



European Network of Councils
for the Judiciary (ENCJ)

Reseau européen des Conseils
de la Justice (RECJ)

Independence, Accountability and Quality of the Judiciary

*The next step in measuring independence, court
users' experiences and quality assessment*

ENCJ Report 2021-2022



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Executive Summary and Recommendations:

In 2021-2022 the work of the project consisted of several activities in the area of Independence and Accountability and Quality of the Judiciary. The activities followed the cycle of improvement introduced in the previous period of the project. This report presents the outcomes of the 3 work streams identified at the beginning of a new period of the project and recommendations to the ENCJ.

Independence and Accountability

Evaluation

At the 2021 General Assembly, it was agreed to examine the feasibility of an indicator on the evaluation judges. The evaluation of judges is a complex matter, as the demands from the perspective of independence differ from those from the perspective of accountability and quality. More precisely, the issue at hand is whether and how the evaluation of judges could be better covered in the indicators on independence and accountability of the judiciary that the ENCJ has established, and how this would relate to its indicators on quality. As evaluation is inherent to any organization of professionals, but in the judiciary may clash with independence, more attention for the subject is warranted in the indicators.

All systems of evaluation in place in Europe share the common premise that the professionalism of the judge represents both the main source of legitimacy of the judicial function and a strong guarantee of its independence.

Evaluation is relevant from several perspectives: independence, accountability and quality. Evaluation is part of a drive towards a professional organization that guarantees a high level of quality of the services delivered by all professionals of the courts. The report addresses the principles that should apply and, based on those principles, the design of the indicator and its scoring.

Survey among judges

As the first step of the next improvement cycle, the survey among the judges of Europe has been conducted. Since 2015, this is for the fourth time. In total 15,821 judges from 29 judiciaries of 27 countries participated, which is more than ever before. The target for the response rate was set at 20%, which most judiciaries (easily) achieved. The method and outcomes of the survey are presented in detail in a separate report.

Most of the judges in Europe are positive about their independence, but they still identify issues that affect their independence negatively. Some of these are at case level, others at system level, such as the appointment of judges. The survey provides many insights into the functioning of the judiciary at national level. It is up to the Councils for the Judiciary and other governing bodies to analyse the outcomes for their judiciaries and address the issues that are raised by the respondents. While Councils are dependent on the other state powers for improvement of legislation and for adequate resources, judiciaries and in particular Councils can address many issues by themselves.

Court Users Survey

A subgroup comprising judges from Spain, Norway, the Netherlands, Sweden, Finland, Denmark, and Romania, held virtual meetings in February and March 2022, shared their experience and answered relevant questions based on a common template. The subgroup considered helpful to take into account the experience of Bosnia and Herzegovina, the judicial council of which organized a broad survey conducted in 2021. The results of the subgroup's work were presented to the ENCJ plenary session of April 2022.

The result of the work this year is a Practical Guide, comprising, apart from last year's consolidated questionnaire, a document with recommendations for court user surveys and the national experiences fiches.

As this year's work resulted in general guidelines for those members and observers already planning to undertake this project, the ENCJ proposes that the project team for next year considered the possibility of following an individual approach. It is therefore suggested to look deeper into the councils which have not performed such surveys and have no plans to do so in the near future, with a view to identify the reasons for each country, try to address them to the extent of the ENCJ competences and to encourage and actively support councils in their efforts.

Quality of the Judiciary

In 2021/2022 the quality subgroup's primary aim was to work on indicators A1 and A2 and review the scoring of the questionnaire. The members of the working group met online for five intensive working sessions, before an in-person meeting in Barcelona in April 2022. During the online meetings, the subgroup reviewed the questionnaire, worked on the indicators A1 and A2 and on scoring of the questionnaire. The results of the subgroup's work were presented at the ENCJ plenary meeting on 5 April 2022.

The subgroup reviewed indicators A1 (standards for courts on the duration of cases) and A2 (standards for parties on the duration of cases) shaping them in a manner, which allows to assess a particular indicator in various phases (e.g., whether particular standards are in place, if so – are they realized in practise, are they monitored, is this information available to the public). Several other indicators in the Questionnaire were also amended to reflect this cycle.

Furthermore, considering the CCJE opinion No. 15 on the specialization of judges, the subgroup reviewed an indicator A5 on the specialization of judges and constructed it in a different manner, providing a possibility to both better score this indicator and to gather information on particular areas of the specialization of judges in individual jurisdictions.

Finally, the subgroup has focused the majority of its time and efforts on reviewing the scoring of the questionnaire. New and more elaborate scoring templates were developed for all indicators in the majority of questions, their value in the overall scoring of the Questionnaire was assessed.

As for the work to be undertaken next year:

For Independence and Accountability:

- Filling out of the updated indicators questionnaire, scoring and mapping challenges to Independence and Accountability:
- Further development of the I&A indicators:
 - the role of inspection services in relation to the current indicator on external review
 - formulation of an ENCJ opinion with regard to formal and ceremonial roles of government that in principle can reduce the independence of the judiciary and
 - integration of the work on the image of justice and public confidence in the I&A framework and indicators.

Court Users Survey

- Promotion of implementation of Court Users Surveys across Europe

Quality

- Work on identifying the roles and competences of the Councils in guaranteeing and promoting Quality of Justice having regard to their country profiles and on general recommendations to improve the Quality of Justice in their jurisdiction.
- Circulate the revised Questionnaire to be filled out by the Councils for the Judiciary.
- Review and analyse the results of the Questionnaire. Assess, whether results on the Questionnaire would be helpful for individual councils to identify the areas in which there is potential to improve quality and to take appropriate steps to achieve such improvement.

Introduction¹:

Central to the mission of the ENCJ is the reinforcement of independent, yet accountable judiciaries in the European Union to guarantee access to fair, independent and impartial courts. This fundamental right is laid down in the article 47 of the EU Charter of Fundamental Rights. The ENCJ works systematically to develop standards and guidelines for the governance of the judiciary and the conduct of essential functions such as the appointment, promotion and dismissal of judges. It is the view of the ENCJ that it is not sufficient to set standards and guidelines: the extent to which these are realized in practice needs to be systematically assessed. This is particularly important, when all the European Institutions are challenged to find the more effective ways to better protect and promote the Rule of Law. The ENCJ and the other judicial networks are best placed to help understand the situation on the ground and provide a judicial perspective on relevant developments.

The overall objective of the project is to increased awareness on the state of independence, accountability and quality in the judiciaries in Europe and promote positive change within judicial systems in Europe.

A set of indicators on independence, accountability and quality has been developed, improved and implemented. These indicators focus on the one hand on the formal safeguards and mechanisms that are essential for judicial independence and on the other hand on the perceptions of independence by stakeholders. The outcomes provide Councils and other governing bodies with insights that they can use to improve their judicial systems to enable judges to fulfil their essential function in society better, and, where necessary, engage with the other state powers on matters of independence.

Constant review of the systems of standards and indicators is necessary due to the continuing challenges. Therefore, refinement of some aspects of the indicators and their measurement means accordingly (e.g. adaption of the questions and the scoring in the questionnaire) have also to be reviewed. The public and stakeholders emphasize the need to strengthen the quality of justice. And its complex content requires more in-depth analysis of the measurement. In this period the following activities were undertaken:

Part I of this report deals with the Independence and Accountability of the Judiciary. This part contains a newly developed indicator on the Evaluation of Judges and a summary of the results of the survey among judges. Part II deals with the Court Users Survey. Part III of the report deals with the Quality of the Judiciary and contains work on the indicators and the scoring rules.

In 2021-2022 the project team worked in three subgroups. The coordinators of the project were the High Council of Portugal (CSM,) the Judicial Council of Lithuania (TT) and the Supreme Judicial Council for Administrative Justice of Greece (SJC AJ). In addition, an advisor was hired by the ENCJ, Frans van Dijk, to assist with the project. The ENCJ Office facilitated the project, organised and hosted the meetings and was in charge of reporting of the meetings.

The pandemic still caused travel restrictions and much of the work was done online. Plenary meetings of the project team took place in an online manner on 27 September and 10 December 2021 and 4 March 2022. An in-person meeting with some online participants took place in Barcelona on 4 and 5 April.

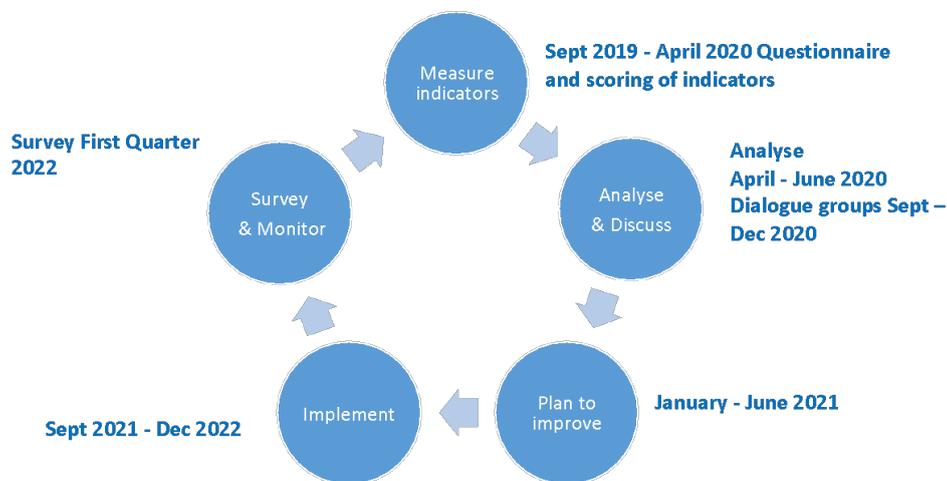
¹ This report was composed and edited, with the input of the project team, by Mr. Frans van Dijk, Ms. Maria Gkana, Ms. Milda Treige, Ms. Monique van der Goes and Ms. Aleksandra Switalska.

Part 1. – Independence and Accountability

1.1 Background

Access to fair, independent and impartial courts is a fundamental right, as laid down in article 47 of the EU Charter of Fundamental rights. One of the ways in which ENCJ strives to protect this right is by providing support for the independence and accountability of judiciaries in Europe and by promoting understanding and respect for judicial independence. As a network of Councils for the Judiciary, the ENCJ has therefore developed standards for the areas of responsibilities of Councils for the Judiciary that are important to the independence and accountability of the judiciary. The standards range from the appointment of judges, to disciplinary proceedings and the funding of the judiciary. Many of them are applicable as well by other governance structures than Councils. Setting standards is relevant for judiciaries to be able to compare and improve their practices.

Deriving from the standards, the ENCJ has developed a set of indicators to measure the state of independence and accountability of the judiciaries of the European Union including candidate members and EEA. The indicators concern the formal arrangements with respect to all major aspects of independence and accountability of the judiciary on the one hand, and the actual realisation of independence and accountability as perceived by society on the other hand. The indicators and their measurement are part of the improvement cycle that the General Assembly of the ENCJ decided upon in 2019. The current improvement cycle started in September 2019, and is as follows.



1. Figure: Improvement cycle Independence and accountability

The first phase of the cycle is the measurement of the indicators took place in 2019/2020. In 2020/2021 the focus was on discussion of the outcomes in dialogue groups, and making a start with planning of improvements.

At the General Assembly held online in June 2021 it was decided that the following activities were going to be developed in 2021-2022.

- Development of national improvement plans with regard to independence and accountability
- As to the I&A indicators, four issues will be examined:
 - the feasibility of an indicator on the evaluation of judges,

- the role of inspection services in relation to the current indicator on external review,
 - formulation of an ENCJ opinion with regard to formal and ceremonial roles of government that in principle can reduce the independence of the judiciary and
 - integration of the work on the image of justice and public confidence in the I&A framework and indicators.
- Survey among judges on the independence of the judiciary in the first quarter of 2022.
 - The CCBE (Council of Bars and Law Societies of Europe) will be consulted on the survey among lawyers about independence and accountability of the judiciary.

Due to the ongoing pandemic which hampered the work to some extent, not all issues that were set out for 2021-2022 were addressed by the project team.

As for the survey among lawyers the CCBE has indicated that they did not think it would be feasible to organise it.

The two issues that were addressed were the development of an indicator in the evaluation of judges and the survey among judges was held.

1.2. An indicator on the evaluation of judges

1.2.1 Introduction

At the last General Assembly, it was agreed to examine the feasibility of an indicator on the evaluation judges. The evaluation of judges is a complex matter, as the demands from the perspective of independence differ from those from the perspective of accountability and quality. More precisely, the issue at hand is whether and how the evaluation of judges could be better covered in the indicators on independence and accountability of the judiciary that the ENCJ has established, and how this would relate to its indicators on quality. In the current I&A indicators on human resource matters, evaluation of judges is addressed in a very general way. As evaluation is inherent to any organization of professionals, but in the judiciary may clash with independence, more attention for the subject is warranted in the indicators. The ENCJ has discussed evaluation before and it has set standards in the following documents:

- 1 Report Development of Minimal Judicial Standards III, Minimum Standards regarding evaluation of professional performance and irremovability of members of the judiciary, report 2012 2013, including Collection of replies to Questionnaire.
- 2 Recommendation of the ENCJ workshop on the evaluation of judges Rome 5 - 6 December 2019.

The standards that were developed in 2012/2013 put much emphasis on the differences between the judiciaries of Europe. The ENCJ has argued (and the CCJE has followed this reasoning in its Opinion n° 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence) that the judiciaries of Europe fall into two categories as to evaluation. Those with informal evaluation with no career consequences for the judge concerned and those with formal evaluation with career consequences, including even the possibility of dismissal in some judiciaries. The first category requires less safeguards than the second. The ENCJ minimum standards focus on the safeguards that should be met in formal evaluation.

Since these reports have been adopted, there seems to have been some convergence among judiciaries, in particular with informal systems being in a process of formalization. The strict dichotomy of evaluation systems does not seem to apply to the extent it did before. As noted in the minimum standards report, all systems of evaluation share the common premise that the professionalism of the judge represents both the main source of legitimacy of the judicial function and a strong guarantee of its independence.

Evaluation is relevant from several perspectives: independence, accountability and quality. Evaluation is part of a drive towards a professional organization that guarantees a high level of quality of the services delivered by all professionals of the courts. From a quality perspective evaluation is necessary for professional development. From the perspective of accountability, it is desirable that the judiciary has a quality system in place that includes professional development.

As evaluation serves accountability and quality, the ENCJ can “embrace” evaluation, if and in so far as it is done properly with regard to the necessity of safeguarding judicial independence. Below the principles that should apply will be addressed and, based on those principles, the design of the indicator and its scoring.

1.2.2. Principles

Building on the Minimal Standards (summarized in Annex 1), the most important principles are the following.

- 1 Evaluation of judges is beneficial to guarantee and promote the quality of justice and it is an element of an accountable judiciary.
- 2 Evaluation of judges must not interfere with their independence. Judicial independence restricts the objectives and method of evaluation.
- 3 Evaluation cannot concern the merits of judicial decisions. The quality of decisions is part of the evaluation but only from the perspective of professional skills.
- 4 Evaluation cannot in itself lead to the dismissal of a judge. Dismissal requires a disciplinary procedure that is limited to cases of gross negligence.
- 5 Evaluation should in any case facilitate the professional development of the judge.
- 6 The objectives of evaluation can vary from facilitating the professional development of judges only to providing also the basis for career decisions about judges.
- 7 The actual objectives chosen determine the necessary safeguards. If there are no career consequences, the safeguards can be less extensive than if there are career consequences.
- 8 Safeguards include who is conducting the evaluation: if the evaluation is not intended to have career consequences, it may not be appropriate to involve management, as evaluation outcomes will be wittingly or unwittingly play a role in other decisions.
- 9 Performance related pay requires close evaluation and is not acceptable for judges, as it infringes on their independence.
- 10 The executive and legislative powers must not be involved in any way in the evaluation of an individual judge.

1.2.3 Design of an Indicator for evaluation of judges

Objective of evaluation

Evaluation takes different forms, depending on its objective. The following objectives are primarily found in practice.

A. Personal learning and professional development of a judge. Decisions taken on the basis of the outcome of this type of evaluation are, in principle, only by the judge him/herself. Examples of such decisions are the personal resolve to improve communication with parties or a request to management for a specific training.

B. Performance evaluation by management, not aimed at individual human resource/career decisions. This may serve several objectives. For example: (1) Development of the competences and skills of the judges of a court or a department of a court, in connection with the distribution of judges across areas of law, including their specialization and training needs. An example of a decision by (knowledge) management is the allocation of specialisations across judges. (2) Promoting the quantitative and qualitative performance of the judges of a court in connection with the efficiency and effectiveness of the court. An example of a decision by management is the determination of the annual individual case load and timeliness.

C. Performance evaluation aimed at taking human resource/career decisions about judges such as promotion and career steps (f.i., a switch from a first instance court to an appeal court and vice versa).

It seems that all three options serve decisions that need to be made in any court/judiciary anyway. Differences will arise in the degree decisions are made on the basis of systematic evaluation.

Method of evaluation

Each purpose of evaluation of judges has its own method.

Re A. Peer review or observation by a specialist (such as a social psychologist on performance at hearings). Peer review is seen here as an evaluation among colleagues and must not involve management, even managing judges. The outcomes of peer review are confidential.

Re B(1). Evaluation of competences, followed by a discussion on mutual wishes regarding area of law, specialisation and (permanent) education with a manager who may or may not be the line manager. In some courts, a manager or coordinator is specifically charged with responsibility for quality or knowledge of the court or a department of the court.

Re B(2). Annual review of individual performance (ideally, number of cases, duration, professional quality of decisions, conduct at hearings, judicial ethics), conducted by court management.

Re C. Review of individual performance (ideally, number of cases, duration, professional quality of decisions, conduct at hearings, judicial ethics) by a court manager or other responsible authority with procedural safeguards to ensure the validity and transparency of the evaluation, followed by a decision process. Note: this type of review can be on a regular basis or occasionally to make a career decision.

1.2.4. Standards for evaluation

The applicable standards for evaluation depend on the objective and method of evaluation.

Standards re A (professional development of a judge)

- Evaluation by peer and not by, for instance, management.
- Confidentiality of the outcome.
- Frequency of the evaluation. The appropriate frequency is for this type of evaluation 2 to 4 years. A higher frequency is seen as unnecessarily distracting the judge from his/her tasks, while a lower frequency reduces the usefulness for learning.

Standards re B (performance evaluation by management, not aimed at individual human resource/career decisions)

- All information on which the evaluation is based needs to be documented.
- All documents are available to the judge.
- The judge has the right to respond to any findings on him/her.
- Frequency of the evaluation. The appropriate frequency is for this type of evaluation 1 to 2 years. A higher frequency puts much pressure on judges, while a lower frequency results in lack of continuity and reliability.

Standards re C (performance evaluation by management or other responsible authority, aimed at individual human resource/career decisions)

- The evaluation can not in itself lead to the dismissal (demotion/transfer) of a judge.
- The body that conducts the evaluation consists of a majority of judges.
- The executive or legislative powers do not take part in the evaluation.

- Frequency of the evaluation: if the evaluation takes place regularly, the appropriate frequency for this type of evaluation is 2-4 years.
- All information on which the evaluation is based is documented.
- All documents are available to the judge.
- The judge has the right to respond to any findings on him/her.
- A procedure of appeal must be in place which allows for an independent review of all materials.

In Annex II, the standards are developed into questions that are to be included in the questionnaire to measure the indicators on Independence and Accountability. It is envisaged that evaluation will be included in the part of the questionnaire that deals with accountability. It is noted that evaluation will also be included in the questionnaire on quality, albeit in simplified form.

1.2.5 Scoring of the indicator on evaluation

As evaluation is seen as in principle beneficial, the presence of evaluation gets a positive score (for instance, 10), in comparison with no evaluation (0). If arrangements for evaluation are fully compliant with the above standards, the score (of 10) is maintained. If not, the score is reduced. As independence is the primary value for the judiciary, a system that is 'bad' from the perspective of independence is 'worse' than no evaluation. This means that the score ends below 0, and is thus lower than the score in the absence of any form of evaluation (0). This may occur for all types of evaluation, but will be most relevant for the type of evaluation that has the most far reaching consequences for judges (method C). The questions in Annex II also present the proposed scores.

It should be noted that, due to the diverse methods of evaluation, it is essential that the purpose and potential consequences of evaluation are made explicit in a binding document or instrument. If purpose and consequences are not made explicit, it is impossible to apply the appropriate standards, and the evaluation may endanger independence. If this is not done in a binding way, the purpose and, therefore, the consequences can be changed overnight and the applied standards are not appropriate anymore. As to what constitutes a binding document or instrument, differences among countries. While in some countries primary legislation is appropriate, in others this would be seen as infringement in the independence of the judiciary, and court regulations would be appropriate.

Examples of extreme score results:

- Fully compliant peer review gives a score of 10 points, if it is the only system
- Fully compliant evaluation re career decisions gives 10 points, if it is the only system
- If both systems are in operation and fully compliant, the score is still 10 points
- Fully non-compliant peer review gives -2 points, if it is the only system
- Fully non-compliant evaluation re career decisions gives -15, if it is the only system
- Fully non-compliant evaluation not regarding career decisions gives +2, if it is the only system.
- If all three systems are in operation and all three are fully non-compliant, the score is -35

The range of outcomes is from -35 till 10. This will be transformed, as all the other indicators, to a range from 0 – 10, for instance by adding 35 and dividing by 4.5. The appropriate transformation can best be determined, once data for all participating judiciaries are available.

1.2.6 Proposal

The questions of Annex II have been tested by the members of the subgroup, and these proved to work. The scoring rules were adapted to get a balanced result. It is, therefore, proposed to include the indicator on evaluation in the indicators on independence and accountability. The consequences for the quality indicators are discussed in the part of this report on quality.

1.3. Survey among judges about independence²

As the first step of the next improvement cycle, the survey among the judges of Europe has been conducted. Since 2015, this is for the fourth time. In total 15,821 judges from 29 judiciaries of 27 countries participated, which is more than ever before. The target for the response rate was set at 20%, which most judiciaries (easily) achieved. The method and outcomes of the survey are presented in detail in a separate report.

The main findings are the following.

1. Judges generally evaluate their independence positively. On a 10-point scale, judges rate the independence of the judges in their country on average between 7.0 and 9.8. See Figure 1. They rate their personal independence even higher: between 7.5 and 9.9 (Figure 2). It should be noted that Poland and Romania did not participate in the survey. Consistent with the positive assessment of independence, few judges report inappropriate pressure to influence judicial decisions.
2. Since 2015 when the first survey took place, independence is gradually improving on average for all judiciaries together. Based on the experience of judges that have been working for many years, also over a longer period independence has improved.
3. This does not mean that in all judiciaries independence has improved. There is much volatility especially in Central Europe. Recently, independence in Slovakia and Montenegro has deteriorated and, over a longer time span, in Hungary, Lithuania and Slovakia. As the response rate in Slovakia was low, the outcomes for that country must be used with caution.
4. Judges rate the independence of councils on average per country between 2.7 and 9.6 (Figure 3). The councils of Spain, Bulgaria and Slovakia get very low scores. Having a council is not enough to guarantee the independence of the judiciary as a whole. This depends highly on the arrangements, for instance, with regard to the appointment of the members of a council.
5. Corruption is an issue in several judiciaries. In a wider range of judiciaries, the judicial authorities are seen as not doing enough to address judicial misconduct and corruption.
6. In many judiciaries, judges are, as before, critical about human resource decisions concerning judges and, in particular, about appointment and promotion. In the view of respondents, appointment to the Supreme Court/Court of Cassation remains problematic in a variety of countries.
7. In most judiciaries, judges feel inappropriate pressure from the (social) media at case level. Many of them feel that their independence is not respected by/on the (social) media.
8. Court management including the court presidents generally do not try to influence the content of judicial decisions. Some judges experience, however, improper pressure by court management to meet timeliness standards, and more judges experience improper pressure from production targets. Caseload and court resources are a related concern in many countries.
9. The interaction of the judiciary with the other state powers is fraught with problems in many judiciaries. The survey highlights some of these problems: (1) the implementation by government of judicial decisions that go against the interest of government is often inadequate, (2) lack of respect for judicial independence by government and parliament is in many countries a big issue, according to the respondents, and (3) scarcity of resources provided by government affects independence.

Most of the judges in Europe are positive about their independence, but they still identify issues that affect their independence negatively. Some of these are at case level, others at system level, such as appointments. The survey provides many insights into the functioning of the judiciary at national level. It is up to the Councils for the Judiciary and other governing bodies to analyse the outcomes for their judiciaries and address the issues that are raised by the respondents. While Councils are dependent on the other state powers for improvement of legislation and for adequate resources, judiciaries and in particular Councils can address many issues by themselves.

The ENCJ promotes Councils to initiate a process of positive change. The outcomes of the survey stress the importance of concerted effort to initiate such change. Most of the issues raised in the survey are not new, and

² Full results available in a separate report.

require higher priority to resolve. In addition, the dialogue must be sought or continued with the other state powers and also with the media to promote a better understanding of the importance of judicial independence for the functioning of society and its economy. The dataset of the survey is available on request.

Figure 1 Independence of judges in general, scale 0 -10, where 0 means “not independent at all” and 10 means “highest possible degree of independence”

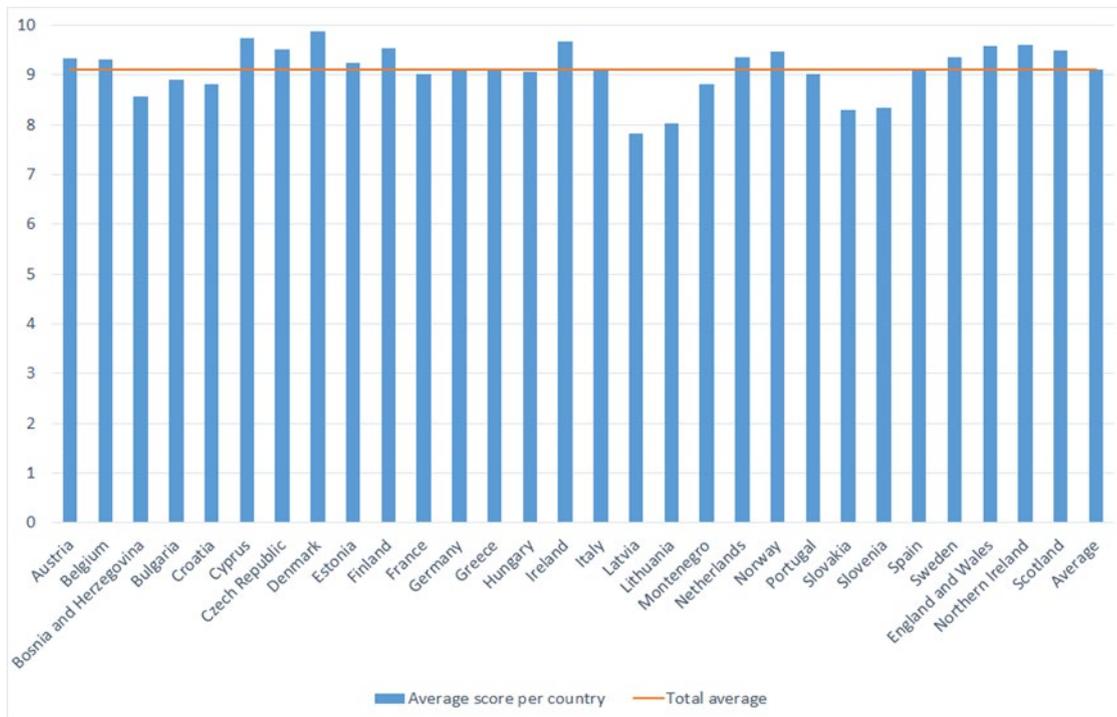


Figure 2 Personal independence of judges, scale 0 -10 as before

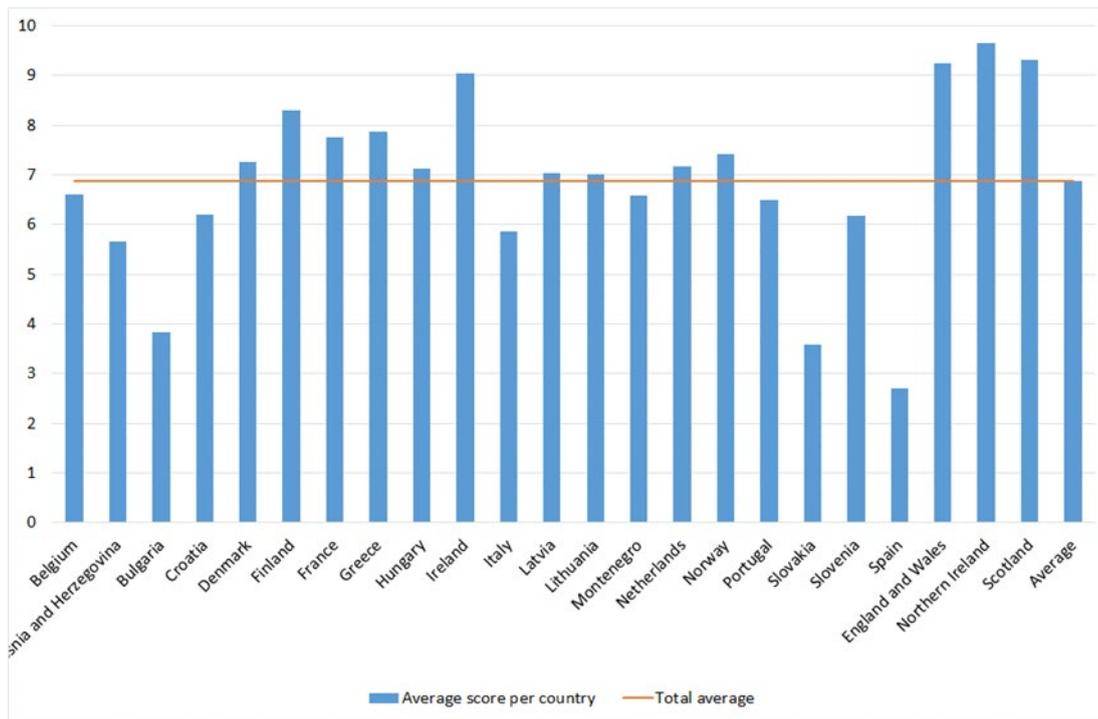
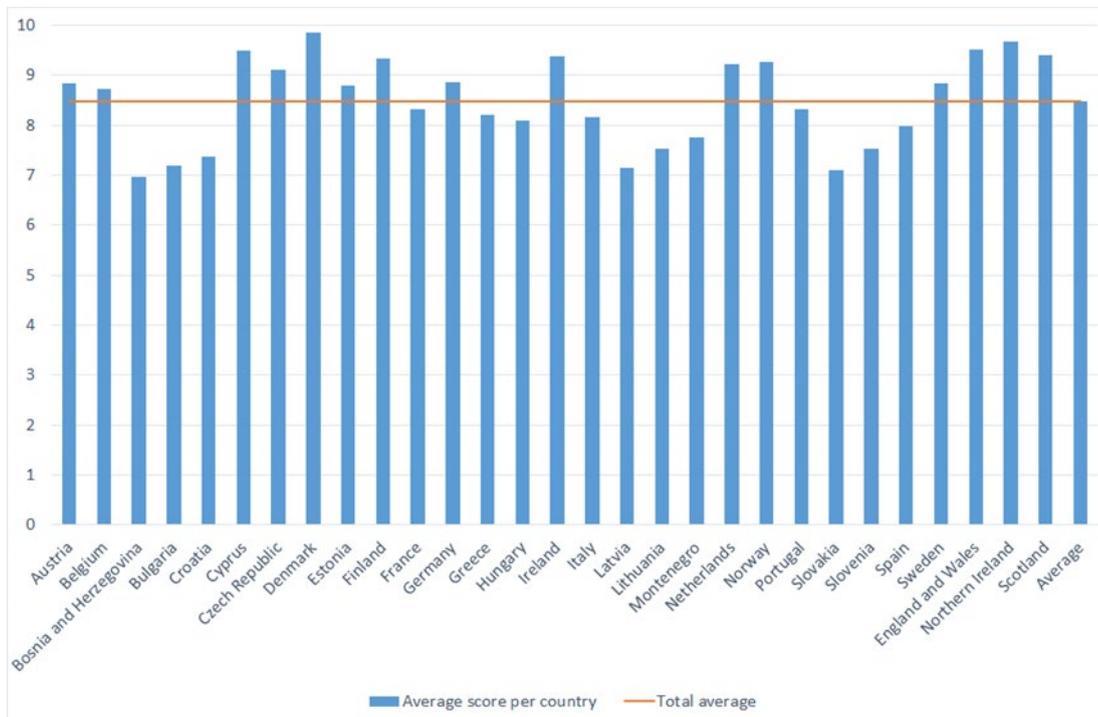


Figure 3 Independence of the Council for the Judiciary, scale 0 -10, where 0 means “not independent at all” and 10 means “highest possible degree of independence”



Part 2. – Court Users Survey

2.1 Background

During the last years, ENCJ has been working on a format for a court user survey that could be used across the judiciaries of Europe on the perception of the court users on independence (I&A report 2018/2019 p 68 and I&A report 2019/2020 p 72-95). The work has been driven by a desire to help fill in the gap in relation to information about court users' perception and experience of independence based on their visit in court.

In 2018/2019 the ENCJ group drew up some preliminary questions and in 2019/2020 the preliminary questions were reviewed and refined, and a pilot was conducted in four countries. Based on the results and experiences from the 2019/2020 pilot, it was decided that the work to develop and test a questionnaire for court users should be continued. It was concluded that the 2019/2020 questionnaire was useful, but that the experiences gained from the pilot suggested that it would be relevant to re-examine the questions and refine them further linguistically.

Last year, the questions were further refined with a view to clarify them as much as possible and the result of the group's work was a **consolidated questionnaire**.

2.2 I&A report 2020/2021 proposals

During the former work, the ENCJ group gathered experience on the use of national court user surveys, even if they had not focused on independence and accountability. Information was obtained about experiences regarding the methodology, results and the general use of court user surveys in Sweden, Finland, Spain, Denmark, Romania and the Netherlands.

As a suggestion for this year, the group proposed, firstly, to consider preparing an inspirational list of relevant questions focused on aspects of perceived independence and based on the experience gained from the countries that have conducted user surveys, without it being a general handbook, as this had already been done by CEPEJ (see I&A Report 2020/2021 p. 34).

Furthermore, the group considered the possibility of conducting a uniform court user study on independence at the same time in all member and observer countries, as it deemed that this would provide a very valuable insight into the state of court users' experience of perceived judicial independence, useful for further work to strengthen independence and accountability.

Therefore, the primary proposal of the group in 2020/2021 was to continue the work that in the coming years a full-scale court user survey should be conducted among court users in all ENCJ member and observer countries. In the further work, it was suggested that the group looked at how a joint user survey can best be organized including whether it should be carried out by the individual countries from the same questionnaire or if it should be managed centrally. It also proposed to consider the methodology in order to use the type of distribution that gives the most representative outcome, calculate the cost and make an application.

2.3. Work 2021-2022

Following up on last year's work, top priority for this year's project group was to explore the possibility of conducting an EU-wide court user survey.

The topic was discussed in 3 virtual meetings and 1 in-person plenary meeting.

In the first plenary meeting (December 2021), various methodology questions for a full-scale survey were discussed. As they were deemed too technical by the members, two experts were proposed and a meeting with them was held in January 2022.

However, during that meeting it became apparent that not only the legal systems of the individual member and observer countries are different but also the mentality of court users, which led the group to consider the project as too ambitious at this point. More specifically, due to the characteristics of each national court or jurisdiction (for example as to predominance of the court hearing or of written procedures, time of rendering a judgment, physical presence of non-professional court users in court etc.) and due to differences in the distribution method suitable for each country, a common methodology has been impossible to agree upon. Furthermore, a country-by-country approach, apart from being too complicated, would require in-depth knowledge of each country's judicial system and mentality, in order for the results to be credible, representative, comparable and, thus, useful.

Therefore, weighing up the importance of a full-scale court user survey and the consideration that in order for it to be done properly more time is needed, the group chose, for the moment, to partially shift the focus from the second component of last year's proposal, to its first one, namely to work on a Practical Guide in order to encourage members to conduct national court user surveys and, at a later stage, re-examine the prospect of conducting an EU-wide court user survey.

To that end, it was decided to provide members which lack relevant experience with the following materials, in order to facilitate undertaking this project nationally:

1. the ENCJ consolidated questionnaire
2. Members' and non-members' experience and best practices (experience fiches)
3. recommendations based on members' experience (practical guide).

A subgroup comprising judges from Spain, Norway, the Netherlands, Sweden, Finland, Denmark, and Romania, held virtual meetings in February and March 2022, shared their experience and answered relevant questions based on a common template. The subgroup considered helpful to take into account the experience of Bosnia and Herzegovina, the judicial council of which organized a broad survey conducted in 2021. The results of the subgroup's work were presented to the ENCJ plenary session of April 2022.

Based on the above national experiences, a concise guide to court user surveys (recommendations) was drafted, with a view to provide inspiration on methodology and implementation to national councils and court administrations in organizing surveys.

At the same time, it has been considered useful to include the national experiences as such, for those members which find that their systems match another member's system in such a way that applying the method used by this member would serve the purpose of the survey best.

The result of the work this year is a **Practical Guide**, comprising, apart from last year's consolidated questionnaire, recommendations for court user surveys and the national experiences fiches, represented in Annex III.

As for the general recommendations the following was concluded:

Period of survey: May vary depending on the specificities of each judicial system and the methodology used (dissemination method, agreed sample size etc.). They usually range between 5 days (for phone interviews) and 2 months (face-to-face interviews).

Methodology: May vary depending mainly on the court users' mentality and the resources available. Therefore, sometimes face-to-face interviews are more effective, while in some cases (mostly in Scandinavian countries) a paper- or an online questionnaire (link, QR code given outside the courtroom) is more attractive to the participants. A combination of different dissemination methods is also likely to work in some countries; however, when drawing results, it might be necessary to differentiate between different methods used. Phone interviews may also be used.

In general, face-to-face interviews outside the courtroom present more credibility, while remote methods tend to be less accurate and run the risk of attracting mainly dissatisfied court users. On the other hand, remote methods are generally easier to manage and more cost-effective.

Sample size (No of replies/no of courts): May vary depending on the methodology used and the resources available. Some countries opt for a pilot in one or two courts before proceeding with a more ambitious survey. The sample size is mostly based on a fixed number, rather than a percentage.

Survey organization and collection of the data: May vary depending on the resources and the dissemination methodology. In general, it is more efficient to hire a market research agency, but some councils/court administrations have the resources to undertake it by themselves (especially in case the chosen method is an online survey).

Cost: May vary depending on the methodology (dissemination method and target sample) and the price level of each country. No cost for online surveys undertaken by the judiciary. 14,000-18,000 euros for phone surveys and combination of face-to-face and phone surveys. Up to 200,000 euros for a full-scale face-to-face survey.

Putting the results to good use: The results may either be used for purely internal purposes (administration/organization of courts) or be made public (published in the press or website of the court) as part of an accountability/transparency obligation of the judiciary. Usually, they are used to identify weaknesses and points in need of improvement.

They shouldn't be used for punitive purposes.

The use of the results should be made clear from the beginning of the survey.

2.4 Recommendation on the work forward

It is the experience from the work in this group, as it was mentioned in last year's report as well, that many ENCJ member and observer countries are still reluctant to perform court user surveys, the reasons for that being either that the councils lack the financial and/or administrative means/structure to support the project or a fear that possible negative results might be used against the judges.

The ENCJ is aware that an EU-wide court user survey, although it remains an important goal within the Independence and accountability project and would certainly bypass some of the above-mentioned problems, is not for the time being possible. It is, therefore, currently left to the national councils/judicial administrations themselves to conduct surveys according to the specificities of each country.

The fact that the ENCJ consolidated questionnaire has already been successfully used by the Norwegian court administration, that conducted its first survey in 2021, and that in the plenary meeting of April 2022 many members have expressed interest in conducting such surveys certainly leaves room for hope that in the future more councils/court administrations will opt for court user surveys focused on independence based on this questionnaire.

As this year's work resulted in general guidelines for those members and observers already planning to undertake this project, The ENCJ proposes that the project team for next year considers the possibility of following an individual approach. It is therefore suggested to look deeper into the councils which have not performed such surveys and have no plans to do so in the near future, with a view to identify the reasons for each country, try to address them to the extent of the ENCJ competences and to encourage and actively support councils in their efforts. For example, it could consider establishing a mentorship programme within the network (by bringing together a judge from a country with relevant experience, willing to offer advice, to a council wishing to conduct a survey and asking for guidance).

Part 3 – Quality of the judiciary

3.1. Background

Since 2015, work has been ongoing in the extension and development of the indicators to quality of justice. The principles and visions of quality incorporated into the questionnaire on quality have been comprehensively set out in past reports (ENCJ 2020, pp. 47-59). As discussed in previous reports, initially a set of indicators were developed and applied on a pilot basis for three judiciaries. The indicators were refined and a questionnaire, based on the refined indicators, was circulated to all Members and Observers to be completed. As stated in the report for 2018, some complications were encountered.

Accordingly, it was decided that the following activities would be undertaken by the group:

- All Councils should adopt a framework that defines their involvement in guaranteeing and promoting quality of justice and their approach to it, and to improve quality of justice by examining their country profiles, taking the general recommendations into account.
- Improvement of the quality indicators by a thorough analysis and reflection on the outcomes so far and the issues encountered.
- Incorporation of quality in the development of the format for a Court User Survey.
- Analysis of existing, external data about quality of justice for their use in the indicator system.

The priority was the work described at number (2) and the subgroup dealing with quality focused upon revising and refining the questionnaire and producing a draft of the report. The report on Independence, Accountability and Quality of the Judiciary 2018/2019 was adopted by the General Assembly in June 2019. It was decided at the General Assembly to send the revised questionnaire based on the refined indicators to all Members and Observers to be completed by the end of 2019.

3.2. Developments

Since 2020, the work of the subgroup was greatly impacted by the Covid-19 pandemic and this trend continued through the year 2020/2021 and a major part of the year 2021/2022. The revised questionnaire was sent out at the end of 2019 and responses were received and analysed in early 2020. In the year 2020/2021 the report on the answers to the 2019 questionnaire was prepared and a draft report on the results of the questionnaire was produced and furnished to the Members of the project group for observations during the online meetings.

Since the results of the circulated revised questionnaire revealed certain difficulties and weaknesses with the methodology adopted in the revised questionnaire (ENCJ 2020, pp. 63-70) as it provided positive results for all jurisdictions, however, it seemed – failed to capture the possible difficulties. The ENCJ decided to publish the data notwithstanding the fact the results were to be treated as provisional, thus the report represented the results of a “work in progress”.

It was agreed that further analysis and improvement of the questionnaire was required and that some of the indicators and scoring needed to be refined to reduce uninformative outcomes. Thus, throughout the year 2020/2021 the Members of the working group focused their efforts on improving the indicators and the methodology of the questionnaire, concentrating on revisions/rephrasing, exclusion of ambiguous (and/or overly objective/subjective worded) questions and the expansion of questions by incorporating additional aspects to ensure the aspect of quality identified in the underlying indicator was more effectively captured. The

Members of the working group have provided the list of quality indicators and indicated that further work was necessary on the indicators A1 and A2 and that the scoring of the questionnaire should also be reviewed.

3.3. Work in 2021/2022

After reviewing the work previously done by the members of the group on the subject of Quality of justice, in the working Project team meeting in September 2021 several possible ways to progress the work on the subject of Quality in the year 2021/2022 were presented. It was suggested that the Project team could (1) focus its efforts on the subject of the role of Councils for the Judiciary in promotion of Quality of justice, (2) work on ENCJ guidelines on the Quality of justice, which could be adopted by the Councils for the Judiciary and (or) (3) to continue working on the Questionnaire. Given the time and efforts already spent on review and improvement of the questionnaire a decision was taken to further focus the efforts on the review of the Questionnaire.

Since the situation, related to the COVID-19 pandemic did not permit in-person meetings for the majority of the year 2021/2022, the members of the group met online for five intensive working sessions, before an in-person meeting in Barcelona in April 2022. During the online meetings the members of the group capitalized on the previous work and:

- reviewed indicators A1 (standards for courts on the duration of cases) and A2 (standards for parties on the duration of cases) shaping them in a manner, which allows to assess a particular indicator in various phases (e.g., whether particular standards are in place, if so – are they realized in practise, are they monitored, is this information available to the public). Several other indicators in the Questionnaire were also amended to reflect this cycle;
- taking into account the CCJE opinion No. 15 on the specialization of judges, reviewed an indicator A5 on the specialization of judges and constructed it in a different manner, providing a possibility to both better score this indicator and to gather information on particular areas of the specialization of judges in individual jurisdictions;
- has focused the majority of its time and efforts on reviewing the scoring of the questionnaire. New and more elaborate scoring templates were developed for all indicators in the majority of questions, their value in the overall scoring of the Questionnaire was assessed.

With the abovementioned activities the members of the working group have successfully finalized the review of the Questionnaire on Quality, which, with certain amendments, was adopted at the Plenary meeting in Barcelona in April, 2022.

The final questionnaire on quality is provided in **Annex VI**.

3.4. Next steps

It is recommended that in the next year the Project should focus on the following steps:

- Work on identifying the roles and competences of the Councils in guaranteeing and promoting Quality of Justice having regard to their country profiles and on general recommendations to improve the Quality of Justice in their jurisdiction.
- Circulate the revised Questionnaire to be filled out by the Councils for the Judiciary.
- Review and analyse the results of the Questionnaire. Assess, whether results on the Questionnaire would be helpful for individual councils to identify the areas in which there is potential to improve quality and to take appropriate steps to achieve such improvement.

Annex I Minimum standards defined by the ENCJ (report 2012/2013)

Standards for formal evaluation have been set in the [ENCJ report mentioned above](#). These standards can be summarized as follows.

Aims (some aims may apply also to informal evaluation):

- To improve the efficiency of the judicial systems. This specific aim links evaluation of professional performance of judges with the systemic evaluation of the judicial systems. To safeguard professional quality of judges, in order to improve the service provided by the judicial systems to the public.
- Skill development of judges, including continuing training if this appears to be necessary in view of the outcome of the evaluation.
- To prevent problems and malfunctions of the judicial systems.
- To improve the motivation and satisfaction of judges in the development of their professional activities.
- To improve management and leadership abilities within the judiciary and, indirectly, judicial accountability and public confidence in the judicial systems.

Principles:

- The system of evaluation of professional performance is independent, fair, open and transparent.
- Evaluation aims to establish the professional capabilities of the judge and cannot address the merits of the decisions of the judge. Thus, the quality of decisions is part of the evaluation but only from the perspective of professional skills and not the merits of decisions.
- Evaluation cannot lead to the dismissal of a judge. This requires a disciplinary procedure that is limited to cases of gross negligence.

Evaluation criteria:

- Criteria must be varied and cover quantitative and qualitative aspects.
- The timeliness of decisions is part of evaluation, but the sufficiency of the court budget needs to be considered.
- The rate of success in appeal should be used with caution, as the success rate may not reflect the quality of the decisions of the judge.

Evaluating body:

- The body needs to be independent of the government and consist of a meaningful number of judges. A council for the judiciary will typically be entrusted with this task.
- The ministry of Justice should not take part in the evaluation.

Method of evaluation:

- The process must be independent of political influence, fair in its assessment procedures, open to all members of the judiciary and transparent in terms of public scrutiny.
- The process must be based on the judge's past professional performance, using different sources of reliable information.
- Adequate record must be kept.
- A specific, formal procedure, whose basic rules are established by primary legislation, needs to be in place.
- The procedure for evaluation allows for the judge to have access to the documents being examined and to actively participate or be heard in the process by expressing his/her own point of view about his/her professional performance and commenting on any critical remarks.

- The judge subject to the evaluation of professional performance is entitled to know the outcome of the evaluation, especially if the decision on the evaluation entails negative consequences for the judge in terms of professional career, economic benefits, or the imposition of specific obligations.
- An independent complaints' or challenge process is in place to which any judge subject to evaluation may turn if he or she believes that s/he was unfairly treated in the evaluation process.

Annex II Questions on evaluation and scores

Formal accountability of the judge and staff

Mechanisms to evaluate performance and promote and maintain ethical standards of the judiciary

10. Evaluation of judges	
10a. Existence of evaluation and its purpose	
Is the performance of judges evaluated on a systematic basis?	<input type="checkbox"/> Yes (10) <input type="checkbox"/> No (0) questions ends
Has the purpose and consequences of evaluation been made explicit in a binding document (primary legislation or court regulation)?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-10)
10b. Purposes of evaluation	
A. Personal learning and professional development	
Is the purpose of evaluation personal learning and professional development of a judge? Decisions taken on the basis of the outcome of this type of evaluation are, in principle, only by the judge. Example: personal resolve to improve communication with parties or a request for specific training.	<input type="checkbox"/> Yes: proceed to next question <input type="checkbox"/> No: Go to B
Who evaluates?	<input type="checkbox"/> Peer(s) (0) <input type="checkbox"/> Other (-5)
Is the Report of the evaluation available to only the judge or also management?	<input type="checkbox"/> Only evaluated judge (0) <input type="checkbox"/> Also management (-5)
What is the frequency of the evaluation?	<input type="checkbox"/> More frequent (-2) <input type="checkbox"/> Every 2-4 years (0) <input type="checkbox"/> Less frequent (-2)
B. Performance evaluation by management, not aimed at individual human resource/career decisions.	
Is the purpose of performance evaluation by management, not aimed at individual human resource/career decisions? Examples: (1) Development of the competences and skills of the judges of a court or a department of a court, in connection with the distribution of judges across areas of law, including their specialization and training needs. Example of a decision by (knowledge) management: allocation of specialisations. (2) Promoting the quantitative and qualitative performance of the judges of a court in connection with the efficiency and effectiveness of the court. Example of decision by management: determination of individual case load and timeliness.	<input type="checkbox"/> Yes: proceed to next question <input type="checkbox"/> No: go to C
Is all information on which the evaluation is based documented?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)

Are all documents available to the judge?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)
Has the judge the right to respond to any findings on him/her?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)
What is the frequency of the evaluation?	<input type="checkbox"/> More frequent (-2) <input type="checkbox"/> Every 1-2 years (0) <input type="checkbox"/> Less Frequent (-2)
C. Performance evaluation by management or other responsible authority, aimed at individual human resource/career decisions.	
Is the purpose of evaluation performance evaluation aimed at taking human resource/career decisions about judges such as promotion and career steps (i.e. switch from a first instance court to an appeal court and vice versa)?	<input type="checkbox"/> Yes : proceed to next question <input type="checkbox"/> No : questions ends
Can evaluation in itself lead to the dismissal (demotion/transfer) of a judge?	<input type="checkbox"/> Yes (-5) <input type="checkbox"/> No (0)
Does the body that conducts the evaluation consist of a majority of judges?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-5)
Does the executive or legislative powers take part in the evaluation?	<input type="checkbox"/> Yes (-5) <input type="checkbox"/> No (0)
What is the frequency of the evaluation, if it is conducted on a regular basis?	<input type="checkbox"/> More frequent (-2) <input type="checkbox"/> Every 2-4 years (0) <input type="checkbox"/> Less frequent (-2)
Is all information on which the evaluation is based documented?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)
Are all documents available to the judge?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)
Does the judge have the right to respond to any findings on him/her?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)
Is a procedure of appeal in place which allows for an independent review of all materials?	<input type="checkbox"/> Yes (0) <input type="checkbox"/> No (-2)

Annex III – Practical Guide on Court Users Surveys

GENERAL RECOMMENDATIONS FOR NATIONAL COURT USER SURVEYS
<p>Period of survey: May vary depending on the specificities of each judicial system and the methodology used (dissemination method, agreed sample size etc.). They usually range between 5 days (for phone interviews) and 2 months (face-to-face interviews).</p>
<p>Methodology: May vary depending mainly on the court users mentality and the resources available. Therefore, sometimes face-to-face interviews are more effective, while in some cases (mostly in Scandinavian countries) a paper- or an online questionnaire (link, QR code given outside the courtroom) is more attractive to the participants. A combination of different dissemination methods is also likely to work in some countries; however, when drawing results, it might be necessary to differentiate between different methods used. Phone interviews may also be used.</p> <p>In general, face-to-face interviews outside the courtroom present more credibility, while remote methods tend to be less accurate and run the risk of attracting mainly dissatisfied court users. On the other hand, remote methods are generally easier to manage and more cost-effective.</p>
<p>Sample size (No of replies/no of courts): May vary depending on the methodology used and the resources available. Some countries opt for a pilot in one or two courts before proceeding with a more ambitious survey. The sample size is mostly based on a fixed number, rather than a percentage.</p>
<p>Survey organization and collection of the data: May vary depending on the resources and the dissemination methodology. In general, it is more efficient to hire a market research agency, but some councils/court administrations have the resources to undertake it by themselves (especially in case the chosen method is an online survey).</p>
<p>Cost: May vary depending on the methodology (dissemination method and target sample) and the price level of each country. No cost for online surveys undertaken by the judiciary. 14,000-18,000 euros for phone surveys and combination of face-to-face and phone surveys. Up to 200,000 euros for a full-scale face-to-face survey.</p>
<p>Putting the results to good use: The results may either be used for purely internal purposes (administration/organization of courts) or be made public (published in the press or website of the court) as part of an accountability/transparency obligation of the judiciary. Usually, they are used to identify weaknesses and points in need of improvement. They shouldn't be used for punitive purposes. The use of the results should be made clear from the beginning of the survey.</p>

Court Users Survey experiences 2022

1. Bosnia and Herzegovina - High Judicial and Prosecutorial Council

Period of survey(s): Last five years since 2021.

1. What were the objectives of the survey?

The general goal of the final satisfaction survey aimed at court users is to assess the level of satisfaction among the general public, i.e. existing and potential court users in order to obtain clear insight into the public perception (citizens of Sarajevo, Mostar, Tuzla and Banja Luka) of the work of Municipal Courts in Sarajevo, Mostar and Tuzla and the Basic Court in Banja Luka, as the largest first instance courts in BiH in which a representative sample can be provided.

The purpose of the research is to obtain clear insight into the public perception of court users on the work of courts, namely the Municipal Court in Sarajevo, the Municipal Court in Mostar, the Municipal Court in Tuzla and the Basic Court in Banja Luka, in order to identify the most important recommendations for improving the work of these courts and increasing public confidence in their work. In addition to this final Survey of court user satisfaction from 2021, in 2019, an initial court user satisfaction survey was conducted.

2. What was measured?

An integral part of this research is several thematic chapters: trust in the judiciary in BiH, perception of the judiciary, information of the general population, perception of courts by the general population, users' perception and experience, physical accessibility of courts, satisfaction with the building/space of the courts, availability of information to users, alternative dispute resolution, duration of court proceedings and other judicial staff and overall satisfaction with the courts.

3. What was the methodology used? (interviews/post dissemination/online/telephone etc)

Data collection included quantitative and qualitative research methods and multiple research instruments:

Desk analysis: Researchers mostly relied on data available on the HJPC BiH website (<https://vstv.pravosudje.ba>). The desk analysis also includes documents provided by the HJPC of BiH: IPA 2017, Project Description, Annex III, Project Description, Annex III, Organization and Methodology, Guidelines for questionnaire design. Results of the May 2019 survey were used to identify any changes in user satisfaction from 2019 to the present. The data obtained through the desk analysis was used to write parts of the report.

QUANTITATIVE RESEARCH: The quantitative part of the research included a total of 2000 respondents, approximately 500 from the jurisdictions of each of the following courts:

Municipal Court in Sarajevo, whose jurisdiction is Sarajevo Canton (KS) - 526 respondents,

Municipal Court in Mostar, whose jurisdiction is the City of Mostar - 483 respondents,

Municipal Court in Tuzla whose jurisdiction is the City of Tuzla and the Municipality of Čelić - 502 respondents and Basic Court in Banja Luka, whose jurisdiction is the City of Banja Luka and the Municipality of Laktaši² - 489 respondents. Quantitative data were collected by using two methods: 1) face-to-face interviews (F2F) and 2) computer-assisted telephone interviews (CATI). The F2F interviews account for 74.6% of the total number of respondents (approximately 1500 interviews), while the CATI method accounts for 25.4% of respondents, or 500 interviews. Similar questionnaires were used for data collection³ to those used in 2019, to ensure that data would be comparable.

After all the interviews were conducted, the collected data was statistically processed using the Statistical Package for the Social Sciences (IBM SPSS 21).

MYSTERY SHOPPING:

Mystery shopping⁴ was conducted in July 2021 in the Municipal Courts in Sarajevo, Mostar, Tuzla and the Basic Court in Banja Luka. It was conducted by persons who were provided with instructions for each visit, including all the details they need to pay attention to. They were instructed to carefully observe the space and employees and ask them questions that will help evaluate the quality of service offered in the workplace they visited. After their visits, all mystery shoppers met with the coordinators from the Promo Agency who had previously provided them with the scenario. After the visit, the mystery shoppers worked with the coordinators to record the observations they made during their visit.

4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?

The agreed sample size was 2000 respondents, approximately 500 from the jurisdictions of each of the following courts: Municipal Court in Sarajevo (526 respondents), Municipal Court in Mostar (483 respondents), Municipal Court in Tuzla (502 respondents), Basic Court in Banja Luka (489 respondents).

The face-to-face interviews (F2F) account for 74.6% of the total number of respondents (approximately 1500 interviews), while the computer-assisted telephone interviews (CATI) accounts for 25.4% of respondents, or 500 interviews. The participation rate in the F2F interviews is 60% (Participation rate = number of potential respondents contacted compared to the number of respondents who agreed to participate in the survey). The participation rate in CATI interviews is 21% (Participation rate = number of potential respondents contacted compared to the number of respondents who agreed to participate in the survey). Since the participation rate for this method was very low, most of the surveys were conducted using the F2F method.

5. Who organised the survey and collected the data?

To conduct the survey, the HJPC BiH hired a professional agency / firm for public opinion research, market research and consulting. methodology fully followed the requirements set forth in the Technical Specifications and the Guidelines provided by the HJPC BiH.

6. What were the costs?

The costs were 28.000 KM (14.300 euro)

7. What was done with the results?

The results of the research were presented at the Council session, as well as to the donor who financed the implementation of the initial and final research. In addition, the results were submitted to the target courts, in order to take measures, in accordance with the results of the research, in those areas that were assessed through the survey as those that need improvement.

After 6 months to a year, a meeting will be held with the presidents of the courts to determine whether the planned activities / measures have been taken. Also, the results of the survey are published on the HJPC website.

8. Which lessons learned for a next survey/tips:

The methodology used in the final survey proved effective.

Based on the conducted survey and the obtained results, conclusions on the current satisfaction of the public with the work of the courts and the perception of justice were formed.

- Although a slight improvement is noticeable in respondents' attitudes towards the judiciary in BiH, the general level of public confidence in institutions related to the justice system remains low
- The general perception of the work of the judicial system in BiH skews more negative than positive.
- Average BiH citizen cannot expect a fair trial, which speaks to the general distrust of citizens towards judicial institutions.
- corruption, political influence over the courts, inequality before the law, and the length of proceedings has been recognized as the biggest problem of the judiciary

- the public is not familiar with alternative ways of resolving court disputes;
- The speed of resolving cases and court costs stand out as negative features of the courts' work
- the public is not informed at all or is not sufficiently informed about the work of municipal / basic courts;
- Respondents' opinions about the judiciary in BiH are shaped to a significant extent by specific court proceedings/cases that received a lot of media attention, which speaks to the role and importance of the media in shaping the general public's perception of the judicial system in BiH.

Based on the conducted survey and the obtained results, a set of recommendations that define specific areas in which it is possible to achieve certain improvements, but also specific mechanisms for achieving these improvements was created

9. Who can be contacted to learn more (if personal data are provided these will not be published in report)

Amela Sačić – and Nera Šćuk – at the High Judicial and Prosecutorial Council

2. Denmark- Domstolsstyrelsen

Period of survey(s): Fall 2020 (4 weeks)
1. What were the objectives of the survey?
<ul style="list-style-type: none"> • Study and describe the court users' needs and expectations and how the courts meet these • Provide a baseline for the strategy work of the Courts of Denmark
2. What was measured?
The satisfaction of Danish court users – professionals and non-professionals
3. What was the methodology used? (interviews/post dissemination/online/telephone etc)
Questionnaire combined with telephone interviews
4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?
No sample size was agreed upon initially. 3.603 users answered the questionnaire and 50 interviews was held. Interview candidates were recruited through the questionnaire
5. Who organised the survey and collected the data?
The Danish Court Administration in collaboration with an external vendor.
6 What were the costs? N/A
7. What was done with the results?
Based on the results improvements and required changes has been identified for further work
8. Which lessons learned for a next survey/tips

It is important to make it easy for the users to answer. Inspired by Sweden a QR-code may be used next time

9. Who can be contacted to learn more: international@domstolsstyrelsen.dk

3. Finland - Tuomioistuinvirasto/ Domstolsverket / National Courts Administration

<p>Period of survey(s): 3.2.2020–8.4.2020</p>
<p>1. What were the objectives of the survey?</p> <p>To assess the Quality of Justice in the District Courts in the jurisdiction of the Court of Appeal of Rovaniemi. It serves as a tool for the continuous improvement and judicial training.</p> <p>It is part of the Quality Project in the jurisdiction of the Court of Appeal of Rovaniemi that has been going on since 1999. The assessment is based on the benchmarks of the evaluation of Quality of Justice, which were developed and published in the Quality Project in 2006.</p>
<p>2. What was measured?</p> <p>The assessment included both the Quality of the proceedings and the Quality of the decisions.</p> <p>For the clients and the witnesses the survey included 7 questions of the Quality of the process and the proceedings (the arrangement, security and information of the proceedings, the Judges impartiality, preparation and role in the question of having an agreement in civil cases, timeliness) and 4 questions on the decision (fairness, grounds, language used, timeliness of the decision). The evaluation scale was from bad, satisfactory to good.</p> <p>To have an all-around assessment of the quality separate surveys with more questions were made at the same time for the stakeholders (lawyers, prosecutors), lay judges, representatives of the media and judges themselves (self-evaluation). Also 30 randomly chosen decisions which don't reveal the name of the judge are analysed by a group of experts (representatives of chief judges, judges, lawyers, prosecutors, media and possibly professors).</p>
<p>3. What was the methodology used? (interviews/post dissemination/online/telephone etc)</p> <p>For clients and witnesses online survey was available. They were given also the survey in paper form in sessions if needed. If the decision was given later after the session, the survey in paper form or a link to the survey was sent to the parties with the decision. Interviews were arranged in one District Court and only a few clients were interested in taking part in it.</p> <p>For lawyers, prosecutors, judges (self-evaluation), lay judges and media the survey with more questions was arranged only online.</p>
<p>4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?</p> <p>The three District Courts in the jurisdiction of the Court of Appeal in Rovaniemi (Northern Finland).</p> <p>The pandemic stopped sessions in the middle of the survey and there were a lot less court users or witnesses to answer the survey. The number of replies of the clients and witnesses was under 50. The goal was to have more answers, but the number of replies stayed at the level of the previous client survey in 2013.</p>
<p>5. Who organised the survey and collected the data?</p> <p>The Quality Project in the jurisdiction of the Court of Appeal of Rovaniemi.</p>

<p>One Quality secretary (judge) made the online surveys and collected the data. Two Quality secretaries (judges) analysed the data and made a report that was edited by the Quality coordinator (judge).</p>
<p>6. What were the costs?</p> <p>Quality secretaries and coordinator are judges and do the Quality work in addition to other duties with a bonus. There were also costs from the publishing of the book of the results of the survey.</p>
<p>7. What was done with the results?</p> <p>They were in use in the planning of the judicial training arranged by the Quality Project and the Quality working groups themes. The Quality working groups consist of judges and the representatives of the stakeholders. They discuss of the set themes and make a report which is presented and discussed at the Quality days of the Quality Project (around 200 participants) every year.</p>
<p>8. Which lessons learned for a next survey/tips</p> <p>Online survey is the best way to reach the clients and witnesses. The access to the link of the online survey should be easy. Maybe a QR-code would be good or an App. There were only a few answers on a paper form or given on the interviews.</p>
<p>9. Who can be contacted to learn more Minna Leikas, judge, District Court of Oulu, FINLAND</p>

4. The Netherlands - Raad voor de rechtspraak

Period of survey(s): 2014 and 2019
1. What were the objectives of the survey?
<ul style="list-style-type: none">- The judiciary is at the service of society and believes it is important to receive regular feedback from court users about its own performance. Therefore, since 2011, the Council for the Judiciary has periodically carried out customer appreciation surveys. - The purpose of the court users survey is twofold:<ul style="list-style-type: none">o Accountability to the Dutch society on the functioning of the judiciary.o To offer concrete leads for the improvement of the quality of the performance and service of the courts.
2. What was measured?
<ul style="list-style-type: none">- General appreciation- Reception on arrival at court<ul style="list-style-type: none">o Court opening hourso Entrance, space and signpostingo Treatment by court staffo Treatment by court usher - Court accessibility<ul style="list-style-type: none">o Telephone accessibility of court staffo E-mail accessibility of court staff - Website of the Judiciary<ul style="list-style-type: none">o Findability of informationo Timeliness of informationo Comprehensibility of information - Explanations of the court<ul style="list-style-type: none">o Explanation of the court hearingo Explanation of the proceedings - Reception before the start of the court hearing<ul style="list-style-type: none">o Facilities during waitingo Privacy (area)o Timely start of the session - Administrative contacts<ul style="list-style-type: none">o Information before the court hearingo Information during waitingo Taking your agenda into accounto Prior information about the case

- Judicial functioning
 - o Preparation by the judge
 - o Judge dealings with litigants
 - o Judge dealings with professional court users
 - o Judge listens to arguments
 - o Judge takes you seriously
 - o Judges gives opportunity to tell your story
 - o Empathy of the judge
 - o Impartiality of the judge
 - o Expertise of the judge
 - o Comprehensibility of the court hearing
- Ruling
 - o Judge's explanation of decision
- Timeliness
 - o Timeliness of the entire procedure

3. What was the methodology used? (interviews/post dissemination/online/telephone etc)

- Face to face interviews (litigants and victims were questioned face-to-face immediately after the hearing by experienced interviewers, who noted down the respondents answers directly in the online questionnaire on a tablet.
 - o Litigants and victims who could not or did not want to participate in an interview were offered the opportunity to participate online at a later time of their choosing. This could be done by leaving an e-mail address where that person received a personalised link to the online questionnaire one day later. Victims were also given the option of taking a letter with them containing a link to the online questionnaire and a password.
- Professionals were approached via e-mail to complete an online questionnaire. They received a personal link via an e-mail sent by the association of which the professional is a member.

4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?

- Litigants: 3406 respondents
- Victims: 217 respondents
- Professionals: 3.084 respondents
- Minimum sample size: 30 respondents by case type and by court

5. Who organised the survey and collected the data?

- An external and independent research bureau

6 What were the costs?

- The costs of the last two survey (2014 and 2017) were both approximately 400.000 euro in total (approximately 23.500 euro per court)

7. What was done with the results?

The results were published on the website of the Judiciary ([link to the website](#), only in Dutch)
The results were discussed in the (boards of the) courts and on a national level in the monthly meeting between the Council and presidents of the courts

As a result of an evaluation, for the new survey, a new set of instruments will be developed

- o 1. a survey can also be done on the local court level (instead of 1 central survey).
- o 2. emphasis will be put on structural information gathering_(instead of once in three to four years) and
- o 3. the focus on learning and improving (instead of accountability only) within the courts will be a central element of the new set of instruments. These elements are currently part of the development of the new proposal for the 2022 project.

8. Which lessons learned for a next survey/tips

- See the answer on question 7

9. Who can be contacted to learn more (if personal data are provided these will not be published in report) Robert van der Laan, at the Council for the Judiciary

5. Norway - Domstolsadministrasjonen / National Courts Administration

<p>Period of survey(s): All together it was possible to answer the survey in 12 weeks, from October to December, 2021. Courts chose when to start and finish their «campaign» during these 12 weeks. The timeframe varied from 3 to 10 weeks for each individual court</p>
<p>1. What were the objectives of the survey?</p>
<p>1. Mainly to get knowledge about the view from the court user for learning and developing, 2. To know if the court users have same trust in the Judiciary as the general public. 3. Try out a pilot how to deal with a court user survey and that ENCJ to get knowledge.</p>
<p>2. What was measured?</p>
<p>The independence of court. The entire survey developed by the ENCJ project was used.</p>
<p>3. What was the methodology used? (interviews/post dissemination/online/telephone etc)</p>
<p>Court users were invited to an online survey, entering from a QR code. (The use of email or sms was considered , but mostly the contact information for professional parties was used. Not for the genuine parties, defendants etc. It was thought that such a method wouldn't give a correct picture of the court users views.</p>
<p>4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?</p>
<p>It was a try out the survey in a few pilot courts. The goal was to get 300 answers from these six courts. Only 145 answers were received of which 31 did not answer all questions.</p>
<p>5. Who organised the survey and collected the data?</p>
<p>NCA organised the survey and collected the data.</p>
<p>6 What were the costs?</p>
<p>Working hours for NCA and court staff. It is difficult to estimate how many working hours. Minor costs for translation to different languages. Of course a survey solution is needed as well.</p>
<p>7. What was done with the results?</p>
<p>1. The participating courts got their own results and the national results. 2. Results presented to the Board of Managers as a part of the discussion about if, and how, such a survey should be made national and regular 3. Probably not go public with the results as the number of respondents are so low. Maybe a short article on the common intranet for the courts will be published</p>
<p>8. Which lessons learned for a next survey/tips</p>
<p>The ENCJ survey is a good tool to get insight on the court users view of independence in courts. To get enough respondents you must have dedicated people to ask court users to answer the survey.</p>
<p>9. Who can be contacted to learn more Iwar Arnstad at the Court Administration</p>

6. Romania - Consiliul Superior al Magistraturii

Period of survey(s): Since 2006, Timișoara Court of Appeal annually conducted such survey, but over the years there have been extensive changes to both the instrument used (following Jesper Wittrup's model) and the investigation methodology.

1. What were the objectives of the survey?

The survey conducted by the Timișoara Court of Appeal aimed to highlight the perception of public opinion and of the civil society on the quality of the act of justice at the level of Timișoara Court of Appeal and the courts within its circumscription, in general.

2. What was measured?

The survey was designed to analyse the perception of public opinion and civil society on the functioning of the courts in general, the way in which cases are handled, the attitude and behaviour of judges in the hearing room, their professionalism and the quality of the judgments delivered, as well as the perception of the behaviour and attitude of auxiliary staff in performing their duties.

The questionnaire has 7 sections, as follows:

- I. Relevant statistical data
- II. The services concerning Registry, Archive and availability of information regarding the files
- III. The activity in the court room
- IV. Timeframes regarding the files in the court
- V. The overall activity and the facilities of the court building
- VI. Disposition time
- VII. Final opinions

3. What was the methodology used? (interviews/post dissemination/online/telephone etc)

In the first years, the survey was distributed in physical format, on paper, both at the entrance to the court's headquarters, as well as at the Bar, notarial cabinets, bailiffs, judicial experts. The filled in questionnaires were placed in a box at the entrance of the building. Later, the data from the completed questionnaires were manually inserted in summary tables by category of responses, and the conclusions were also entered in the annual report of the court.

Subsequently, the paper format was discarded, and the questionnaire has been applied online since 2015, through Google Forms platform[2]. It can be completed by court users by accessing it directly from both the court's website and the court portal website within the Public Interest Information section. The questionnaire thus became much more accessible from the point of view of its completion by the subjects, due to the type and way in which the questions were formulated, which were addressed, in particular, to litigants and legal representatives, who participated in the act of justice carried out in the aforementioned courts.[3]

The results are made public and available online.[4]

Each section of the questionnaire has specific answers and some sections, i.e. I, II and VI, also contained filter questions to facilitate the completion of the questionnaire.

For most of the sections, the answer options were the following: *totally agree, partially agree, partially disagree, totally disagree, I don't know/I don't wish to answer.*

At the end of the questionnaire, the respondents were invited to provide some suggestions on what measures should be taken to improve the performance of the courts.

4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?

The number of questionnaires applied and of the given answers differs from year to year. For example, in 2019, out of the 67 opinions expressed by respondents, the majority of them are applicants (25.4 %), defendants (29.9 %) and accused (11.9 %).

The questionnaire is addressed to:

- Applicants
- Defendants
- Accused
- Injured parties
- Lawyers
- Trainee lawyers
- Legal advisers
- Witnesses
- Experts
- Authorized/legal representatives
- Curators
- Other

5. Who organised the survey and collected the data?

As explained in the first answer: the courts within the circumscription of Timișoara Court of Appeal and the court of appeal itself. The data was then centralised.

6 What were the costs?

Information not available

7. What was done with the results?

In order to analyse the data, an Excel database was automatically created for the data collected from respondents. As a method of data analysis, the frequency of respondents' choices of the items of the questionnaire, expressed in percentages, was used.

The results were strictly related to the number of respondents who provided a response and the non-responses were removed from the statistical analysis, for greater accuracy of the respondents' perception of the quality of the court's work.

8. Which lessons learned for a next survey/tips

Possible tips:

- Using a clear language. Complex questions sometimes can be perceived as ambiguous by some of the respondents, especially since some (or most) of them do not have legal knowledge
- The preamble of the survey must be as clear and simple as possible -for example: -a few sentences describing the purpose of the survey; - presenting the structure of the survey; - the type of court users the survey is addressed to; - some information on the respondents (for example ,age, gender);
- As far as the structure of the survey and the questions are concerned : considering that some of the questions most probably will tackle with legal aspects of the proceedings, it should be clearly stated from the beginning who should answer those, in order for the respondents to avoid any misunderstanding when filling in the questions (for example, dividing the questions into certain categories - those addressed to the parties, to the witnesses, to the lawyers)

Trying to avoid words /structures that may give place to subjectivity. The respondents should be given options which, after being evaluated, can offer an objective view on the respective matter

9. Who can be contacted to learn more The representative of the Superior Council of Magistracy, at the level of technical staff : Mrs. Ruxandra Ghinescu, *legal expert with status of a judge/prosecutor, European Affairs and International Affairs Unit.*

[1] Since in the last year's pilot project of the court users subgroup the Romanian court which agreed upon the conduct of the court users survey was Timișoara Court of Appeal, the data presented in this document concern the information given by this court in relation with the questionnaire applied at its level and at the other courts (first instance courts, tribunals) within its circumscription

[2] The previously applied questionnaire can be accessed by following this link

https://docs.google.com/forms/d/e/1FAIpQLSe3sobhvxxmxzgOi-z4MNAbzsrCqD_h-YnHCj15hy7H8rp13g/closedform

[3] As a result, the cooperation of the questioned categories was much better than in the case of the classic pencil-paper method, especially with regard to litigants. However, data from this questionnaire still cannot be generalised for all the participants in the act of justice and the resulting data can be seen as a general trend in the responses of the categories invited to participate in the questionnaire.

[4] <https://docs.google.com/forms/d/e/1FAIpQLSdQgpgqhBXyubrJTyH9jvuU2Fqzw97T9RxdhVAIiWZfenhByA/viewanalytics>

7. Spain - Consejo general del Poder Judicial

<p>Period of survey(s): From the 15th to 20th April 2021.</p>
<p>1. What were the objectives of the survey?</p>
<p>The survey is about the image of Justice in Spanish society.</p>
<p>2. What was measured?</p> <p>The first challenge for any research on the topic is how to overcome clichés and top-of-the-head answers. A carefully designed questionnaire is a key prerequisite: it provides the interviewees with the opportunity of expressing clearly and unambiguously what they really mean to say. This is particularly important when dealing with highly touchy and heavily value-laden issues such as “independence” or “fairness” of Courts.</p> <p>The questionnaire contained on the respondents’ general impression of how the administration of Justice in Spain currently functions and how the court functions in different types of cases. The respondents were also asked about their general perception of the judges’ independence in the decisions and whether there is pressure on the judges in relation to their decisions and from whom. Questions related specifically to respondents with experience of a court case were included. These respondents were asked, among other things, if they have felt comfortable; the treatment they received from the court staff and whether they spoke personally with the judge, and, if so, if they had the impression that the judge was approachable. The questionnaire included socio-demographic classification data on the respondent, including material status and level of education.</p> <p>The following points provide a short, basic summary of the main findings obtained in this 2021 National Poll on the image of Justice among the Spanish population:</p> <ol style="list-style-type: none">1. 68% of all Spaniards perceive the current system of Justice as the ultimate, more reliable, safeguard of their rights and liberties.2. 74% consider that Spanish Judges are highly competent and fully qualified to fulfil their duty (among the judges themselves, a very similar percentage —76%— express this same opinion about them-selves and their peers).3. Eight out of every ten Spaniards consider that there is no chance whatsoever that a Judge (or a member of the Police) would accept a bribe.4. 77% of the Spanish population considers that media reports on Justice are constantly biased, as they tend to focus almost exclusively on failures or shortcomings of the Judicial system, and very rarely report on positive actions or decisions.

5. 47% of all Spaniards declare to have had a personal contact with the judicial system. Among them, those who consider that they felt at ease in the Court and that they were properly informed about the proceedings tend to express a much more positive evaluation of the Judicial system (a finding strictly consistent with the pioneering research of Tom Tyler in the U.S.).

6. 79% of the Spanish population consider that the Judicial system suffers from a serious, permanent insufficient funding, which they perceive as the main reason for the chronic delay in the resolution of cases. In fact, 84% come to the conclusion that all government (whatever their political orientation) appear to be more interested in trying to influence Justice than in providing it with the required means that would allow a more efficient functioning.

7. For the first time in the last two decades, of the three classical Montesquieu's "powers", Justice fares now clearly better than the Parliament or the Government in terms of popular trust.

8. 66% of the Spanish population perceive that Courts are under constant pressures from practically every social instance: media, political parties, unions, the Government, economic institutions, etc... A relative common misunderstanding is to conclude from this fact that the general population considers that judicial independence is seriously endangered.

9. However, when a follow-up set of questions is used, a clear distinction appears between the perception that Courts receive all kind of pressures and the feeling that these really manage to be successful. In fact, just 24% of all Spaniards came to the conclusion that pressures on court do really have some influence on their decisions.

10. In any case, in a recent survey (with the same methodological design) to a large (1,000) statistically representative sample of Judges, a mere 1% admitted that external pressures might have occasionally affected them (or their colleagues) in their decisions.

3. What was the methodology used? (interviews/post dissemination/online/telephone etc)

The survey was based on interviews conducted through a random selection of telephone numbers.

4. What was the sample size agreed upon? (no of replies/no of courts) and was the sample size achieved?

The survey was carried out to a national sample of 1000 persons (+18), statistically representative of Spanish population, by "Metroscopia", a leading public opinion research institute, highly experienced in this specific type of studies, that had previously performed similar surveys on behalf of the Spanish Council for the Judiciary. The final report has been written by Prof. José Juan Toharia (PhD, Yale University), Professor Emeritus of Sociology and currently President of "Metroscopia", a recognized expert in the field.

5. Who organised the survey and collected the data?

The Council for the Judiciary organised the survey and selected “Metroscopia” to carry it out.

6 What were the costs? 18.029,00 euros

7. What was done with the results?

A report was published on the web site of the Council for the Judiciary:

<https://www.poderjudicial.es/cgpi/es/Temas/Transparencia/Buen-Gobierno--Etica-Judicial-y-Comision-de-Etica-Judicial/Encuestas-de-satisfaccion/Encuesta--Los-Espanoles-y-la-Justicia---Mayo-de-2021>

The press also mentioned the results of the survey. The survey helped to guide the Council’s activity.

8. Which lessons learned for a next survey/tips

The Spanish Council for the Judiciary has been working with “Metoscopia” for the last years, so that the different surveys can be compared easily and offer a vision on how court users perceive the justice administration.

In that regard in 2005 a study was published by Prof. Toharia along with Prof. García de la Cruz on the vision of court users in Spain in the last 25 years. This study can be consulted in the following link: <https://www.poderjudicial.es/cgpi/es/Poder-Judicial/Consejo-General-del-Poder-Judicial/Actividad-del-CGPJ/Estudios/La-justicia-ante-el-espejo---25-anos-de-estudios-de-opinion-del-CGPJ--La-justicia-vista-por-sus-usuarios>

9. Who can be contacted to learn more Professor José Juan Toharia

Sweden - Domstolsverket / National Courts Administration Sweden

In Sweden the SNCA has developed a user survey that the courts can choose to use if they like. Some have already used it, some intend to. The questions are the same for all courts, which means that the result can be compared between courts and – if the court wants to perform the survey several times – over time. It is an online survey, that can be found here: [Dialog \(quicksearch.se\)](#)

Annex IV – Consolidated questionnaire for court users

Dear Sir/Madam

This questionnaire is a part of an assessment of the quality of the justice system focusing on the quality, independence and impartiality of the judiciary. The questionnaire is part of a European effort to secure and enhance the independence and quality of judiciaries.

Your opinion and suggestions are important to us and we would be grateful if you would take a little time to reply to the questions below. The questionnaire is anonymous, and we guarantee that your replies will be dealt with in the strictest confidence.

Question 2 is only to be answered by a party, a witness and a victim in a criminal case.

About you. Please tick the relevant box(es):

A. In what capacity are you at the court today?

- As a party
- Witness
- Victim in a criminal case
- Lawyer/ representative for a party
- Other

B. Gender?

- Male
- Female
- I identify otherwise
- Prefer not to answer

C. Age?

- Under 18
- 18 – 30
- 31 – 50
- 51 – 65
- 65 and over
- Prefer not to answer

1. About your experience in court today? Please tick the relevant box(es):

A. If you are a party to a case - what was the outcome of your case?

- Successful
- Partly successful
- Unsuccessful
- Adjourned
- Not yet known

B. The hearing started on time

- Yes
- No
- Not applicable

C. The hearing was postponed until another day:

- Yes
- No
- Not applicable

D. All relevant documents were available in due time before the hearing:

- Yes
- No
- Not applicable

2. I understood clearly:

(Question 2 is only to be answered by a party, witness or a victim in a criminal case)

A. The issues in the case

- Yes
- No
- Not applicable

B. The procedure

- Yes
- No
- Not applicable

C. My duty to the Court

- Yes
- No
- Not applicable

D. My rights during the hearing

- Yes
- No
- Not applicable

3. The judge listened carefully to my side of the case:

- Yes
- No
- Not applicable

4. The judge treated all parties and their representatives respectfully:

- Yes
- No
- Not applicable

5. The judge treated all parties and their representatives fairly:

- Yes
- No
- Not applicable

6. I am confident that the case has been (or will be) resolved fairly:

- Yes
- No
- Not applicable

7. If you are not confident that the case will be (or has been) resolved fairly, why not? (more than one box may be ticked):

- I do not feel that the judge was adequately prepared for the hearing
- I do not feel that the judge acted in a competent and professional manner
- I find the judge to lack communication skills
- I do not feel that the proceedings were open and transparent
- I do not find that the judge explained the reasoning properly
- I find that a party/ representative may have had an inappropriate impact on the decision
- Other (please say why here):

8. Do you feel that the judge(s) was independent in the conduct of the case? (On a scale of 0 - 10 where 0 means "not independent at all" and 10 means "the highest possible degree of independence) Please tick the relevant box.

- | | | | |
|----------------------------|----------------------------|----------------------------|-----------------------------|
| <input type="checkbox"/> 0 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 7 | <input type="checkbox"/> 10 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 8 | |

Note: An independent judiciary is essential in a democratic society. An independent judge is free from political or other inappropriate pressure. An independent judge is impartial and treats all parties fairly.

9. Overall, I am satisfied with the conduct of the hearing by the judge(s) (On a scale of 0 - 10 (where 0 means "not satisfied at all" and 10 means "the highest possible degree of satisfaction) Please tick the relevant box:

- | | | | |
|----------------------------|----------------------------|----------------------------|-----------------------------|
| <input type="checkbox"/> 0 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 7 | <input type="checkbox"/> 10 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 8 | |

10. Before coming to Court today, did you expect to be treated fairly? (On a scale of 0 - 10 (where 0 means "I did not at all expected to be treated fairly" and 10 means "I absolutely expected to be treated fairly ") Please tick the relevant box:

- | | | | |
|----------------------------|----------------------------|----------------------------|-----------------------------|
| <input type="checkbox"/> 0 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 7 | <input type="checkbox"/> 10 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 8 | |

11. Before coming to Court today, did you trust the judicial system? (On a scale of 0 - 10 (where 0 means "no trust at all" and 10 means "the highest possible degree of trust) Please tick the relevant box:

- | | | | |
|----------------------------|----------------------------|----------------------------|-----------------------------|
| <input type="checkbox"/> 0 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 9 |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 7 | <input type="checkbox"/> 10 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 8 | |

12. Since coming to court today, has your trust in the judicial system increased or decreased?

- Increased (your experience was better than expected)
- Decreased (you were disappointed)
- Remained unchanged

Do you have any suggestions or comments?

Thank you!

Annex V – List of indicators for measuring quality of justice

A. INDICATORS OF TIMELINESS AND EFFICIENCY OF PROCEDURES

A1. Standards for judges about the duration of cases:

- Existence of time standards in first instance and in appeal courts;
- Scope of the standards (total procedure or particular phases of the procedure);
- Realisation of standards in practice at first instance and appeal courts;
- Public access to information on the realisation of standards.

A2. Standards for parties about the duration of cases:

- Existence of time standards for parties in first instance and in appeal courts, e.g. to present documents;
- Power of the court to impose sanctions on parties who fail to comply with time standards
- Authority of judges to issue case management directions (to fit the procedure to the case) in first instance and appeal courts;
- Authority of judges to enforce the determined procedure if a party does not conform.

A3. Summary procedures:

- Existence of summary procedures in appropriate cases in first instance and appeal courts.

A4. Digital case filing and digital procedures:

- Possibility of digital case filing;
- Possibility of digital procedures, in the sense that all communications are digital except for the hearing;
- Possibility of hearings being conducted remotely
- Possibility for litigants to inform themselves digitally about the progress of their cases;
- Availability and development of online dispute resolution mechanisms;
- Availability of track and trace systems for parties using online dispute resolution mechanisms.

A5. Specialisation of judges:

- Existence of a sufficient number of specialised judges in first instance and appeal courts.

B. INDICATORS OF DUE PROCESS FROM THE PERSPECTIVE OF ACCESSIBILITY

B6. Equality of arms (funding and costs):

- Existence of a system under which public funding is provided to litigants without means to fight litigation themselves;
- Whether system provides for adequate representation for such litigants at public expense
- Existence of a system to shift the costs of litigation of the successful litigant to the unsuccessful litigant.

B7. Commensurate effort of judges:

- Existence of powers to direct the amount of time set aside for hearing a case, depending on its complexity, in first instance and appeal courts
- Existence of powers to reduce complexity before the hearing at first instance and appeal

B8. Dealing with abusive conduct:

- Authority of the judge to take action to prevent abuse by parties and/or their lawyers
- Instruments available to the judge to intervene:
 - o Stop or stay the proceedings
 - o Order expedition of the proceedings
 - o Impose fines
 - o Shifting of litigation costs
 - o Report to a disciplinary body.

B9. Availability of appeal:

- Existence of right of appeal for an unsuccessful litigant;
- Existence of filtering system to prevent appeals which are without merit from proceeding to a full hearing;
- Impact of appeal on the execution of the order appealed against.

B10. Communication:

- Existence of procedures in all official languages of the country;
- Existence of facilities at the court to provide translation when necessary.
- Existence of system to ensure standard of translation is adequate

B11. Access for people with disabilities:

- Existence of special procedural and physical arrangements for people with disabilities.

B12. Arrangements for vulnerable people:

- Existence of special procedural and physical arrangements for vulnerable people.

C. INDICATORS OF QUALITY OF JUDICIAL DECISIONS

C13. Format of judgments:

- Existence of templates for judgments in standardised types of case.

C14. Reasoning of judicial decisions:

- Existence of the requirement to reason judgments dealing with substantive issues in civil cases and verdicts in criminal cases;
- Possibility for judges to give only summary reasons where appropriate (e.g. to speed up procedures);
- Requirement for oral judgments (if permitted) to be recorded and made available to parties;
- Requirement of transcription of oral judgments in civil cases and oral verdicts in criminal cases.

C15. Clarity of judicial decisions:

- Primary recipients for whom judicial decisions are to be understood by:
 - o The parties
 - o Public in general
 - o Other judges (such as appeal courts or Supreme Court)
 - o Academia
 - o Evaluation authorities.
- Existence of an obligation to use language which is clearly understandable
- Existence of system (outside appeal) for ensuring judicial decisions are clearly understandable

C16. Assessment of Quality of judicial decisions:

- Existence of an instrument to assess the quality of judicial decisions on a regular basis
- Body in charge of the assessment.

C17. Performance evaluation of judges:

- Existence of system for the performance evaluation of judges
- Body in charge of evaluation
- Link with Court User Satisfaction Survey.

C18. Education of judges:

- Existence of initial training of judges on writing judicial decisions
- Existence of training courses designed to assist judges in carrying out their duties
- Existence of the requirement for judges to participate in training courses regularly.

D. INDICATORS OF PUBLIC ACCESS TO THE LAW TO GUIDE SOCIETY

D19. Access to case law:

- Degree to which judicial decisions in civil, criminal and family law are published at first instance and appeal courts;
- Efforts of the court to point out decisions that have high impact and/or set precedent to the public;
- Efforts of the court to make statistical information available about the outcome of cases.

D20. Opening up to the public:

- Degree to which the courts provide information to the public through official sources (e.g. publications, websites) about core judicial values such as independence, impartiality and application of the law;
- Degree to which the public has the opportunity to visit the courts and see judges at work.

Annex VI – Questionnaire on the quality of justice

Please fill in your country of origin:

General remark: The advice of the project team is to have the questionnaire filled in by a working group consisting of about 3 judges with relevant knowledge on the topic of quality, and (some members of) the Council for the Judiciary/equivalent body.

Instructions before filling in the questionnaire:

The questions can be answered digitally by ticking the boxes in this document. Unless specifically made clear, please give only one answer for Criminal and Civil each.

Differences among courts:

In your country arrangements may differ among the courts. Where relevant, first instance courts and appeal courts are distinguished. Among first instance courts and among appeal courts differences may occur as well. Unless the question specifically asks you to indicate differences (see 1.1), please answer the question, keeping in mind the normal situation of the courts in your country.

What is meant by “standards”:

In this questionnaire, please treat “standards” as meaning targets or guidelines intended to achieve timeliness and efficiency, and against which actual timescales achieved can be assessed which can be implemented in diverse ways ranging from law to custom.

What is meant by “summary/simplified procedures”:

As indicated by Opinion no 6 of the CCJE, there are major differences in terminology in this area. Not all states understand the concept of summary, simplified and accelerated procedures in the same sense. Please answer this question according to your system, with a short-cut or fast-track procedure in mind.

A. Timeliness and efficiency of procedures

Indicator A1: standards for courts about the duration of cases

1.1 Are standards - either formal or informal - in place for the duration of cases at first instance courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.2 If standards are in place, do these standards generally apply to the overall procedure (from beginning to end)?				
	Criminal cases	Scores	Civil cases	Scores
The overall procedure	<input type="checkbox"/>	4	<input type="checkbox"/>	4

1.3 Are standards - either formal or informal - in place for the duration of cases at appeal courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.4 If standards are in place, do these standards generally apply to the overall procedure (from beginning to end) ?				
	Criminal cases	Scores	Civil cases	Scores
The overall procedure	<input type="checkbox"/>	4	<input type="checkbox"/>	4

1.5 If standards are in place at the first instance courts, are they monitored at least annually?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.6 If standards are in place at the appeal courts, are they monitored at least annually?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.7 Are standards realized in practice in the cases to which they apply, in first instance courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0
Not known	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.8 Are standards realized in practice in the cases to which they apply, in appeal courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0
Not known	<input type="checkbox"/>	0	<input type="checkbox"/>	0

1.9 Is information about the realization of these standards accessible to the public?				
	Criminal cases	Scores	Civil cases	Scores
Available on official website	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Other	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Not available	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator A2: Standards for parties about the duration of cases

2.1 Are there rules (whether laws, codes/rules of civil procedure or otherwise) specifying time limits for parties in first instance courts, e. g. to present documents?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Note: in criminal cases rules may be applicable either to the prosecution or the defendant or both.

2.2 Can the first instance court impose sanctions on parties who fail to comply with the applicable time limits referred to in 2.1 above?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.3 Are there rules (whether laws, codes/rules of civil procedure or otherwise) specifying time limits for parties in appeal courts, e. g. to present documents?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.4 Can the appeal court impose sanctions on parties who fail to comply with the applicable time limits referred to in 2.3 above ?

	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.5 Do judges at first instance courts have power to issue directions regarding case management in a case?

	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 of types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.6 Do judges at first instance courts have power to enforce such case management directions if a party does not conform?

	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.7 Do judges at appeal courts have power to issue directions regarding case management in an appeal?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 of types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

2.8 Do judges at the appeal courts have power to enforce such case management directions if a party does not conform?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator A3: summary / simplified procedures

3.1 Are summary or simplified procedures available in appropriate cases in first instance courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

3.2 Are summary or simplified procedures available in appropriate cases in appeal courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator A4: Digital case filing and digital procedures

4.1 Can cases be commenced digitally in first instance courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.2 Can cases be commenced digitally in appeal courts?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.3 Can procedures at first instance be conducted digitally in the sense that all communications are digital, up to the hearing?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.4 Can procedures at appeal courts be conducted digitally in the sense that all communications are digital, up to the hearing ?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.5 Can hearings be conducted at first instance courts remotely:				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.6 Can hearings be conducted at appeal courts remotely:				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.7 Can litigants inform themselves digitally about the progression of their cases?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

4.8 Are on-line dispute resolution mechanisms available or being developed at the courts?		
		Scores
Fully available	<input type="checkbox"/>	6
Partially available	<input type="checkbox"/>	4
Being developed	<input type="checkbox"/>	2
None	<input type="checkbox"/>	0

Note: ODR mechanisms concern new procedures that are developed on the basis of digital possibilities and thus differ from current procedures. Think of procedures that allow sequential communication between parties and the court (e.g. by means of email) to replace hearings.

Indicator A5: Specialisation of judges

5.1 Do specialised judges/courts/departments/ chambers exist in first instance courts that deal with the following types of cases:			
	Yes	No	Scores
Family and juvenile law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1, No=0
Intellectual property law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1,
Commercial law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Insolvency law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Certain types of crimes	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Labour law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Other that are deemed appropriate	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1

5.2 Do specialised judges/courts/departments/ chambers exist in courts of appeal that deal with the following types of cases:			
	Yes	No	Scores
Family and juvenile law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Intellectual property law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Commercial law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Insolvency law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Certain types of crimes	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Labour law	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1
Other that are deemed appropriate	<input type="checkbox"/>	<input type="checkbox"/>	Yes=1

*[Source CCJE opinion number 15](#). Paragraph 42.

Indicator A6: Performance evaluation of judges

6.1 Are the competencies of the judges of a court evaluated on a regular basis, in a manner that respects the independence of the judges, to determine educational needs and the distribution of the judges of the court across areas of law and specializations?³		
		Scores
With respect to training needs and distribution of areas of law and specialization	<input type="checkbox"/>	4
Only with respect to training needs	<input type="checkbox"/>	2
Only with respect to distribution of areas of law and specialization	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0

6.2 Is the individual performance of judges with respect to number of cases, duration, professional quality of decisions, conduct at hearings and judicial ethics reviewed on a regular basis, in a manner that respects the independence of the judges? Multiple answers possible⁴.		
		Scores
Number of cases	<input type="checkbox"/>	1
Duration of procedures	<input type="checkbox"/>	1
Quality of decisions	<input type="checkbox"/>	1
Conduct at hearings	<input type="checkbox"/>	1
Judicial ethics	<input type="checkbox"/>	1
No	<input type="checkbox"/>	0

³ Note: only answer in the affirmative if the evaluation conforms with the criteria of the ENCJ, as specified in the indicators on independence and accountability.

⁴ Note: only answer in the affirmative if the evaluation conforms with the criteria of the ENCJ, as specified in the indicators on independence and accountability.

6.3 Is the conduct of the judge part of court user satisfaction surveys, if any?		
		Scores
Yes	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0

Due process from the perspective of accessibility

Indicator B7: Equality of arms (funding and costs)

7.1 Is there a system for providing public funding to litigants without means to pay for litigation themselves?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

7.2 Does the system provide for adequate representation for such litigants at public expense?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

7.3 Is there adequate public funding for such litigants who qualify under the system?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

7.4 Does an unsuccessful litigant in a civil case generally have to contribute to the costs of the successful party?		
		Scores
In full	<input type="checkbox"/>	1
Main principle full contribution but with possibilities to deviate	<input type="checkbox"/>	2
Partly	<input type="checkbox"/>	1
None	<input type="checkbox"/>	0

Indicator B8: Commensurate effort of judges (do complex cases get appropriate attention?)

8.1 Does the court have power to direct the amount of time set aside for hearing a case, depending on its complexity, in first instance courts?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

8.2 Does the court have power to reduce complexity (for example, by requiring parties to reach agreement on certain issues/aspects) before the hearing at first instance?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

8.3 Does the court have power to direct the amount of time set aside for hearing a case, depending on its complexity, in appeal courts?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

8.4 Does the court have power to reduce complexity (for example, by requiring parties to reach agreement on certain issues/aspects) before the hearing of the appeal?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator B9: Dealing with abusive conduct

9.1 Is the judge able to take action to prevent abusive conduct by parties and/or their lawyers?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

9.2 If the answer to 9.1 is yes, can the judge do any of the following (please indicate as many as are applicable):				
	Criminal cases	Scores	Civil cases	Scores
Stop or stay the proceedings	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Speed up the proceedings	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Make adverse costs orders	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Impose fines	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Report to a disciplinary body	<input type="checkbox"/>	1	<input type="checkbox"/>	1

Indicator B10: Availability of appeal

10.1 Can an unsuccessful litigant bring an appeal?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

10.2 Is there a filtering system to prevent appeals which are without merit from proceeding to a full hearing?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

10.3 If an appeal is brought, can the court suspend/order a stay of the first instance decision?	
	Scores
<input type="checkbox"/> Yes	2
<input type="checkbox"/> No	0

Indicator B11: Communication**11.1 Are procedures available in all official languages?**

	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

11.2 Does the court provide translation (interpretation) facilities when necessary?

	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

11.3 Is there a system to ensure the standard of translation (interpretation) is adequate (for example, through vetting and/or licensing)?

	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator B12: Access for people with disabilities

12.1 Are special procedural arrangements available for people with disabilities ⁵ ?							
More than 2/3 of courts	Score	Between 2/3 and 1/3 of courts	Score	Less than 1/3 of courts	Score	No courts	Score
<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

12.2 If the answer to 11.1 is yes, please indicate which disabilities are catered for:								
	More than 2/3 of courts	Scores	Between 2/3 and 1/3 of courts	Scores	Less than 1/3 of courts	Scores	No courts	Scores
Mobility	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Sight	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Hearing	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Intellectual impairment	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Mental health impairment	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Other	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

12.3 Are special physical arrangements available for people with disabilities?							
More than 2/3 of courts	Score	Between 2/3 and 1/3 of courts	Score	Less than 1/3 of courts	Score	No courts	Score
<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

⁵ For example, special procedural arrangements for people with hearing or sight disabilities, possibility to attend court hearings remotely (e. g. due to mobility impairment) and other.

12.4 If the answer to 11.3 is yes, please indicate which disabilities are catered for:								
	More than 2/3 of courts	Scores	Between 2/3 and 1/3 of courts	Scores	Less than 1/3 of courts	Scores	No courts	Scores
Mobility	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Sight	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Hearing	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Intellectual impairment	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Mental health impairment	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Other	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

Indicator B13: Access for vulnerable people

13.1 Are special procedural arrangements available for vulnerable people?							
More than 2/3 of courts	Score	Between 2/3 and 1/3 of courts	Score	Less than 1/3 of courts	Score	No courts	Score
<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

13.2 If the answer to 12.1 is yes, please indicate who is catered for:								
	More than 2/3 of courts	Scores	Between 2/3 and 1/3 of courts	Scores	Less than 1/3 of courts	Scores	No courts	Scor es
Children	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Elderly people	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Victims ⁶	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Other vulnerable adults	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

⁶ As defined in Article 2(1)(a) of the Directive 2012/29/EU of the European Parliament and of the Council, establishing minimum standards on the rights and protection of victims of crime, victim means: (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.

13.3 Are special physical arrangements available for vulnerable people?							
More than 2/3 of courts	Score	Between 2/3 and 1/3 of courts	Score	Less than 1/3 of courts	Score	No courts	Score
<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

13.4 If the answer to 12.3 is yes, please indicate who is catered for:								
	More than 2/3 of courts	Scores	Between 2/3 and 1/3 of courts	Scores	Less than 1/3 of courts	Scores	No courts	Scores
Children	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Elderly people	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Victims	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0
Other vulnerable adults	<input type="checkbox"/>	3	<input type="checkbox"/>	2	<input type="checkbox"/>	1	<input type="checkbox"/>	0

Quality of judicial decisions and its improvement

C14. Format of judgments

14.1 Are non-binding templates for judgments and other judicial decisions available for standardised types of cases?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	8	<input type="checkbox"/>	8
More than 2/3 types of cases	<input type="checkbox"/>	6	<input type="checkbox"/>	6
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
Less than 1/3 of types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator C15: Reasoning of judicial decisions

15.1 Must judicial decisions dealing with substantive issues be reasoned either orally or in written form?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

15.2 Is it open to a judge to give only summary reasons either orally or in writing where appropriate (e.g. to speed up procedures)?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 of types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

15.3 Are the reasons for judicial decisions in civil and criminal cases that are given only orally (i.e. not in writing) recorded and made available to the parties?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	4	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0
Not applicable (because oral reasons are not permitted)	<input type="checkbox"/>	4	<input type="checkbox"/>	4

Indicator C16: Clarity of judicial decisions

16.1 Is the judiciary expected to ensure that judicial decisions be understood by (more than one answer is possible):				
	Criminal cases	Scores	Civil cases	Scores
The parties	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Public in general	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Other judges (such as appeal courts, Supreme Court)	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Academia	<input type="checkbox"/>	1	<input type="checkbox"/>	1

16.2 Is there an express obligation (e.g. by law, regulations or practice) to use language in judicial decisions which is clearly understandable?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

16.3 Is there a system outside of appeal for ensuring that judicial decisions are clearly understandable?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Indicator C17: Assessment of quality of judicial decisions

17.1 Are samples of judgments peer-reviewed by judges in order to assess the quality of judicial decisions on a regular basis (outside the appeal process)?		
		Scores
Yes	<input type="checkbox"/>	4
No	<input type="checkbox"/>	0

Indicator 18: Education of judges

18.1 Is writing of judicial decisions part of the initial training of judges?		
		Scores
Yes	<input type="checkbox"/>	3
No	<input type="checkbox"/>	0

18.2 Are training courses available to a useful and high standard which are designed to assist judges in carrying out their duties effectively?		
		Scores
Yes	<input type="checkbox"/>	3
No	<input type="checkbox"/>	0

18.3 If the answer to 18.2 is yes, are judges required to attend such training courses regularly?		
		Scores
Yes	<input type="checkbox"/>	3
No	<input type="checkbox"/>	0

Providing public access to the law to guide society

Indicator D19: Access to case law

19.1 In first instance courts, are judicial decisions published on an external website?				
	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.2 If (some of these) judicial decisions are published, are these accessible for free or for a nominal fee or do you have to pay to get access?				
	Criminal cases	Scores	Civil cases	Scores
Free	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Nominal fee	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Paid	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.3 Are summaries of significant first instance judicial decisions made available to the public?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.4 Are important decisions highlighted: are decisions that have high impact/ set precedent pointed out to the public?

	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.5 Is statistical information about the outcomes of cases made available for the public?

	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.6 In appeal courts, are judicial decisions published on an external website?

	Criminal cases	Scores	Civil cases	Scores
All cases	<input type="checkbox"/>	4	<input type="checkbox"/>	4
More than 2/3 types of cases	<input type="checkbox"/>	3	<input type="checkbox"/>	3
Between 1/3 and 2/3 types of cases	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Less than 1/3 types of cases	<input type="checkbox"/>	1	<input type="checkbox"/>	1
No types of cases	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.7 If (some of these) judicial decisions are published, are these accessible for free or for a nominal fee or do you have to pay to get access?

	Criminal cases	Scores	Civil cases	Scores
Free	<input type="checkbox"/>	2	<input type="checkbox"/>	2
Nominal fee	<input type="checkbox"/>	1	<input type="checkbox"/>	1
Paid	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.8 Are summaries of significant judicial decisions of appeal courts published?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.9 Are important appellate decisions highlighted: are decisions that have high impact/ set precedent pointed out to the public?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

19.10 Is statistical information about the outcomes of cases in appeal courts made available for the public?				
	Criminal cases	Scores	Civil cases	Scores
Yes	<input type="checkbox"/>	2	<input type="checkbox"/>	2
No	<input type="checkbox"/>	0	<input type="checkbox"/>	0

Thank you for filling in the questionnaire.

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