547	18,3	NAP	NC	NA	NC
<b>Azerbaijan</b>	600	6,5	NAP	NC	NAP	NC
<b>Belgium</b>	1 598	14,3	NAP	NC	2601	23,3
<b>Bosnia and Herzegovina</b>	962	25,1	114	3,0	322	8,4
<b>Bulgaria</b>	2 239	30,7	NAP	NC	NAP	NC
<b>Croatia</b>	1 932	45,3	NAP	NC	NAP	NC
<b>Cyprus</b>	103	11,9	NAP	NC	NAP	NC
<b>Czech Republic</b>	3 055	29,1	NAP	NC	5923	56,4
<b>Denmark</b>	372	6,6	NAP	NC	12103	216,0
<b>Estonia</b>	228	17,7	NAP	NC	802	62,3
<b>Finland</b>	981	18,1	NAP	NC	2202	40,6
<b>France</b>	7 032	10,7	428	0,7	24932	38,0
<b>Georgia</b>	242	5,4	NAP	NC	NAP	NC
<b>Germany</b>	19 832	24,7	NA	NC	98107	122,3
<b>Greece</b>	2 574	23,3	NAP	NC	NAP	NC
<b>Hungary</b>	2 767	27,9	NAP	NC	4563	46,0
<b>Iceland</b>	55	17,1	NA	NC	NAP	NC
<b>Ireland</b>	144	3,1	NAP	NC	NAP	NC
<b>Italy</b>	6 347	10,6	NAP	NC	3275	5,5
<b>Latvia</b>	439	21,5	NAP	NC	NAP	NC
<b>Lithuania</b>	768	25,6	NAP	NC	NAP	NC
<b>Luxembourg</b>	212	40,4	NAP	NC	NA	NC
<b>Malta</b>	40	9,5	19	4,5	NAP	NC
<b>Republic of Moldova</b>	441	12,4	NAP	NC	NAP	NC
<b>Monaco</b>	37	102,4	16	44,3	127	351,5
<b>Montenegro</b>	263	42,4	11	1,8	NAP	NC

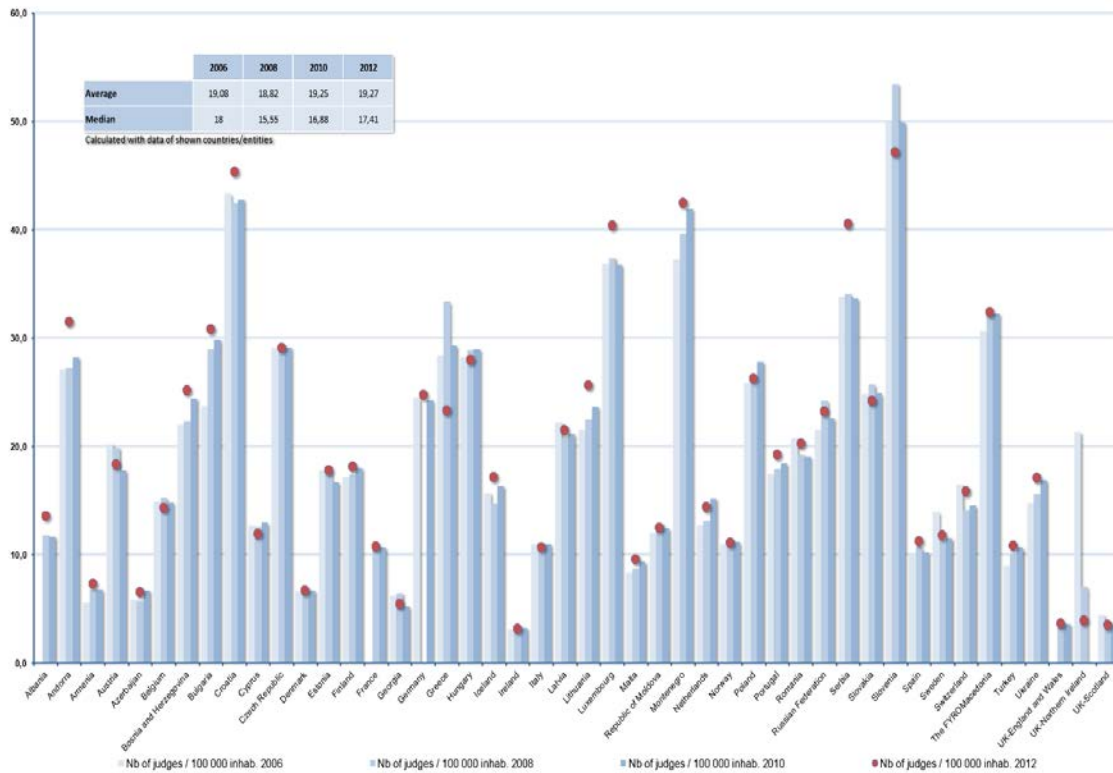
<b>Netherlands</b>	2 410	14,4	1100	6,6	NAP	NC
<b>Norway</b>	557	11,0	43	0,9	43000	851,3
<b>Poland</b>	10 114	26,2	NAP	NC	NA	NC
<b>Portugal</b>	2 009	19,2	NAP	NC	NAP	NC
<b>Romania</b>	4 310	20,2	NAP	NC	NAP	NC
<b>Russian Federation</b>	33 232	23,2	NAP	NC	538	0,4
<b>Serbia</b>	2 916	40,5	NAP	NC	NA	NC
<b>Slovakia</b>	1 307	24,2	NAP	NC	NA	NC
<b>Slovenia</b>	970	47,1	NAP	NC	3445	167,3
<b>Spain</b>	5 155	11,2	NA	NC	7685	16,7
<b>Sweden</b>	1 123	11,8	247	2,6	8600	90,0
<b>Switzerland</b>	1 271	15,8	NA	NC	2873	35,7
<b>The FYROMacedonia</b>	668	32,4	NAP	NC	1750	84,9
<b>Turkey</b>	8 126	10,7	NAP	NC	NAP	NC
<b>Ukraine</b>	7 754	17,1	NAP	NC	NAP	NC
<b>UK-England and Wales</b>	2 016	3,6	8858	15,7	23270	41,1
<b>UK-Northern Ireland</b>	70	3,8	563	30,9	NA	NC
<b>UK-Scotland</b>	185	3,5	95	1,8	440	8,3
<b>Average</b>	2 971	21,0	958	9,6	12328	113,3
<b>Minimum</b>	24	3,1	2	0,7	127	0,4
<b>Maximum</b>	33 232	102,4	8858	44,3	98107	851,3

**Table 2. Number of judges in Europe in 2012.**

Source: CEPEJ 2014, 'Figure 7.3', p. 160.

Data on the number of judges and court personnel are also put in relation with the number of inhabitants to 'weigh' these numbers with the size of the country.

FIGURE 1



**Figure 1. Number of professional judges per 100,000 inhabitants 2006-2008-2010-2012**

Source : CEPEJ 2014, 'Figure 7.3', p. 160.

The CEPEJ report (2016, 97) commented on these figures as follows: “The majority trend to be noted in Europe is the stability of employment over the last four years with an average of 21 judges per 100 000 inhabitants. However, this figure corresponds to very different realities: the judicial apparatus of the states of Central and especially Eastern Europe continue to operate with a ratio of judges per capita substantially higher than that of the states of Western Europe. Moreover, this same group of states have a fully professional system, or rarely use lay judges. The use of lay judges remains an essential feature of common law countries and those in northern Europe”.

However, as mentioned before, these figures do not take into consideration that: a) the FTE method does not seem to be used in a consistent way by all the countries; b) the number of judges reported can mixed up different jurisdictions based on the different courts' structure and interpretations given by the national correspondents who supply the data; c) there is a lack of consistency in the counting of judges in the three categories proposed; d) data for the category non-professional judges are largely missing for the Central and Eastern European countries

Another difficulty in making meaningful comparisons from these data is that the figures in the judicial sub-categories may not be accurate. As mentioned previously and indicated by the tables above, the number of judges has been counted considering three sub-categories. “Professional judge”, “professional judges sitting occasionally”, “non professional judges”. The idea was to grasp all the different kind of ‘adjudicators’ that can be found in European countries. However, based on the comments reported by the various countries, these categories have not been always interpreted in the same way by the national correspondents, or data are not fully available in these three categories. For example, in a 2014 report, Germany also included as ‘professional judges’ the number of professional judges sitting in

courts part-time occasionally, and it is not clear if they have been calculated using the Full Time Equivalent method.

It is also to be pointed out that in France commercial and labour matters are not dealt with by the civil courts, but by specialized courts presided over not by professional judges but by 'judges/adjudicators' appointed by the business community and the unions. They are counted within the 'non professional judges' group, which has a very large number over 24,000, indeed 14,512 of which operate in Labour courts (*Conseillers prud'hommes*) and in some others 'specialized tribunals' such as the Commercial and Rural. In France, the number of 'non-professional judges' does not include the number of 'jurors or lay judges'; on the contrary, this has been done by other countries such as, for example Germany and Slovenia.<sup>14</sup>

In the 2014 report (2012 data), the number of 'professional judges sitting occasionally' in Belgium was not applicable, while is 61 judges in 2016 report (2014 data). Even more significant, and not explained, the change in "non professional judges" that moved from 2,601 in 2012 to 4,026 in 2014.

Norway reported both in 2012 and 2014, exactly the same number of 43,000 "non professional judges", but it is not explained why they are so many. Poland moved from a not available data in the 2014 report, to 13,933 "non professional judges" in 2016 report (2014 data). Similar situation in Serbia, with data not available in the 2014 report, to 2,564 "non professional judges" reported in the 2016 report.<sup>15</sup>

The interpretation given by the national correspondents to the category of 'occasional professional judges' does not appear consistent across the various countries. For example, in France the '*juge de proximité*' adjudicate cases with limited jurisdiction with maximum four court sessions per month. A similar kind of 'adjudicator' can be found in Italy with the 'justices of the peace', but they are not included in the 'occasional professional judges' but in the 'non professional judge' category. In Spain there also 7,600 'Justices of the peace' included in the 'non-professional judges' category. They are spread out all over the country to deal with civil matters with a limited value up to 90 Euro. They are also in charge of birth and death registrations in the Civil Register and criminal misdemeanors. They are elected by the Municipal Councils, and appointed by the Higher Courts of Justice for a period of four years. They do not have a salary, but, occasionally, receive a compensation for certain activities.

In Denmark, it is impossible to determine the number of 'non-professional judges' as stated in the 'Explanatory note', and it also includes the number of jurors, because a single nomination confers the right to sit as a lay judge (non-professional judge) and/or as a member of a jury. In Slovenia, the number reported (3,445) represents a pool of lay judges, but data on actual sitting days and the number of lay judges who have effectively exercised the judicial function are not available. Indeed, the same number is reported in both 2012 and 2014 data. In England and Wales this category includes the so called *magistrates* (also known as justices of the peace); 23,270 were reported in 2012, and 19,253 in 2014. They are

<sup>14</sup> "Non-professional judges are those who sit in courts (as defined in question 46) and whose decisions are binding but who do not belong to the categories mentioned in questions 46 and 48 above. This category includes namely lay judges and the (French) '*juges consulaire*'. Neither the arbitrators, nor the persons who have been sitting in a jury (see question 50) are subject to this question" CEPEJ 2015, 12), but not all the National correspondents used this definition.

<sup>15</sup> Several other examples can be made. In Switzerland, data on 'judges sitting occasionally' were not available in 2014, and became 1,900 in 2016. "Non professional judges" in 2014 report were 2,873, while in 2016 report only 1,635. In the Netherlands, it is quite high the number (1,185) of 'occasional professional judges', but there is not any further explanation to understand what kind of judges are included. Spain, in 2014 has pointed out that there is no data-base at the national level in respect of 'occasional professional judges', as the nomination of these judges is made by the High Court of each Autonomous Community. However, in 2016, Spain reported 1,193 'occasional judges'.

volunteers without any legal expertise, and very limited training once appointed, who deal with about 95% of the criminal cases usually in a panel of 3.

Data on these categories also suffer from the lack of detailed information in Full Time Equivalent: "Indeed, non-professional judges are indicated in gross numbers and not in full time equivalent. It might happen that a non-professional judge works only a few hours per year, whereas others can sit very regularly. Actually, the aim of this figure is not to establish a relevant comparison between States as regards the number of non-professional judges; it simply provides data concerning the number of persons who, for a variable time, participate in the administration of justice" (CEPEJ 2014, 170).

Data show that there is a lack of consistency in the counting of judges divided into the three categories proposed and more detailed qualitative information are needed. This jeopardizes further analysis across countries, since the examples reported above show that the unit of counting among the countries are non homogeneous.

Data were also collected in relation to the number of judges working in each instance. These answers are obviously very much affected by the structure of the judiciary in the various countries. In several countries, second tier courts can also deal with cases that were filed in the court for the first time. Therefore, also these data should be analysed with a lot of caution, and could be compared only for judiciaries that have a similar structure and similar jurisdictions.

If judges are hard to count in a consistent way across the different countries, non-judges' staff are even more difficult. At least, the CEPEJ reports offer a useful overview of the differences in this kind of personnel working within European courts, and give an idea of the trends in every country over the years.

Data about non judges' staff are collected for the number of 'Rechtspfleger'<sup>16</sup> in the countries that have such a position.<sup>17</sup> Data is also collected on the number of 'judicial advisors or registers', and 'administrative staff', however these categories are not always very easy to differentiate from the other two categories listed in the CEPEJ questionnaire: 'technical staff', and 'other kind' of staff'.<sup>18</sup> It is not also clear in which category are reported the 'law assessors' or 'law clerks', who are judges'

<sup>16</sup> As reported in CEPEJ 2014 (p. 175), the Rechtspfleger is "an independent judicial body, anchored in the constitution and performing the tasks assigned to it by law. [...]The Rechtspfleger does not assist the judge, but works alongside the latter and may carry out various legal tasks, for example in the areas of family and guardianship law, the law of succession, the law of land registry and commercial registers. He/she also has the competence to making judicial decisions independently on granting nationality, payment orders, execution of court decisions, auctions of immovable goods, criminal cases, the enforcement of judgments in criminal cases (including issuing arrest warrants), orders enforcing non-custodial sentences or community service orders, prosecution in district courts, decisions concerning legal aid, etc.; the Rechtspfleger, to a certain extent, falls between judges and non-judge staff, but does not have the status of judge".

<sup>17</sup> 16 countries reported to have some kind of staff close to the definition given to Rechtspfleger, in somehow inspired by the German tradition. These countries are mainly in Central Europe and the Balkans.

<sup>18</sup> "Non-judge (judicial) staff directly assist a judge with judicial support (assistance during hearings, (judicial) preparation of a case, court recording, judicial assistance in the drafting of the decision of the judge, legal counselling - for example court registrars). If data has been given under the previous category (Rechtspfleger), please do not add this figure again under the present category. *Administrative staff* are not directly involved in the judicial assistance of a judge, but are responsible for administrative tasks (such as the registration of cases in a computer system, the supervision of the payment of court fees, administrative preparation of case files, archiving) and/or the management of the court (for example a head of the court secretary, head of the computer department of the court, financial director of a court, human resources manager, etc.). *Technical staff* are staff in charge of execution tasks or any technical and other maintenance related duties such as cleaning staff, security staff, staff working at the courts' computer departments or electricians. *Other non-judge staff* include all non-judge staff that aren't included under the categories 1-4" (CEPEJ 2015, 13).

assistants, such as legal research or sentencing drafting, often employed in several countries such as the Nordic countries and in Switzerland.

Several States, for different reasons, had trouble providing staff numbers accordingly to the different categories and separated for staff working in courts or in prosecutor's offices. In addition, these numbers are not given in Full Time Equivalent.

Personnel is one of the key factor in court and prosecutor's office activities. It is the most expensive budget line, since the court work is still labour intensive. Therefore, it is quite surprisingly noticing how judiciaries cannot supply detailed data on the composition of their personnel. As a result, as also pointed out in the CEPEJ 2016 (p.154) report: "a category-by-category comparison in matters of non-judge staff proves to be inappropriate or even impossible".

## 5. Judicial personnel and courts' performance

Numbers on judicial personnel are usually related to the organizational output and courts' performance. In particular, as far as courts are concerned, the basic available data compared are those about incoming, pending, and disposed cases. These data are the basis for three standards indicators usually applied to assess court functioning by the CEPEJ: Clearance rate (disposed cases/incoming cases x 100); Case turnover ratio (disposed cases/pending cases x 100), Forecast disposition time (365/case turnover ratio) (CEPEJ 2014, 191; CEPEJ 2016, 185).

As usual, the first major problem in collecting these data is a clear definition about the unit of analysis, and it is not that simple to count court cases. Indeed, the "definition of civil cases and the calculation of their number remain difficult" (CEPEJ 2014, 191). There is not a unique European way to consider what a civil case is, and if and when 'inactive cases are counted', meaning cases that are pending in the court but they are waiting for some 'external' activity (e.g. a decision by a superior court). This is also true for criminal cases were, "given the different legal categories of offences depending on the state, the CEPEJ has chosen to rely on the Anglo-Saxon distinction between *petty offences* and *crimes* which makes it possible to have common reference in a majority of states or entities. Nevertheless, the problem of comparability of data remains" (CEPEJ 2014, 191).

The CEPEJ questionnaire collects data in the following seven case categories: civil and commercial litigious; civil and commercial non litigious; non-litigious enforcement; non-litigious land registry; non-litigious business; administrative law cases; other cases. As mentioned, the CEPEJ 'Explanatory note' (CEPEJ 2015) offers definitions for these case categories that are supposed to grasp all the nuances in the different countries, but in practice this is currently impossible.

For example, the category 'Litigious and commercial cases' are litigious divorce cases or disputes regarding contracts. However, in some countries commercial cases are addressed by special commercial courts and by different 'categories' of judges, which can be counted and reported in different ways and sections of the questionnaire. 'General non-litigious civil (and commercial) cases' are, for example, uncontested payment orders or request for a change of names. In addition, these cases can be dealt with by different kind of judges (professional, or non-professional). A similar situation occurs with registration tasks (e.g. business registers, land registers) that are dealt with by the courts only in some countries.

As usual, comments from the various countries also show how different can be the interpretations used for the data collection. For example, in Austria, statistics do not allow a distinction between litigious and non-litigious cases, and then figures supplied are just an estimation. In the Netherlands, it is not possible to make a distinction about litigious and non-litigious incoming cases, but this is only possible after the case has been disposed. Czech Republic reported the number of electronic payment orders in the category 'other cases', while other countries in the 'non-



litigious civil and commercial'. In Germany, 'other cases' include family and labour matters. In Norway, courts also have functions of public notaries and marriages that have been estimated in about 25,000 per year. These cases have been included in the 'other cases' category. In Lithuania and Denmark, administrative cases have been included in the 'other cases' category. The same category has been used for insolvency registry and labour cases in Hungary, but not in several other countries.

It is not always clear if and in which category administrative cases have been counted, due to the different settings of the judiciaries. In some countries, civil cases can include administrative cases, while in others they are counted in a different category.

It is again worth mentioning that in some countries civil and administrative cases are dealt with by the same courts, while in many others, they are dealt with by specialized courts. Figures on court performance do not make the necessary distinctions, as well as the definition of litigious and non-litigious cases is not the same in the various countries.

Figure 9.6. of the CEPEJ 2014 report (reproduced below) also shows very different percentages between the numbers of litigious and not-litigious cases in the various countries. These figures desperately need further explanations and analysis, because differences are too big across countries, and they are not clearly explained in the comments.

FIGURE 2

Figure 9.6 Part of 1<sup>st</sup> instance incoming civil (and commercial) litigious vs. non-litigious cases in 2012 (Q91)

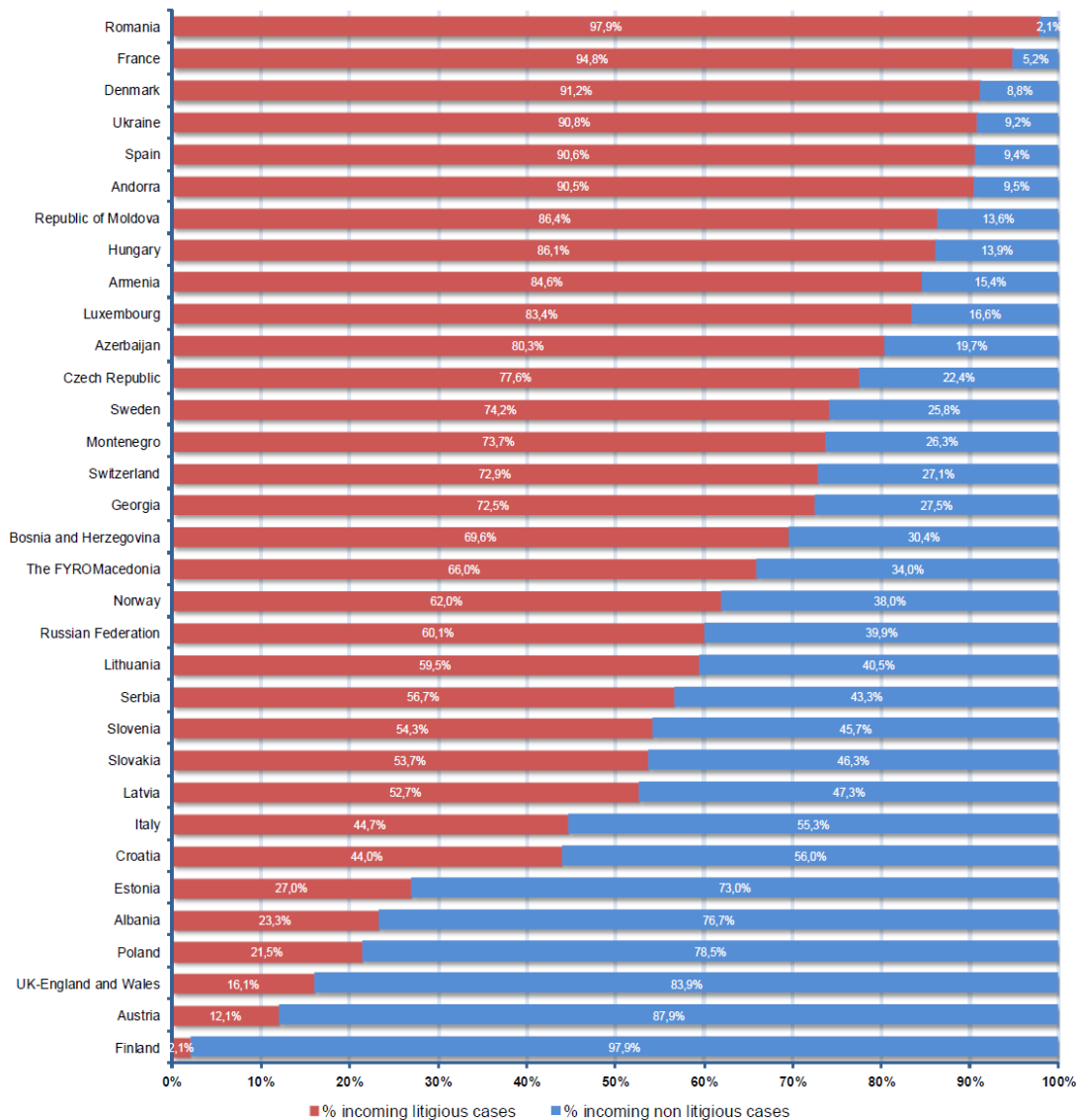


Figure 2 – First instance litigious and non-litigious cases in European courts in 2012

Source: CEPEJ 2014, 'Figure 9.6', p. 206.

On criminal matters, the data collected on misdemeanor and serious crimes are not consistent cross- countries due to the fact that not all the States share the same definition proposed by the CEPEJ.<sup>19</sup> Therefore, unfortunately, there is no certainty about the composition of each category and about the way in which the criminal cases are counted (e.g., they could be counted by charge, or by accused). Comments reported by the countries in the CEPEJ reports show how hard would be

<sup>19</sup> "To differentiate between *misdemeanour / minor offenses* and *serious offenses* and ensure the consistency of the responses between different systems, the CEPEJ invites you now to classify as *misdemeanour / minor all offenses for which it is not possible to pronounce a sentence of privation of liberty*. Conversely, should be classified as *severe offenses all offenses punishable by a deprivation of liberty (arrest and detention, imprisonment)*. If you cannot make such a distinction, please indicate the categories of cases reported in the category "serious offenses" and cases reported in the category "minor offenses" (CEPEJ 2015, 19).

to make any comparison about the figures reported in each category based on the different definitions, and then the counting, given by each country.<sup>20</sup>

These few examples show a large variety of situations. It is clear that comparisons across country without paying a lot of attention to the data content can be very dangerous and misleading. In addition, in courts that perform civil, criminal and administrative cases, data on the number of judges that deal with each category of cases, or the percentage of time spent on them, are not available.

## 6. Improving data comparison

As this work shows, notwithstanding the remarkable efforts carried out by the CEPEJ, there are still some significant problems in the collection of data about the number of judges and court personnel and, more in general, about the functioning of justice systems finalized to a comparative analysis across countries.

There are still different interpretations of the definition of judges in the different categories proposed; judges and court personnel data are not always in Full Time Equivalent; it is not always clear what kind of jurisdictions are considered in the counting. The definition of court case is not that clear and shared about the different countries, therefore, data on court input and output are very difficult to compare. In general, data show that there are still different interpretations about the 'unit of analysis' to be counted that jeopardize the comparisons across countries.<sup>21</sup>

In addition, even though the consistency of data collection has improved, there are still some concerns about the reliability of these data. Some checks in each country should be done to verify the correspondence to what is supposed to be reported and what is done in practice, also to assess the possible error rates.

Due to these critical factors, to carry out any comparative analysis across countries without making an in-depth qualitative analysis of the countries to compare is inappropriate, and can be misleading.

The availability of data from 47 countries is a great stimulus to raise several questions to improve the knowledge about justice systems, but to attempt comparisons without considering the details about the structure and the functioning of each justice system is not a recommended practice. It can create several fallacies in the comparison, and then being counter-productive in the outcomes.

Therefore, as of today, notwithstanding the enormous and valuable efforts carried out to collect data on judges and court personnel, several others qualitative information should be available before attempting any comparison across countries.

The 'Explanatory note' developed by the CEPEJ is a useful tool and it has raised the overall data consistency, but it should be much more detailed to become a "Common and shared data dictionary", which defines in detail the appropriate

<sup>20</sup> "Austria: misdemeanours and /or minor criminal cases include all offences fined or punish with a prison sentence up to one year and must not be decided by a jury [...] Belgium: severe criminal offences include cases dealt with by first instance ordinary criminal courts. Misdemeanours/minor criminal cases include cases dealt with by the Police Court [...] Denmark: severe criminal cases are defined as those cases where a lay assessor participates or cases dealt with by a jury; no-contest plea cases (plea guilty) are included as severe criminal cases. Misdemeanours and/or minor criminal cases are typically cases where the maximum sentence is a fee [...] Poland: misdemeanours cases includes the offences punishable by a maximum penalty up to 1 month of detention or a fine (or both). All other criminal cases are severe cases. Statistics contain also the so called 'organisation cases' which do not deal directly with crimes" (CEPEJ 2014, 219-220) See also comments reported in the CEPEJ 2016b dynamic data base.

<sup>21</sup> These are common problems in several fields that try to make a comparative analysis and then need to build glossaries to share common definitions and interpretation for data entries. See, for example, in health the effort of Eurostat: Eurostat n.d.

definitions and the counting rules of the data to be collected to avoid, as much as possible, misinterpretations.<sup>22</sup>

The first step for the establishment of a data dictionary is the definition of a clear 'unit of analysis', and of the 'properties' that featured that unit.

If the 'unit of analysis' are the judges, it should better explained and shared among the different countries what kind of 'properties' judges are supposed to have to be included in the various classification of the data collection. For example, as mentioned above, the kind of jurisdictions dealt with by the judges to be counted. In addition, the collection using the Full Time Equivalent concept should be enforced for both judges and administrative court personnel.

The same approach should be followed for the counting of cases. For example, if civil proceedings are the unit of analysis, it must be decided in detail what kind of cases are included or excluded (commercial, labour, welfare, payment orders, landlord-tenant etc). Likewise, if criminal proceedings are the unit of analysis, traffic offense, fine penalties etc. may or may not be included in the counting.

Some more clearness is also needed for the collection of incoming cases, which may include only new filings or also cases re-opened, depending on the definition of pending cases, which may or may not include cases that are active or inactive (sometimes also called 'stand-still' cases with a focus on waiting times). It should also be stated if resolved/disposed cases include only the 'judgements on merit' or also other ways of disposition.

Administrative cases seem to be the most problematic ones, because their jurisdiction in the different countries can be dealt with by different courts, creating comparative problems.

A possible development towards a cross-country comparability of the data could be the creation of clusters of justice systems, in order to have groups that are less different in, at least, some of the constitutive features.

Due to the large variety of judicial structures and functioning, the grouping process should adopt a 'fuzzy logic',<sup>23</sup> to be flexible in the establishment of comparable clusters.

Indeed, "Comparatists have certainly learned, that legal principles are not absolute (...) and the conflict of values has to be reconciled not by the rigor of artificial logic, but by a flexible and pragmatic recognition that (...) a compromise solution has to be formed" (Cappelletti 1983, 13).

The selection of the variables that are the constitutive features of a justice system is a further matter of analysis and it will depend on the unit of analysis to compare.

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<sup>22</sup> A similar approach has been followed by the Court Statistic Project in the United States (Office of Justice Programs n.d.). "The Court Statistics Project (CSP) provides a systematic means to develop a valid, uniform, and complete statistical database that details the operation of state court systems. It provides high-quality, baseline information on state court structure, jurisdiction, reporting practices, and caseload volume and trends [...] The CSP fulfills the vital role of translating diverse state court caseload statistics into a common framework that all states use when establishing their respective goals and policies. Information for the CSP's national caseload databases comes from published and unpublished sources supplied by state court administrators and appellate court clerks. The CSP has evolved since 1975 by providing more consistent definitions of key terms and parameters for counting. The State Court Model Statistical Dictionary (updated version published in 1989) provided the first set of common terminology, definitions, and usage for reporting appellate and trial court caseloads".

<sup>23</sup> I use here the theory of 'fuzzy logic' in a broad sense. It means that clusters of countries should be classified without sharply defined boundaries, but based on some constitutive features and the qualitative information collected to establish quite consistent groups of countries for each issue to compare. These cluster groups can vary if the issue to compare varies because the constitutive features of the countries can vary as well. For example, on the number of judges could be possible to create a cluster of 3 or more countries that have several similarities on that issue, but the same 3 countries could not be compared on the number of court personnel.

Due to the complexity of the different justice system and their context conditions, the focus of the comparative analysis should be on a limited number of 'comparable cases', meaning cases that are less different among themselves (Lijphart 1971). This does not necessarily imply to compare justice systems that are in a same geographical area, because the emphasis is on the features of each judiciary not on their geographical position.

As a starting point, the cluster could include just a couple of countries, and then progressively include other judiciaries based on a qualitative analysis of features that are not so different, applying a "fuzzy membership" (Ragin and Pennings 2005).

The key variables considered to select the 'unit of analysis' to be compared across judiciaries have to go through a qualitative and flexible 'calibration process', typical used in chemistry, astronomy, and physics (Ragin 2009), which allows to identify the judiciaries that can be grouped in the same cluster. This process is necessarily qualitative, it uses substantive knowledge, with an approximate reasoning to make explicit.

The qualitative analysis of the data collected and its process in two or three countries, as a starting point, will dramatically increase the potentiality of comparisons and the knowledge about the functioning of justice systems. In addition, it will also improve the data definition to have more shared and consistent interpretations, as well as the reliability and validity of data collected.

On this issue of validity, right now, data have been collected through national correspondents that usually work at the Ministry of justice. In order to have a double check of the interpretation of the data, it could be useful to involve researchers and academics in the validity process of the data collected before submitting them to the CEPEJ. This double check could also be a good opportunity to increase the exchange of views between researchers and practitioners, as well as to develop the network of institutions interested in judicial administration.

If on the one hand, the above mentioned critical factors suggest not making any comparisons across countries with the data available, without an in depth qualitative analysis, on the other hand, the large amount of data collected on the 47 countries with the same questionnaire over the years, allows to make fruitful comparisons for the same country over time.

On this respect, the richness of the questionnaire with more than 200 questions offers many opportunities to carry out a 'longitudinal analysis', focussing on changes and trends over time on several issues of the functioning of a single justice system. A check has always to be done to see if data have been collected in a consistent way over the years, but apart for that check, comparisons on judges, court personnel and performance can be carried out for each country.

At this stage, with these data and information available, to analyse several issues of a single European judiciary diachronically seems to be the only one comparative analysis methodologically appropriate.

The assessment on the number of judges and court personnel can benefit from a comparative perspective, but only if quantitative analysis come together with in-depth qualitative studies.

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