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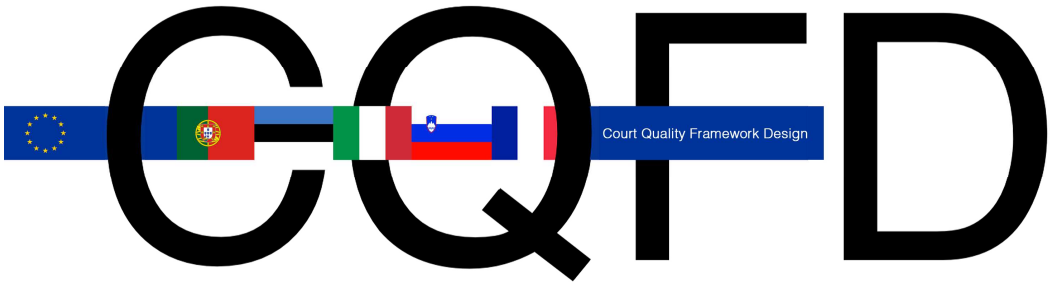

Handbook on Quality of Justice

« Court Quality Framework Design » Project

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Introduction

The quality of justice is a priority for all Member States of the European Union[1], the European Commission, the Council of Europe, and United Nations and now the OECD. Each of these organisations has developed instruments for measuring or comparing practices with regard to the performance and quality of justice: the Justice Scoreboard (European Union), Evaluation reports on European judicial systems (the Commission for the Efficiency of Justice, Council of Europe, CEPEJ), Sustainable Development Goal 16, which forms part of the UN's Agenda 2030, and the work of the OECD Public Governance and Territorial Development Directorate on equal access to justice. For all these actors, quality is a prerequisite for the enforcement of the fundamental principles underpinning European and international human rights law, in particular the principle of equal access to justice, the right to an effective remedy and to a fair trial:

- Article 47 of the Charter of Fundamental Rights of the European Union;
- Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms[2];
- Article 14 of the International Covenant on Civil and Political Rights[3].

Against this backdrop, France has presented the project "Court Quality Framework Design", which it was awarded in September 2016 for one year. France and four of its European partners (Estonia, EE; Italy, IT; Portugal, PT; Slovenia, SI), with funding provided by the "Justice" programme of the European Union, wished to enrich the reflection underway through an operational and empirical approach to the quality of justice.

Coordinated by the European and International Affairs Delegation of the French Ministry of Justice and the Directorate for Court Services (DSJ), the CQFD project brought together five partner States and their pilot courts. Project leadership was provided by Karine Gilberg, Head of the Office for Expertise and Institutional Questions at the European and International Affairs Delegation of the French Ministry of Justice. She was assisted in her task by Audrey Nespoux (jurist), Harold Epineuse (Directorate for Court Services, and director of the Justice Policy programme at the Graduate Institute for Justice Studies (IHEJ), who acted as project monitor.

Rather than giving a formal or theoretical definition of the quality of justice, the project opted for a more empirical approach based on a series of quality fields for justice systems, delimited using European principles relating to effective remedy, equal access to justice and the right to a

[1] EU Justice Scoreboard, 2015, p. 20: "All Member States are taking measures to support the quality of their justice systems." According to the EU Justice Scoreboard, 2016, these measures concern access to justice for citizens and business, adequate human and material resources, the introduction of assessment tools, and the use of quality standards.

[2] "Article 6 of the ECHR defines the standards for the quality of trials. Guarantees of access to judges, the principle of due hearing of the parties, a fair trial and the impartiality of judges are now recognised. The procedural imperatives imposed by European norms are not only benchmarks for but also guarantees of the quality of justice. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law", Julien DAMON, in Marie-Luce Cavrois, Hubert Dalle, Jean-Paul Jean (dir.) La qualité de la justice, La Documentation française, 2002, introduction.

[3] "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of high rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." This article gave rise to a General Comment by the Human Rights Committee in 2007, CCPR/C/GC/32. Article 8 of the Universal Declaration of Human Rights guarantees the right to effective remedy.

fair trial, as enshrined in treaty body texts and interpreted by European case law. This delimitation also stems from the standards derived from these European principles, as set out in the evaluation grids of the Commission for the Efficiency of Justice (CEPEJ, Council of Europe) of the European Commission (EU Justice Scoreboard) or in the recommendations of the Council of Europe or its bodies or councils (Committee of Ministers, Consultative Council of European Judges, Venice Commission, etc.). Efforts to define this framework also relied on the legal and sociological research carried out on the law and justice system. These quality contours were initially defined when the project began, then refined throughout the various project stages.

This project fully takes into account the European and international work in this field, but also relies on the collecting and sharing of the practices of the European partners and their pilot courts, with regard to the quality of justice. The CQFD project has worked on three essential stages for users or future users of justice systems: prior to submission of the claim (level of accessibility of judicial information, on the proceedings, personalised legal consultations, etc.); during the judicial proceedings (simplicity and reliability of information, communication between the courts and the parties, quality management tools); and after the court decision is issued (assistance to the parties, attention to the readability of court decisions, etc.). Examining not only court practices but also national policies should make it possible to shape standards and indicators for the quality of justice that are directly related to courts' concerns and the expectations and needs of litigants, so as to ensure full compliance with the requirements of European and international human rights.

The aim of the CQFD project is to examine how new standards and indicators can support the improvement of quality of justice, in particular by allowing judicial actors to identify and correct shortcomings. The indicators derived from the standards should allow a dynamic assessment of the quality of justice at national and international levels. Thus, the project was designed to meet a request and a need expressed by States and the courts themselves to have tools for measuring and enhancing the quality of justice. These tools should help to better evaluate the gap between the actual situation in a court or justice system and the quality expected by litigants in the light of the European and International legal requirements.

This Handbook:

- Retraces the path taken over the past 12 months and describes the approach followed by the CQFD project for better meeting the expectations of court users and actors with regard to the quality and evaluation of judicial institutions (**Part 1**);
- Compares the most significant practices of partner States with regard to access to the law and justice system, information of and communication with users (litigants, professionals), and court management tools for detecting any quality shortcomings and the instruments to correct them (**Part 2**);
- Presents the project's conclusions on the deepening of existing quality of justice standards and the definition of new indicators making it possible to evaluate the gap between practice and standards. **Part 3** also contains forward-looking elements, especially partner States' perspectives at the end of the project.

This Handbook is intended for those involved in quality of justice issues, whether they are national actors (national administrations – justice ministries, inspection services, high councils of the judiciary) or European and international actors. The tools proposed for modelling practices could be tested more broadly than was possible during the project, due to its duration and geographical scope. This Handbook includes all tools developed by the project with a view

to their reuse by those – international organisations, States, justice system actors – who wish to continue the reflection process and introduce the tools at national level or in their court. Finally, emphasis has been placed on the specific needs for complementary analyses in several areas of the quality of justice.

Part 1 – The Origins of the Project "Court Quality Framework Design": Using Indicators to Measure the Quality of Justice

The CQFD project is the outcome of several observations: that of the need for tools to measure and evaluate the quality of justice, as an extension of existing European, international and national instruments. It is based on an empirical and operational approach using field analysis conducted during visits to several pilot courts of partner States to list the practices and instruments observed, then model them in order to deepen European and national standards for the quality of justice and design new indicators. At the end of the twelve-month project, there are several promising avenues for ensuring dynamic and more refined evaluation of the quality of justice.

Section 1. A diagnosis: Quality of justice and its evaluation, a national and international priority

The CQFD project is built around a dual situational analysis:
- The extensive work carried out by international organisations and their new dynamic with regard to the evaluation of the quality of justice;
- National policies and strategies with regard to the quality of justice.

Here, the aim is not to propose an exhaustive analysis of international efforts or national policies and strategies, but rather to identify broad lines in order to better situate the starting point for the CQFD project.

1.1. Analysis of international work

International organisations have conducted many studies and designed instruments for comparative evaluation or support to Member States as regards the evaluation of justice. However, the question of the performance of justice systems constituted a major thrust of such work. Far from ignored, quality assessment was lagging behind. It seemed more challenging to reduce the quality of justice to standards and indicators, in particular statistical ones. There have been uncertainties as to what could and should be measured, especially on a definition of quality that would be acceptable to all Member States and stakeholders and for which reliable and relevant data would be available, etc. The recent developments in the long-standing work carried out by international organisations on the quality of justice inspired the CQFD project.

1.1.1. A self-diagnostic tool: the CEPEJ checklist for promoting the quality of justice and courts, evaluation by standards

The checklist drawn up by CEPEJ in 2008 is a **self-diagnostic tool** for helping national authorities achieve a series of identified standards[4]. The GT QUAL document of December 2016 (CEPEJ/2016)12, "Measuring the quality of justice", recalls that this checklist "*contains about 250 essential questions concerning all components of a judicial system to assess the quality of judicial services*". It is thus suitable for "*verifying that each of the principles within*

[4] "*This Scheme is aimed at policy makers and judicial practitioners responsible for the administration of justice to improve the legislations, policies and practices aimed at raising the quality of the judicial systems, at the national system, court and individual judge levels*", CEPEJ, Checklist for promoting the quality of justice and the courts, July 2008.

the checklist is adopted by a judicial system" (§25). With a view to refining the evaluation of a system's overall quality, document CEPEJ(2016)12 suggests assigning percentages to each of the criteria identified, with greater weighting for the most important criteria. This grid is designed to include in quality evaluation different factors relating to the organisation and performance of justice systems: *"from self-verification of the core structure of the organisation and the judicial order (quality checklist) to service performance (service indicators) as well as user opinions, both internal (employees) and external (users), as part of user satisfaction surveys."*

Categories selected for the CEPEJ checklist "for promoting the quality of justice and the courts" (extracts)

I. STRATEGY AND POLICY
I.1. Judicial organisation and policy
I.2. Mission, strategy, objectives
I.3. Allocation of cases and delegation of responsibilities from judges to non-judges staff
I.4. Evaluation of the strategy
II. "JOB" AND OPERATIONAL PROCESS
II.1. Legislation
II.2. Court proceedings
II.3. Legal certainty
II.4. Management of cases
II.5. Management of hearings
II.6. Management of timeframes
II.7. Execution of judicial decisions
II.8. Partners of justice
II.9. Management of files and archiving
II.10. Evaluation of performance
III. ACCESS TO JUSTICE, COMMUNICATION TO CITIZENS AND PUBLIC
III.1. Access to legal and court information
III.2. Financial access
III.3. Physical and virtual access
III.4. Treatment of parties
III.5. Presentation of decisions
III.6. Legitimacy and public trust
III.7. Evaluation
IV. HUMAN RESOURCES AND STATUS OF THE JUDICIARY AND STAFF
IV.1. Human Resources policy
IV.2. Status and competences of the judiciary
IV.3. Training and development of competencies
IV.4. Knowledge sharing, quality and ADR
IV.5. Evaluation of the Human Resources policy
V. MEANS OF JUSTICE
V.1. Finances
V.2. Information systems
V.3. Logistics and security
V.4. Evaluation of means, logistics and security

1.1.2. Comparative evaluations of the quality of justice in Member States: standards and perception indicators (CEPEJ, European Union)

The CEPEJ's periodic evaluation report on European judicial systems, the sixth edition of which was published in 2016, like the EU Justice Scoreboard (introduced by the European Commission in 2013), is primarily based on standard-driven evaluation of the quality of justice. The European Commission has also incorporated perception indicators into its scoreboard.

"**Quality of court system and court users**" is included in the last evaluation report for European judicial systems (CEPEJ, European judicial systems, Effectiveness and quality of justice, Study No. 23, 2016). In its report, the CEPEJ identifies different quality factors in Member States such as the use of information technologies in courts; information on courts (obligation to provide information on legal texts, on the case law of European courts, etc.). The CEPEJ points out the evolution of communication in relation to the foreseeable length of proceedings. Among quality standards, the CEPEJ also identifies the existence of satisfaction surveys, which assesses court users' perception of the service delivered by the judicial system. The report also evaluates the effectiveness and quality of the activities of courts and public prosecutor's offices, without specifically focusing on evaluating the quality of justice in this section.

This CEPEJ's work helps to ensure that States meet the necessary conditions for the full achievement of equal access to justice. This is reflected by the resolution of the Committee of Ministers of the Council of Europe setting up the CEPEJ[5]: *"the rule of law on which European democracies rest cannot be ensured without fair, efficient and accessible judicial systems"*. What is more, the European Court of Human Rights has used the CEPEJ data for assessing the situation of judicial systems. Thus, in Finger vs. Bulgaria[6], the Court, relying on the CEPEJ's evaluation report on European judicial systems, underlined that Bulgaria had achieved a high level of computerisation in support of the work of judges and court staff (§ 57).

The EU Justice Scoreboard, in its section devoted to the quality of justice, also relies on a series of standards relating to **accessibility**, in particular access to information (on the justice system; access to case law), access to legal aid, electronic communication (for filing a claim, communicating with the parties), communication with the media, access to ADR (promotion and encouragement of use of these alternative methods); **adequate financial and human resources** (e.g. compulsory training for judges, number of judges trained in EU law); the **introduction of assessment tools** (annual activity reports, number of cases carried over, existence of quality and effectiveness criteria; existence of specialised quality staff; subjects of user satisfaction surveys); and the **use of quality standards** (standards on the length of proceedings, on information provided to parties on their case). In the 2017 Scoreboard, the European Commission has also included a perception indicator on reasons for use or non-use of information technologies by lawyers in their communications with courts (survey conducted by the Council of Bars and Law Societies of Europe, CCBE).

[5] Res(2002)12, 18 Sept. 2002.
[6] CEDH, 10 May 2011, No. 37346/05.

1.1.3. Overview of practices relating to access to justice systems: the work of the OECD

In 2014, the OECD started work on identifying practices in its 35 member countries with regard to equal access to the law and justice and its impact on "inclusive growth" and socio-economic development. In particular, the Organisation stressed the latest national developments in these fields, in particular those citizen-centred approach to quality of justice. It was important for the OECD not to duplicate the work already done by European bodies in particular. It relied on the experiences of its member countries as well as the work done by academics. France made a significant contribution by sharing its innovative practices such as reception platforms and in the field of legal aid (for more details on these innovations, see Part 2 of this Handbook).

The OECD, under the auspices of its Public Governance Committee, has explored the following themes at round tables held between 2015 and 2017:

- Means put in place to identify the legal and judicial needs of citizens and the channels chosen for promoting modes of access to the law and justice system that make it possible to meet these needs. Member States shared their experiences on reforms and innovative practices;
- The innovative strategies and practices introduced by States to overcome access barriers to the law and justice system, in particular through the use of new technologies or specialised services;
- The policies introduced to allow access to the law and justice system for certain categories of persons, in particular the most vulnerable, and to promote gender equality before the law and justice system;
- The means of strengthening people's legal capacities by promoting a greater legal and procedural culture;
- Effective evaluation mechanisms with regard to access to justice systems and legal aid.

1.1.4. Other standards and indicators: perception data from the World Bank, United Nations Sustainable Development Goal 16

Similar efforts have been undertaken by other international bodies. For example, the **World Bank** has made a real push to introduce assessment tools in its operational activity (*Doing business*) but also a research mechanism (*Worldwide Governance Indicators – WGI*). Although these experiments go beyond the mere evaluation of justice systems, it is given pride of place. The World Bank started by identifying a series of governance indicators[7]: in 1996, working through the World Bank Institute, the WB elaborated six World Governance Indicators, in a "socio-political" approach[8] covering data from 215 economies. This instrument has the distinctive feature of aggregating 37 data sources generated by 31 organisations[9], and is based solely on perception data. Thus, within the rule of law indicator, the aggregated sub-indicators deal with the independence perceived, trust in the judicial system, and the fairness of trials.

[7] See the Economic Science thesis of T. Roca, *La gouvernance à l'heure du consensus post-Washington. Les limites théoriques et méthodologiques d'un concept protéiforme*, under the supervision of J.-P. Lachaud, 2011, Bordeaux IV.

[8] G. Diarra and P. Plane, "La Banque mondiale et la genèse de la notion de bonne gouvernance", Mondes en développement, 2012/2, n° 158, p. 51-70 (64).

[9] With regard to methodology and the list of sources: D. Kaufmann, A. Kraay et M. Mastruzzi, *"The Worldwide Governance Indicators. Methodology and Analytical Issues"*, Policy Research Working Paper, World Bank, 2010, No. 5430. For a critical approach to this methodology: C. Arndt and C. P. Oman, "Uses and Abuses of Governance Indicators", OECD, study by the Development Centre, 2006.

The activities of the CQFD project were deployed at a time when reflections were underway on the **United Nations Sustainable Development Goal 16** "*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*" (SDG 16), in particular its Target 16.3 entitled "Promote the rule of law at the national and international levels and ensure equal access to justice for all".

The SDGs were adopted in late 2015 as part of the 2030 Agenda for Sustainable Development. The implementation of the Goal 16 should be assessed in 2019, by the United Nations High Level Political Forum on the follow-up to Agenda 2030 and the SDGs. A series of indicators have been attached to Target 16.3 of this Goal. At this stage, however, these indicators relate to data outside the CQFD project as they concern criminal law: "unsentenced detainees as a proportion of overall prison population"; and "the proportion of victims of violence in the previous 12 months who reported their victimisation to competent authorities or other officially recognised conflict resolution mechanisms"[10].

1.1.5. What perspectives for the CQFD project?

An assessment of the standards introduced by European organisations provides an overview of the practices of the EU or Council of Europe Member States. OECD's work offers a glance at practices concerning access to justice. Identified standards and an overview of national practices concerning access to or quality of justice provided a baseline for the CQFD project. It helps to identify the themes to be explored regarding the quality of justice and the additional efforts required to allow the development of dynamic evaluation tools.

However, despite the dynamism of the European and international work on the quality of justice, more efforts seemed necessary. In addition to the general nature of the standards developed by international and European organisations, those standards had not made it possible to generate substantial statistical data in key quality areas. In any event, the project partner countries were unable to supply data on the basis of European standards, as can be seen from the following graph.

[10] Global Indicator Framework elaborated by the Inter-Agency and Expert Group on SDG Indicators and adopted by the Statistical Committee at its forty-eighth session, held in March 2017 (see E/2017/24, Ch. 1, Part A and Annex I). At this stage, the indicators are as follows: 16.3.1 Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms; 16.3.2. Unsentenced detainees as a proportion of overall prison population.
See also Annual report on progress towards the Sustainable Development Goals, Report of the Secretary-General, 2017 Session, 28 July 2016-27 July 2017, doc. E/2017/66.
In 2016, Estonia and France were among the 22 States that volunteered for the first national review of the implementation of the SDGs.

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	Q41-1.1.1. Number of complaints dealt by Co..	Q41-1.1.2. Number of complaints dealt by Hig..	Q41-1.1.3. Number of complaints dealt by Mi..	Q41-1.1.4. Number of complaints dealt by Co..	Q41-1.1.4. Number of complaints dealt by Ot..	Q41-1.2.1. Compensation amou..	Q41-1.2.2. Compensation amou..	Q41-1.2.3. Compensation amou..	Q41-1.2.4. Compensation amou..	Q41-1.2.5. Compensation amou..
Estonia	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
France	NAP	NAP	283	NAP	NAP	NAP	NAP	1 253 640	NAP	NAP
Italy	NA	NA	NA	NA	NAP	NA	NA	NA	NA	NAP
Portugal	NA	NA	NA	881	814	NA	NA	NA	NA	NA
Slovenia	1 135	258	NAP	NAP	NA	NAP	NAP	NAP	NAP	NA
Average	832	687	1 341	1 967	634	0	0	2 864 504	1 700 000	0
Median	1 135	258	814	893	733	0	0	2 864 504	1 700 000	0
Standard deviation	728	891	1 483	3 401	501			2 278 105		
Minimum	2	4	271	38	35	0	0	1 253 640	1 700 000	0
Maximum	1 360	2 060	4 165	10 777	1 326	0	0	4 475 367	1 700 000	0

That being so, an additional step appeared necessary, which the CQFD project should help to cross. The aim was to pursue the reflection and help define operational tools for measuring quality fields that are not covered or insufficiently covered by existing tools.

1.2. National policy trends with regard to the quality of justice

The CQFD project also stemmed from a second observation: the inclusion of justice quality in national policies. Indeed, the 2016 EU Justice Scoreboard showed that the majority of Member States had a significant number of quality standards (see Figure 42 from the Scoreboard below).

Figure 42

Defined standards on aspects related to the justice system (*)

Source: European Commission ([66])

	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PT	RO	SI	SK	FI	SE	
Length/processing time for civil and commercial cases		●		●	●	●		●	●	●	●	●		●	●		●	●	●		●	●	●		●	●	19
Length/processing time for administrative cases				●	●	●		●	●		●	●		●	●		●	●	●		●	●	●		●	●	17
Length/processing time between the initial registration of the case and the first hearing	●	●		●	●	●		●	●	●	●	●			●		●	●	●		●	●	●		●	●	19
Length/processing time between the last hearing and delivering the judicial decision	●	●		●	●	●	●	●	●	●	●	●		●	●		●		●	●	●	●	●	●	●	●	22
Management of backlogs	●	●	●	●	●	●		●		●	●	●			●		●	●	●	●	●	●	●		●	●	20
Data collection on civil and commercial proceedings		●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	25
Data collection on administrative proceedings		●	●	●	●	●		●	●	●	●	●		●	●	●	●	●	●		●	●	●	●	●	●	22
Interconnection of IT case-management systems to ensure nation-wide data collection		●	●	●	●	●	●	●	●	●	●	●		●	●	●	●		●	●	●	●	●	●	●	●	23
Interconnection of IT case-management systems to ensure cooperation between national courts		●			●	●	●	●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●	●	●	22
Active monitoring of case progress		●		●	●	●		●	●	●	●	●		●	●		●		●	●	●	●	●		●	●	19
Workload of courts	●	●	●	●	●			●	●		●	●		●			●		●		●	●	●		●	●	17
Consultation on draft legislation on the justice system	●		●	●	●	●	●	●	●	●	●			●	●		●	●	●	●	●	●	●	●	●	●	22
Service provided to court users		●		●	●	●	●	●	●	●	●	●		●	●		●	●	●	●	●	●	●	●	●	●	22
Court facilities and accessibility to court premises		●		●	●	●		●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●	●	●	22
Information to parties about progress of their case			●	●	●	●		●	●	●	●	●		●	●		●	●	●	●	●	●	●	●	●	●	21
Planning and conducting of hearings	●		●	●	●	●	●	●	●	●	●	●		●	●		●	●	●	●	●	●	●	●	●	●	23
Handling of complaints from court users related to the functioning of the court	●	●	●	●	●	●	●	●	●	●	●			●	●		●	●	●	●	●	●	●	●	●	●	23
Clarity/reasoning or other aspects concerning the judgment			●	●	●	●		●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●	●	●	22
Publication of judgments		●		●	●	●		●	●	●	●	●		●	●		●	●	●	●	●	●	●	●	●	●	21
Training of judges	●	●	●	●	●	●		●	●	●	●	●		●	●	●	●	●	●		●	●	●	●	●		22
Training of court staff	●	●	●	●	●	●	●	●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●	●		24
Allocation of human resources for courts	●		●	●	●	●		●	●		●	●		●	●	●	●	●	●	●	●	●	●	●	●	●	22
Allocation of material resources for courts		●	●	●	●	●		●	●	●	●	●		●	●	●	●	●	●	●	●	●	●	●	●	●	23
Gender diversity in the judiciary				●	●				●	●	●						●								●		7
Other standards																				●							1

(*) Note that blank replies in standards related to administrative cases may be due to the absence of a specific 'administrative case' category (e.g. IE). PL and UK did not provide information on standards. In the highlighted areas, standards are predominantly set by courts, including through well-established court practices. For all other areas, standards are predominantly defined by the law.

Even though it helped confirm a common tendency, this first panorama failed to specify the exact frameworks in which these standards were situated: national strategies, quality evaluation mechanisms, tools for national courts, etc.

Moreover, the Handbook on European law relating to access to justice, which was prepared by the European Court of Human Rights and the Fundamental Rights Agency in 2016, lists a series

of "encouraging practices" in Member States. These practices reflect a dynamic in States and their courts in such areas as access to justice for vulnerable groups, assistance to litigants not represented by a lawyer, and the enforcement of judicial decisions. This dynamic was confirmed by the review of administrative literature conducted in cooperation with the *Institut des Hautes Etudes sur la Justice* (IHEJ), which revealed that the quality of justice is a priority for EU Member States but that the policies developed are unevenly formalised. Finally, performance most often predominates over quality as far as public justice system policies are concerned.

The CQFD project was intended to deepen these initial observations. Without delving into the details of the policies and practices set out in Part 2 of this Handbook, one preliminary comment is that all project partner States committed to a dynamic for promoting the quality of justice (see in this respect States' replies to the CQFD project launch questionnaire attached to this Handbook). Some States, such as **Estonia, Portugal and Slovenia,** developed multi-year strategic documents or even action plans which, in addition to performance objectives, include objectives for the quality of justice. In these countries, those strategies are accompanied by periodic evaluations of judicial institutions. **France** inscribed its approach in the law, and has embarked on a renewed dynamic to promote the quality of the justice system, with the reform "Justice du 21ème siècle" (Justice of the 21st century)[11]. This reform, which is the outcome of extensive prior reflection with justice system actors[12] (for more details on this reform, see the report on the visit to France, 2 November 2016, attached to this Handbook), provides for the implementation of multiples measures to promote the accessibility and simplification of the judicial and administrative justice system for the benefit of court users (http://www.justice.gouv.fr/modernisation-de-la-justice-du-21e-siecle-12563/). This pro-quality dynamic has been reaffirmed and deepened: it forms part of a long-term thrust to improve the service provided to court users. As the Vice-President of the French Council of State emphasised, *"to continue to meet quality demands, the administrative justice system must now take up new challenges and pursue the modernisation efforts already underway"*[13]. The developments that have allowed quality improvements *have not all been completed. This is why new reforms are underway to continue to ensure progress towards quality and the overall effectiveness of procedures and administrative justice as a whole."* **Italy** has also developed a policy of **access to justice and tools for supporting judges in their work** (see Part 2 of this Handbook).

Various actors are in charge of coordinating this policy at national level: the High Council of the Judiciary in **Portugal**, the Supreme Court in **Slovenia**, ministries of justice (**Estonia, France**), the Council of State for administrative courts (**France**) (see replies to the project launch questionnaire and country fact sheets). Many initiatives have also been taken at local level by courts or judicial actors themselves (see also Part 2 of this Handbook).

This development of convergent practices, instruments and strategies for improving the quality of justice made it possible to implement the **modelling** exercise envisaged by the CQFD project. This approach seems all the more useful that this first situational analysis also revealed

[11] **Law of 18 November 2016 on the modernisation of the justice system in the 21st century**

[12] See by way of illustration the report drafted by the working group chaired by Didier MARSHALL, First President of the Appeal Court of Montpellier, which was presented to the Minister of Justice in 2013 as part of the preparatory work for Law No. 2016-1547 of 18 November 2016 on the modernisation of the justice system in the 21st century.

[13] Jean-Marc Sauvé, "La qualité de la justice administrative", Revue française d'administration publique, 2016/3 (N° 159), pp 667-674.

a **lack of operational tools** for measuring the service provided to court users or evaluating progress made and identifying difficulties encountered.

> By way of example, the 2016 edition of the CEPEJ report on "European judicial systems: efficiency and quality of justice" shows that only a small proportion of the 47 States of the Council of Europe conduct satisfaction surveys (parties, lawyers): 6.25% of the States carry out annual surveys of court users, while 12.5% of States conduct ad hoc surveys (source: CEPEJ-STAT). The 2017 EU Justice Scoreboard (European Commission) reveals that 13 EU Member States of the 26 that replied did not conduct any such surveys in 2015. Among the 13 other States, eight published the findings of these surveys (graphs 45 and 46). As regards the situation of partner States, information is available in the attached CQFD project launch questionnaire (see Q.11).

1.3. Expectations and needs with regard to the quality of justice and their evaluation

Both litigants and judicial actors have high expectations as regards access to the law and the quality of the service provided, as can be seen from European and national studies.

1.3.1. Expectations and needs of court users

In this respect, Eurobarometer Flash Study No. 385, published in 2013, confirmed the needs and expectations of court users in Europe (litigants and professionals) concerning the quality of their national justice systems, with regard to both the quality of service provided and greater relevance to users' needs. The survey also revealed that a majority of Europeans had a negative perception of or felt ill-informed about their national justice system[14] (the results of this survey in partner States may be found below). It proposes a special focus on civil, commercial and administrative justice systems, which are at the heart of the CQFD project.

In response to the question: from what you know, how would you rate the justice system in your country when dealing with civil and commercial affairs on each of the following aspects? The table reproduced below gives the percentage of people who rate the judicial system as "good".

[14] https://data.europa.eu/euodp/fr/data/dataset/S1104_385

Q5 The civil and commercial courts are in charge of disputes, such as those concerning contracts or insolvency proceedings. From what you know, how would you rate the justice system in (OUR COUNTRY) when dealing with civil and commercial affairs on each of the following aspects? Would you say it is very good, fairly good, fairly bad or very bad?

% of Total 'Good'

	Independence of courts and judges	Fairness of judgements	Use of new technologies	Execution of judgements	Easily understood judicial decisions	Straightforward proceedings	Costs of proceedings	Length of proceedings
EU28	54%	48%	47%	44%	44%	42%	26%	21%
Sex								
Male	56%	51%	46%	45%	45%	42%	27%	20%
Female	52%	46%	48%	43%	44%	42%	25%	22%
Age								
15-24	61%	57%	61%	56%	57%	53%	36%	34%
25-39	53%	50%	46%	45%	45%	39%	28%	21%
40-54	54%	47%	44%	42%	42%	39%	24%	19%
55 +	51%	45%	45%	40%	39%	41%	23%	18%
Education (End of)								
15-	41%	39%	44%	34%	35%	36%	22%	21%
16-19	51%	46%	51%	44%	44%	43%	26%	22%
20+	57%	52%	44%	45%	45%	40%	26%	19%
Still studying	62%	56%	57%	56%	54%	52%	34%	30%
Respondent occupation scale								
Self-employed	51%	46%	41%	38%	39%	37%	23%	18%
Employee	60%	55%	48%	49%	47%	43%	27%	21%
Manual workers	49%	44%	49%	41%	41%	42%	28%	23%
Not working	50%	45%	48%	42%	43%	42%	27%	22%
Trust the national justice system								
Trust	71%	65%	53%	58%	56%	51%	34%	27%
Don't trust	33%	29%	40%	28%	30%	31%	17%	14%
Level of info. about the national justice system								
Very high	67%	61%	53%	55%	56%	54%	44%	33%
High	66%	57%	53%	53%	52%	48%	37%	25%
Intermediate	59%	54%	52%	50%	49%	47%	30%	24%
Low	58%	52%	50%	46%	50%	44%	27%	20%
Very low	44%	40%	42%	36%	35%	35%	18%	17%
National judicial system compared with rest of EU								
Better	75%	68%	60%	65%	58%	56%	40%	34%
Same	64%	58%	55%	52%	52%	51%	30%	24%
Worse	34%	31%	39%	28%	32%	30%	18%	13%

Source: Eurobarometer Flash, 385, 2013

With regard to administrative affairs, the results were as follows:

Q6 The administrative courts are in charge of disputes involving the administration like tax issues or building permits. From what you know, how would you rate the administrative justice system in (OUR COUNTRY) on each of the following aspects? Would you say it is very good, fairly good, fairly bad or very bad?

% of Total 'Good'

	Independence of courts and judges	Fairness of judgements	Use of new technologies	Execution of judgements	Easily understood judicial decisions	Straightforward proceedings	Costs of proceedings	Length of proceedings
EU28	53%	48%	47%	45%	42%	40%	26%	20%
Sex								
Male	54%	49%	46%	46%	43%	40%	27%	19%
Female	51%	46%	48%	43%	42%	39%	25%	20%
Age								
15-24	59%	55%	61%	57%	56%	51%	37%	29%
25-39	52%	47%	44%	45%	41%	38%	26%	19%
40-54	53%	47%	45%	44%	40%	37%	24%	18%
55 +	50%	46%	45%	41%	39%	39%	24%	17%
Education (End of)								
15-	39%	35%	44%	34%	36%	36%	21%	19%
16-19	51%	46%	50%	44%	43%	42%	27%	22%
20+	56%	51%	43%	46%	42%	38%	26%	18%
Still studying	59%	55%	57%	54%	54%	50%	35%	26%
Respondent occupation scale								
Self-employed	47%	44%	41%	39%	35%	34%	23%	16%
Employee	59%	53%	47%	50%	45%	40%	27%	19%
Manual workers	47%	40%	49%	42%	40%	42%	28%	21%
Not working	50%	46%	48%	42%	43%	41%	26%	20%
Trust the national justice system								
Trust	69%	64%	52%	58%	53%	49%	34%	24%
Don't trust	33%	29%	41%	29%	30%	30%	17%	13%
Level of info. about the national justice system								
Very high	65%	61%	52%	54%	54%	52%	43%	30%
High	63%	58%	51%	56%	50%	47%	35%	25%
Intermediate	58%	54%	52%	51%	50%	44%	28%	21%
Low	56%	50%	50%	48%	45%	41%	26%	20%
Very low	43%	40%	42%	37%	34%	34%	19%	15%
National judicial system compared with rest of EU								
Better	73%	68%	58%	64%	57%	54%	39%	30%
Same	62%	58%	55%	53%	48%	48%	31%	22%
Worse	33%	30%	39%	29%	32%	29%	18%	13%

Source: Eurobarometer Flash, 385, 2013

As Jean-Paul Jean et Hélène Pauliat already noted back in 2005[15]: *"despite the significant efforts made in recent years, the operating mode of the institution and in particular the forms and timeframes for responding to litigants all too often fall short of their expectations"*, underscoring the need to improve the quality of the justice system as a public service.

Finally, court users also feel ill-informed overall about their national justice system. However, such information is a core component of effective access to the law and justice system.

As regards the level of information of persons polled on the national judicial system, the percentage of people who feel "totally informed":

[15] "L'administration de la justice en Europe et l'évaluation de sa qualité", Recueil Dalloz, 2005, p.598 ss.

Q2 How informed or not do you feel about the justice system in (OUR COUNTRY) on each of the following topics?

% of Total 'Informed'

	How to find a lawyer	What to do if you need to go to court	The right to legal aid	The alternatives to court (e.g. mediation)	The costs of proceedings
EU28	66%	41%	38%	31%	25%
Sex					
Male	68%	44%	39%	33%	27%
Female	65%	38%	37%	28%	23%
Education (End of)					
15-	56%	33%	30%	22%	21%
16-19	64%	38%	35%	26%	22%
20+	71%	45%	42%	37%	28%
Still studying	65%	42%	41%	31%	23%
Respondent occupation scale					
Self-employed	72%	48%	41%	39%	33%
Employee	70%	42%	41%	33%	26%
Manual workers	58%	35%	32%	25%	22%
Not working	63%	40%	37%	28%	24%
Trust the national justice system					
Trust	72%	46%	44%	35%	28%
Don't trust	60%	36%	31%	25%	23%
National judicial system compared with rest of EU					
Better	75%	46%	46%	37%	29%
Same	66%	41%	41%	33%	26%
Worse	61%	40%	32%	27%	24%

Source: Eurobarometer Flash, 385, 2013

These data are broadly in line with national surveys of users where these exist. Nevertheless, the latter offer a more refined reading of perceptions of justice systems as well as the expectations and needs of litigants (see for example the findings from the study conducted in 2013 for France - http://www.justice.gouv.fr/art_pix/1_infostat125_20140122.pdf; a survey[16] was also done of users of legal assistance centres on the question of access to the law).

1.3.2. Operational needs of courts and judicial actors

Judges also express expectations and needs with regard to the quality of justice in France, as can be seen from two studies based on field surveys of judicial[17] and administrative[18] judges. These studies highlight the need to go beyond a purely performance-based evaluation in order to *"take into consideration the characteristics and value of the work done and not only its*

[16] http://www.justice.gouv.fr/le-ministere-de-la-justice-10017/les-usagers-tres-satisfaits-des-maisons-de-justice-et-du-droit-28734.html

[17] La prise en compte de la notion qualité dans la mesure de performance judiciaire. La qualité : une notion relationnelle, research conducted with the support of the Law and Justice Research Mission, June 2015, under the supervision of Emmanuel JEULAND, 2015 (http://www.gip-recherche-justice.fr/publication/qualijus-aspect-judiciaire/).

[18] La prise en compte de la notion de qualité dans la mesure de la performance judiciaire (QUALIJUS), Justice administrative, Lucie Cluzel-Métayer, Caroline Foulquier-Expert, Agnès Sauviat (dir.), with the support of the Law and Justice Research Mission, 2015 http://www.gip-recherche-justice.fr/publication/qualijus-aspect-administratif/

quantity in relation to an objective, which is to render justice."[19] Administrative courts, which were surveyed in the second study, *"are focusing on the reasonable length of the trial, which is the criterion most often referenced, the quality of the reasoning and the quality of the legibility of the decision and the functioning of the court for litigants. Thus, administrative courts are tending to develop practices that reflect a latent concern with quality, without making it a declared policy."*[20]

Second, the CQFD project confirmed the need expressed by judicial actors for better quality management via self-diagnostic tools and warning mechanisms (for example regarding timeframes). In this respect, heads of courts voiced strong expectations in order to detect possible shortcomings with regard to the "service delivered", reception and communication, correct such insufficiencies and respond suitably and rapidly to changing needs. They themselves are expected to play a role, as the Consultative Council of European Judges (Council of Europe) has stressed the "role of court presidents, given the overriding need to ensure a more effective functioning of an independent judiciary and an enhanced quality justice" (Opinion No. 19, Consultative Council of European Judges, CCJE, (2016)2, 10 November 2016). Judges have emphasised the importance of a user-centred approach, which makes it possible to measure and better guarantee the quality of service delivered and to ensure reception and communication facilities suited to the needs of the different user categories at all stages of proceedings (professionals, litigants, fragile population groups, etc.).

Finally, the project partners emphasised the very incomplete nature or even the absence of operational tools for measuring the gap between practice and quality standards. This lack precludes both the objective measurement of this gap and the detection of quality flaws, making it difficult to find the right answers in due time.

In these fields, knowledge and sharing of national courts' best practices constitute an expectation, as exchanges of views on national mechanisms should provide a source of inspiration for operational tools.

Section 2 – An empirical and operational approach: the method and contribution of the CQFD project

International and national developments with regard to the quality of justice and its evaluation led to the formulation of several postulates that modelled the method of the CQFD project: the need to extend existing work and the usefulness, in this respect, of adopting an empirical and operational approach based on the analysis of the practices of several EU Member States.

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[19] La prise en compte de la notion qualité dans la mesure de la performance judiciaire. La qualité : une notion relationnelle, under the supervision of E. Jeuland, Law and Justice Research Mission, 2015, p. 26: "there is a need to introduce into the work of judges and court staff the quality of the service provided to litigants, in particular the reception and attentiveness they receive, the reasons for decisions, the principle of "collegiality" of hearings (whereby an always uneven number of judges sit in the same court), the policy of service, the partnerships implemented, the practice of "intervision" (peer evaluation), or court projects. This quality must form part of courts' objectives." "Measuring it requires the development of suitable, shared tools. Annual reports of activity must cover policies implemented in this respect. The quality of public service must play its full role in management dialogues and be factored into the allocation of human and budgetary resources."

[20] See p. 68. The study on administrative justice also emphasizes the need to deepen current initiatives with regard to administrative courts: "*the projects of the litigation section for the Council of States and the jurisdiction projects for the other courts that we were able to consult incorporate much broader dimensions than just the productivity of judges and help courts become more aware of measures that could lead to greater effectiveness, in terms of receiving litigants and lawyers or in terms of improving their relationship with them"*, p. 67.

1.1. Project scope and objectives

The CQFD project was designed to pursue and enrich the reflection and existing tools, at national and international level, on the quality of justice. To guarantee that this 12-month project could reach its goals and supply fully operational results its scope was precisely delineated.

1.1.1. Project objectives: pursuing and enriching the reflection and existing tools

The CQFD project was intended to:

- *Deepen existing tools and standards and design new indicators for supporting and evaluating the quality of justice;*
- *Propose operational tools based on practices observed in partner States;*
- *Identify the complementary studies needed to refine the current approach.*

Quality standards are necessary for ensuring that requirements are met during the three phases of the court users or potential court users journey with regard to:

- Information provided to court users or potential users prior to submission of a claim. Such standards concern the availability of information on the law, judicial proceedings or the organisation of the justice system. They also address the question of a dedicated services in the form of free-of-charge legal assistance or legal advice;
- Information of or communication with the parties during the judicial proceedings (simplicity and reliability of information, communication between the court and the parties, quality management tools);
- After delivery of the judicial decision, information on the existence of aid for litigants or on the care taken to ensure the readability of judicial decisions.

As noted above, with a view to ensuring that these standards are met, international organisations have developed comparative evaluation tools (CEPEJ; European Commission) or self-assessment tools, such as the CEPEJ checklist. These instruments are based on criteria viewed as consubstantial to the quality of justice, in particular in light of the requirements of European human rights (see the expositions in Part 3 of this Handbook). However, these standards and indicators remain incomplete as they do not allow a fully dynamic evaluation of quality: they are primarily aimed at verifying the achievement or non-achievement or the existence or non-existence of the identified standards. As seen above, the EU Justice Scoreboard does however include dynamic perception indicators, the results of which are drawn from user satisfaction surveys (of litigants and professionals, in particular lawyers). These standards seemed insufficient for designing operational quality management tools inside courts.

Accordingly, the CQFD project was intended not only to extend existing standards but also to develop objective indicators making it possible to better understand developments with regard to the quality of justice. Taking existing practices and instruments in EU Member States as a starting point, the project identified operational tools for enhancing the quality of justice. Thus, Part 2 of this Handbook compares partner States' practices, and models those practices in Part 3.

The project sought to open up avenues so that the standards, indicators and tools designed could be tested on a broader scale, in other Member States or in international work. The standards and indicators could be trialled nationwide, in a larger number of courts, to test their validity. They could also offer a means of refining work undertaken by European and international

organisations as regards the quality of justice, in particular the grids developed by European bodies, above all the EU Justice Scoreboard.

Finally, the project showed that different complementary analyses are necessary, at national and European level. It would be useful to gather more Member States and judicial actors, including registrars or judicial inspection services.

1.1.2. A precisely delineated field of study and work

The CQFD project was designed to explore the level of service provided in three essential phases:

- Prior to submission: what is the level of accessibility of legal information? What is the level of information on proceedings? Is there a personalised legal assistance or advice facility?
- During the judicial proceedings: is the information provided simple and reliable? How does communication between the court and the parties operate? What quality management tools are there?
- After the court decision is issued: is there assistance available to litigants when the decision is handed down or enforced? What kind of information do these persons get? What are the requirements and care taken with regard to the legibility of judicial decisions?

The aim, for each of these three phases, was to compare the practices and policies developed by partner States and their pilot courts: in these States, what services are available to court users in terms of legal information or advice? What are the modalities for communication with the parties? Is there quality management inside courts? Are efforts made to follow-up on court decisions and their enforcement? This comparison made it possible to identify those practices and instruments that were common to or specific to partner States.

Thus, the project understood the public service character of the justice system in the broad sense of the term, by incorporating the information and legal services provided to the public prior to referral as well as ADR mechanisms. The project also opted for a broad definition of beneficiaries of this service: the general public, court users (individuals, professionals, above all businesses, and judicial actors). The judicial actors providing this service included in particular judges, court staff and judicial officers, as heads of courts and tribunals along with judges were viewed as drivers of quality management.

The project covered more specifically the civil, administrative and commercial justice. Indeed, access to criminal justice, communication with litigants, and enforcement of court decisions, have specific characteristics that would probably require separate studies of quality conditions. Notwithstanding, the project also took stock of practices with regard to the quality of criminal justice, as services provided to court users could be common to the criminal, civil, administrative and commercial justice.

1.2. From practice to indicators: a bottom-up approach

Accordingly, the project relied on a bottom-up approach aimed at identifying and observing the practices, policies and instruments of the five partner States and their pilot courts. This field-based analysis was followed by an exercise for modelling national and local practices and instruments. This modelling effort, which also factored in the work of international organisations, made it possible to arrive at standards and indicators.

1.2.1. Partner States and pilot courts

The CQFD project, which was coordinated by the European and International Affairs Department and the Directorate of Judicial Services of the French Ministry of Justice, brought together five partner States with comparable judicial systems (Estonia, France, Italy, Portugal and Slovenia the list of the project team and partners may be found at the beginning of this Handbook). Partner States were chosen not only to ensure geographical diversity but also owing to different public perceptions of justice systems. For example, the Slovenians and Italians feel well informed about the steps required to access the justice system (52%, SI; 49%, IT), whereas the Estonians and French feel the most ill-informed (69%, EE, and 68%, FR), with the Portuguese in the middle (42% feel informed) (Eurobarometer Flash No. 385, 2013).

Study visits were paid to the **pilot court** designated in each partner State with a view to exchanging views of daily practices and needs with regard to the quality of justice. The representatives of these courts were key project actors, participating in all such visits. In order to cover a broad spectrum, the States selected different types of pilot courts (**Supreme Court, appeal court, first instance court**):

- The Court of Grand Instance of Melun (France);
- The Appeal Court of Tallinn (Estonia);
- The Ordinary Court of Milan (Italy);
- The Court of First Instance of Vila Real (Portugal);
- The Supreme Court of Slovenia.

For the characteristics (size, composition, competences) of the pilot courts refer to the annex to this Handbook (project launch questionnaire and country sheets).

The following courts were also involved in the project: the Administrative Court of Melun (France), the Court of Leiria (Portugal), the Court of Koper and the Court of Piran (Slovenia).

Estonia and Italy also designated members of their justice ministries with a view to sharing information on national policies and the tools defined by the central administration for managing the quality of justice. **Portugal** associated the High Council of Judges while **Slovenia** designated its Supreme Court, as these two institutions play a central role in defining and implementing strategies for the quality of justice.

1.2.3. Project stages: a gradual and methodical approach

The project followed several steps: from the collection to the observation of practices to the formalisation of a justice quality scoreboard that modelled these practices and identified standards and indicators. After a year's time, the project's achievements are promising indeed.

a. Collection and observation of practices

A first questionnaire was sent out to the partners at the beginning of the project, in September 2016. This questionnaire helped in understanding the national approach to quality of justice in the partner states (answers to the questionnaire are reproduced in the annex to this Handbook). In a nutshell this questionnaire concerned:

- The specific characteristics of the national policy for the quality of justice, and the specific characteristics of the pilot court (organisation, user type – private individuals, businesses, predominant litigation type, volume of litigation processed annually);
- The court's policy of communication with its users (front-desks in courts, web page or site, user satisfaction surveys);

- The national policy for access to the justice, including quality and instruments to measure it;
- The communication of courts with the media;
- The information available to the public prior to the submission of a claim;
- The existence of standardised forms for filing a claim (downloadable and suitable for online filing);
- Access to legal aid;
- The existence of assessment tools available online to allow litigants to evaluate their eligibility for legal aid and the amount thereof;
- Free access to legal advice prior to log a claim;
- Information on foreseeable timeframes of a case;
- Access to the case file and the option of transmitting documents to the court by electronic means;
- The tools available to judges and court staff for processing cases and communicating with litigants and their lawyers,
- etc.

This questionnaire was followed by study visits to each of the partner countries, in their pilot courts:
- November 2016: study visit to France, Tribunal of Grand Instance of Melun;
- February 2017: study visit to Estonia, Appeal Court of Tallinn;
- March 2017: study visit to Italy, Ordinary Court (Milan);
- May 2017: study visit to Portugal, Judicial Court of Comarca (Vila Real);
- July 2017: study visit to Slovenia, Supreme Court (Ljubljana), District Court (Koper), Local Court (Piran).

Study visits reports may be found in the annex to this Handbook. The practices observed and the conclusions drawn are set out in Part 2.

A compendium of practices, drawn up on the basis of the questionnaire followed by the study visits, proved indispensable for providing an in-depth comparative view of the courts chosen and the practices, instruments and policies developed in each of the partner States. This overview made it possible to move on to the second phase, that of modelling, which also provided a means of identifying possible common quality standards and combine them with indicators useful for evaluating results. This empirical approach was also designed to formalise instruments (standards, indicators) that matched the reality of the national courts and policies but could also be of real use to practitioners.

b. Modelling

The first six months of the project confirmed that, even though States and courts had developed policies and practices for the quality of justice, none had elaborated tools for managing or evaluating the quality of the service provided to court users (apart from a few cases of satisfaction surveys of litigants, which however remained rather limited in time and space).

A table (reproduced in Part 3 of the Handbook) was elaborated and shared with the partners. It made it possible to identify the following elements for each stage of the court users journey:
- The service expected;
- The objective pursued regarding quality;
- The users targeted and actually concerned by this service;
- The service provider;

- The existing instruments for delivering this service;
- The required quality standards;
- The indicators which measure whether the objective pursued, in terms of the quality of service provided, was reached.

Based on the modelling of existing instruments and practices, this table offered an opportunity to formalise standards and indicators of use in evaluating the service delivered.

This table represents one of the CQFD project tools, but the partners felt that it could serve as a tool for other States or courts. The project perspectives are to enable, in the future, any court of an EU Member State (that was not a member of the project) to join and enrich the work initiated, or if it so desires to re-use the CQFD tools. The idea is also to encourage exchanges between Member States' courts on their practices and the means they have deployed to resolve quality issues.

1.2.4. Dissemination and sharing of results

Both this **Handbook and the project's Final Conference, organised by the French Ministry of Justice on 31 August 2017,** are designed to ensure the sharing of the work done.

The Final Conference of 31 August will not focus solely on presenting the results, but will also allow time for national judicial actors and representatives of international organisations to discuss and test them. The aim is to compare these results with innovative experiences or practices of actors who were not project partners. The event will be attended by representatives of 24 of the 28 EU Member States, representatives of high councils of justice and judicial inspections, senior representatives of French judicial and administrative courts, representatives of the Directorate-General for Justice and Consumers of the European Commission, representatives of the Council of Europe (CEPEJ), the OECD (Directorate of Public Governance and Territorial Development), and European networks (Council of Bars and Law Societies of Europe, CCBE; European Network of Councils for the Judiciary, ENCJ).

In addition to the presentation of the project and its conclusions by the partners, the conference will feature interventions by key witnesses on four themes:
- Standards and indicators for the quality of justice, the comparison of the project conclusions with the experience and expertise of international and European organisations (EU, CEPEJ, OECD);
- Setting the scene for quality of justice: necessary institutional settings and standards to inform, ease access and communicate with court users;
- Managing quality of justice: tools for courts, self-diagnostic and quality redress mechanisms;
- Efforts to meet the expectations and needs of court users: evaluation of the quality of justice by users and outside actors.

Finally, the CQFD project should also offer partner States a starting point for new developments in the field of the quality of justice. For example, at the end of the project, partner States and courts conducted a forward-looking exercise on perspectives for the implementation of quality indicators and standards at national and international level (see Part 3 of this Handbook and the attached prospective questionnaire sent out to project partners).

Part 2:
Partner countries' practices and tools for improving the quality of justice

The CQFD project is based on the sharing and observation of the practices and tools developed by the partner States (Estonia, France, Italy, Portugal, Slovenia) in terms of quality of justice. On the basis of study visits to partner States and their selected pilot courts, contacts between the partners throughout the project, and the different phases for surveying practices (questionnaires and scoreboards on the quality of justice), it is now possible to draw up a comparative overview of the quality practices, tools and policies developed by partners States and pilot courts.

This in turn provides a means of identifying a common philosophy, goals and even standards, beyond differences between the practices or tools developed in each of the judicial systems concerned. It has thus been possible to identify four common themes as far as improving the quality of justice is concerned.

- Facilitated, equal access to the law and justice system is a central component of the service provided to litigants. Specific tools have been developed for this purpose and introduced, notably in the pilot courts chosen by partner States as part of the CQFD project (specific, centralised one-stop-shops in courts, interactive automated tools, personalised advice and legal aid, including in the pre-trial phase or that of enforcement of the court decision, incentives for the use of alternative dispute resolution mechanisms, etc.). Special attention is also attached to the information provided and to communication with the parties throughout the proceedings;

- The quality of justice is also measured by the capacity to manage this quality locally. The organisational structure of the court and the assistance tools (virtual offices, specialised teams, etc.) provided to its actors, be they heads of courts, magistrates or staff, must support the decision-making process in order to provide the quality service expected by users. Management and self-evaluation tools are designed to help identify, analyse and correct failures and shortcomings in the process;

- Another element viewed as a central component of the quality of justice is the ability of the courts and actors in legal proceedings (lawyers, other court officers, associations) to communicate and their mutual ability to facilitate and streamline these contacts, in particular through the use of new technologies;

- Finally, the geographical distribution of courts, their size – whether this depends on the importance of their jurisdiction or the staff assigned to them –, their specialisation and their geographical accessibility are significant determinants in this reflection on the quality of justice.

These themes reflect the four abovementioned quality dimensions identified in the 2017 *EU Justice Scoreboard*: Accessibility of justice for citizens and businesses, adequate financial and human resources, putting in place assessment tools, using quality standards. However, in accordance with the CQFD project goals, the four themes common to the partner States that were identified offer a refined and deepened reading of these four dimensions of the *EU Justice Scoreboard*.

The practices implemented by partner States to improve the quality of service delivered and the quality of justice are presented in chronological order: before referral of a case to court, (Sub-part 1), in the course of the proceedings (Sub-part 2), following the court decision (Sub-part 3). These three phases have been differentiated because they rely on different instruments, in particular as regards the means to achieve the quality of the service provided or more generally that of the justice system. The actors (beneficiaries or service providers) intervening in these phases also differs.

This second part provides a comparative but non-exhaustive approach of States' practices with a view to improving the quality of service provided and ensuring the management of quality. It identifies standards common to partner States as well as the tools and any other standards they use to measure the quality of the service delivered. For specific details on national experiences, please refer to the reports on visits to partner States attached to this Handbook.

Sub-part 1: Improving the quality of service provided prior to referral of a case to court: informing, welcoming, assisting

All partner States have developed a dynamic policy of access to the law and justice system, which is however based on different tools. The States converge as to the goals pursued:

- the need to offer citizens a high level of information on not only existing law and the organisation and functioning of the justice system but also access to the law and personalised legal advice well before the start of legal proceedings (1);

- the guarantee of simple and equal access to the justice system (2), by introducing an effective legal aid system;

- the importance of also being able to propose and encourage alternative dispute resolution methods.

The instruments that partner States have introduced in each of these fields, prior to referral of a case to court, have been considerably modernised, backed by new technologies and diversification of services offered.

1. A high level of information on the law and justice system

Partner States agree on the importance of providing a high level of information on the law and justice system that meets a series of requirements.

Thus, the type of information to be provided to the public is similar among partner States. The aim is to ensure that litigants and more broadly citizens have access to the following information about:

- Existing laws and regulations;

- The organisation of the judicial system;

- and for some States, information on not only the functioning of the courts but also the state of play of pending proceedings.

Access to such information also meets common quality requirements:

- Such access must be easy and suited to all citizens;

- The information provided must be reliable and accurate, whether it concerns rights and obligations or the procedures for their implementation.

It should also be possible to personalise this information in response to the specific questions or more precise needs of users of the justice system as a public service and access to the law; this information must be accompanied, where necessary, by free of charge legal advice prior to the start of legal proceedings.

1.1. Comprehensive information available online

To guarantee such access while meeting the requirements defined above, States have developed free of charge public information sites: citizens can use generalist websites to access existing legislative and regulatory texts; in addition, there are sites more specifically dedicated to the organisation and functioning of the justice system and courts' activities.

Access to existing law: dedicated websites of partner States

In Italy, the website www.normattiva.it has contained laws and sublegal acts since 2010.

The French website www.legifrance.fr is the government's official site for the dissemination of not only laws and regulations but also judicial, administrative and constitutional case law; there are links in particular to websites of European legislators and courts.

In Portugal, the official website dre.pt offers an equivalent service through the legal information contained in the Official Gazette and the online availability of case law.

Estonia gives citizens access to a legal information website https://www.riigiteataja.ee/kohtulahendid/koik_menetlused.html.

Access to information on the justice system (organisation, functioning and activity): specific dedicated websites

In partner States, access to information on justice systems is provided through dedicated websites, which in several States are run directly by the Ministry of Justice : this is the case in France (www.justice.gouv.fr), Italy (https://www.giustizia.it/giustizia/it/mg_3_f.page) and Portugal.

Specific information on rights and obligations and general information on proceedings before the courts are provided through dedicated information portals. In 2016, France also introduced an online portal www.justice.fr enabling users to obtain general information, identify the competent court for their case, and download forms for submitting their case to a court.

In some States, information is provided through the individual courts' websites:

- In Italy, the Court of Milan has a website that can be accessed by litigants and citizens (www.tribunale.milano.it), offering information on referral of cases.

- In Portugal, the Oporto Court of Appeal has a dedicated website (http://www.tribunais.org.pt/comarca.php?com=porto).

- Likewise, in Estonia (www.kohus.ee) and in France, the courts and appeal courts operate dedicated websites run in cooperation with the Ministry of Justice. The websites of the French supreme courts (Court of Cassation, Council of State and Constitutional Council) offer a wealth of information, such as information on their organisation, their judicial activity (through reports of activities or thematic reports), their case law (allowing for searches by topic, year or index) and, as the case may be, their advisory activities or their public communications (press releases, conferences). These websites also provide specific information for litigants, on the services available to them in connection with legal proceedings.

Online availability of court decisions and case law is not identical in all partner States. Even though all have databases containing supreme court decisions, the case law of first instance courts is not available in all States. In Estonia, all decisions are published and non-anonymised, except in certain specific cases that affect the rights of persons or could harm the interests of victims in criminal matters. This is also the case in Slovenia, but only after decisions have been anonymised.

The demonstrations of these different tools reflect partner States' common concern to facilitate the broadest possible access to information on justice systems and rights and obligations.

1.2. Website requirements for accessing information on the law and justice system: quality standards

The online websites of States and courts must meet several requirements in order to provide quality information:

- simplified, intuitive access: special attention is paid to the way the information is presented (structuring of websites, intuitive search engines, etc.); additional efforts will doubtless be necessary to avoid a sharp increase in the number of official websites providing such information.

Interactive questionnaires: the www.justice.fr experience

This service has reached an advanced stage in some partner States (in particular France), where dynamic questionnaires help users find the information they need with regard to their situation. The functionalities of the service are detailed in the report on the visit to Paris (3 November 2016, presentation of the website "justice.fr"). For example, with the help of this dynamic questionnaire, users can determine whether the proceedings for their case require representation by a lawyer. If so, users are redirected to the website www.avocat.fr .

- precise information provided in language that is readily accessible: information must be worded in such a way that it can be understood by the widest possible public, without

impairing the reliability of the information delivered while tailoring it to meet the specific needs of certain users (see below);

- reliable data consisting of information that is exact and up to date, that is, in accordance with the law as it stands and the procedure in force, as well as the organisation and functioning of the justice system. For example, during the development of the website www.justice.fr, an effort was made to standardise existing forms, of which there was a wide variety of models;

- continuously updated information: website maintenance is a major issue as regards the reliability of the information provided. Updating must take place in real time, in particular as regards the implementation of legal, procedural and institutional reforms;

- free of charge information: not paying for information is a prerequisite for ensuring that such information is available to the greatest possible number. To make sure that information is available to all segments of the public (including those with no access to digital media), it would be necessary to install free of charge consultation workstations in public places;

- information guaranteeing the confidentiality of information exchanged where there is a possibility for interaction;

- in general, mechanisms that take account of users with specific needs and emerging needs (in connection with a new procedure, for example one relating to asylum).

These standards could be combined with indicators, identified in Part 3 of this Handbook, that make it possible to evaluate the gap between practice and the standards set. These standards and indicators could be implemented at the local level, thereby allowing the judicial district to ensure that it was helping disseminate local information that is relevant and meets these needs.

Prior to referral of a case to a court, citizens should be able to obtain useful information on the law and procedures. However, as far as partner States are concerned, this kind of service cannot replace the legal information and advice that must be provided for individual cases.

1.3. Access to free of charge, personalised and localised information and legal advice

Access to personalised, localised information and legal advice constitutes the second theme of the policy that States are developing to improve the quality of service provided to citizens. This kind of personalisation is especially necessary for those who are not able to use digital tools, and must have the option of accessing the information physically.

Indeed, partner States have not opted for full digitisation of information and advice, but have retained the possibility of physical, personalised advice, in order to meet the needs of population groups with no access to digital tools and to provide localised and personalised information or advice.

Likewise, partner States have endeavoured to strengthen reception platforms in courts to guide litigants or even allow them to access certain services (performance of certain procedural acts) at this stage.

Accordingly, to be able to offer this kind of service quality, States have introduced structures offering free of charge information and legal consultations, provided as the case may be by NGOs, lawyers or other court officers. All population groups must have access to high-quality information or advice that is reliable, precise and free of charge, and in their immediate vicinity. The majority of partner States offer services that meet these quality standards.

Free of charge and personalised information and consultation services in partner States

In Estonia, an exchange platform was set up ("jurist aitab" – "lawyers help" www.juristaitab.ee) that puts citizens in direct contact with legal professionals. Since 2015, this website has also featured a page in Russian. This platform was introduced by the Estonian Ministry of Justice, in cooperation with the Bar Association, which was tasked with providing this service following a call for tenders. Citizens can use the platform to obtain free of charge answers to simple, standard legal questions and obtain forms. Answers are drafted by a group of experts composed of specialists from the field in question (lawyers, legal researchers, etc.). Users may also consult the FAQ section (some 500 items: see attached report on the visit to Tallinn, 2 February 2017).

Under Law No. 91-647 of 10 July 1991 on legal aid, as amended recently by Law No. 2016-1547 of 18 November 2016 on the modernisation of justice in the 21st century, **France** conducts a dynamic policy of access to the law that offers citizens a range of legal services at readily accessible venues: courts, legal advice centres, town halls, neighbourhood outreach offices, social action centres, schools, hospitals, correctional institutions, emergency shelters, etc. These facilities, which are coordinated by a departmental structure led by court heads, provide information on rights and obligations, assist with necessary steps, and guide users towards the bodies, services or professionals responsible for ensuring or facilitating the exercise of rights (Article R131-1 of the Code of Judicial Organisation). Since 2015, these structures have been strengthened within the courts themselves. Law No. 2016-1547 of 18 November 2016 on the modernisation of the justice system in the 21st century reaffirms the importance of such access by explicitly enshrining the principle according to which "the justice system as a public service promotes access to the law and ensures equal access to the courts."

In Portugal, depending on their resources or situation, some categories of citizens may qualify for pre-trial legal assistance (or "legal protection"). Citizens can use these *legal consultations available throughout the country* to obtain free of charge legal advice from legal practitioners. Some non-litigious steps may be taken during legal consultations, and parties may also resort to conciliation during this consultation phase. The details of this legal aid mechanism are set out in the report on the visit to Vila Real of 15 May 2017.

2. Equal access to justice: different legal aid systems

Access to the judge for all citizens constitutes a fundamental right and a core component of the right to a fair trial, as enshrined in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 47 of the European Charter of Fundamental Rights. The right to legal aid guarantees effective access to justice for those who lack the means to cover the costs of a trial (in particular, court fees and the cost of legal

representation)[21]. The existence of an effective legal aid mechanism is a critical element of the quality of a justice system.

Partner States' systems all provide for the possibility of full or partial exemption from court fees, the appointment of a lawyer, or defrayal by the State of the fees of a lawyer chosen. In the majority of cases, parties eligible for legal aid must prove that they do not have sufficient means to pay the fees of the court officers and to bear all or part of the costs of legal action.

Different bodies are responsible for examining and approving requests for legal aid: a dedicated court structure, legal aid committees in France, the local Bar Council as in Italy, the court itself as in Estonia, or the territorial social affairs administration in Portugal.

In Estonia, unlike the other partner countries, the procedure for requesting, verifying and granting legal aid is entirely dematerialised, offering beneficiaries rapid, high-quality services (see attached report on the visit to Tallinn, 2 February 2017). The State Legal Aid Information Service (RIS) manages legal aid: it ensures that requests are automatically assigned to the lawyers registered in the system. Lawyers who receive such requests have 48 hours to reply. In the absence of a reply, a lawyer may be appointed by the court. Any refusal to accept a case must be justified by the refusing lawyer. Requests may also be submitted on line in **Italy** (see attached report on the visit to Milan, 13 March 2017). A legal aid information system allowing for online referral of cases to court and preliminary investigation is to go on stream in **France** in 2018. **France** has already introduced online simulators that allow users to see whether they qualify for legal aid. The French courts also feature legal aid committees (see the attached elements on the legal aid committee for the Melun Tribunal de Grande Instance (higher-level court) in the report on the visit to Paris of 3 November 2016)[22]. Those concerned may also submit requests for legal aid to the SAUJ, which is responsible for immediately forwarding them to the competent legal aid committee. In **Slovenia**, legal aid is administered at the local level, as the courts have a legal aid department. However, requests for legal aid are not dematerialised: the paper forms may be obtained with the help of the court's services. In March 2017, the Court of Koper and the European Law Faculty of Nova Gorica entered into a partnership whereby law students may provide legal aid to those accused of an offence, under the supervision of the Court of Koper.

Some legislation has introduced emergency procedures for the granting of full or partial legal aid (**France**) or provides *de facto* authorisation for certain population groups such as minors or victims in certain types of proceedings (**France**). Legal aid also covers amicable dispute resolution procedures (**France**). Estonia has incorporated alternative dispute resolution methods to ease access to justice, such as exemption from certain fees for a limited period. **Portugal** has introduced a "legal protection" system that covers not only trial-related costs but also prior legal consultations (see above).

[21]With regard to the body of European requirements, as enshrined in the law of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Charter of Fundamental Rights and clarified through case law, please refer to the Handbook prepared by the European Court of Human Rights and the European Union Agency for Fundamental Rights, Handbook on European law relating to access to justice, 2016 (http://fra.europa.eu/en/publication/2016/handbook-european-law-relating-access-justice, last consulted on 31 July 2017).

[22]Please also see in this respect the amended version of Decree No. 91-1266 of 19 December 1991 on the application of Law No. 91-647 of 10 July 1001 on legal aid.

Some countries perform a pre-application check to preclude the granting of legal aid for frivolous litigation. This is the case with **France**. It is also the case with **Estonia**, where 75% of all requests for legal aid in civil and administrative proceedings are rejected, in accordance with legal requirements, on grounds of lack of merit or slim chances of success. **Italy** regrets that it has no verification mechanism following the abolition, in 2002, of the multidisciplinary committee responsible for screening legal aid requests for civil cases. Now, local bar councils are responsible for this evaluation process, with the judge ordering payment. This mechanism has led to lengthy proceedings.

Finally, some legislation provides for the suspension of time limits in order to allow applicants or respondents to obtain legal aid (**France**).

Indicators for monitoring legal aid, such as its scope (type of litigation – civil, criminal, administrative – and cases concerned), the time required for preliminary examination of claims, the percentage of proceedings introduced with such aid, acceptance rates, grounds for refusal and terms for withdrawal must provide a means of measuring and comparing rates of access to legal aid. Regular evaluation of all aspects of the system introduced for the granting of legal aid is necessary at the local level. Controls may be based on: a diagnosis of the grounds for refusal and the impact of the length of proceedings on the time taken to deliver a judgment.

3. Increased recourse to alternative dispute resolution mechanisms

Policies of access to legal information and advice for all citizens have been accompanied in partner States by reflection on increased use of alternative dispute resolution mechanisms.

The aim is to allow citizens:

- to obtain faster, better accepted answers, while being actively involved in the settlement of their disputes
- and to limit recourse to the courts for cases that can be settled out of court.

As far as partner States are concerned, the development of such amicable dispute resolution methods helps improve the quality of the justice rendered.

A wide range of experiences with amicable dispute resolution

In both Estonia and France, a distinction is made between mediation and conciliation, which are governed by different texts. These countries have developed dedicated and increasingly deliberate policies, in particular in the years following the transposition of Directive 2008/52/EC on certain aspects of mediation in civil and commercial proceedings. Today, mediation and/or conciliation activities are conducted by both court officers (notaries, lawyers, etc.) and associations or public structures. In **Estonia**, the websites of the chamber of notaries and the one of bar association offer easy access to lists of conciliators. Associations are active in the family mediation field in Estonia, whereas the amicable resolution of labour disputes often requires the services of a public conciliator. **In France**, the absence of regulation on the activities of mediators has resulted in a wide variety nationwide, with only family mediators requiring special training. Since 1978, mediators' activities have been governed by specific texts obliging them in particular to prove they have completed training courses.

In Portugal, mediation mechanisms are encouraged in all areas of labour law, civil and criminal law, and commercial and family proceedings. The DGPJ (*Direção-Geral da Política*

de Justiça), a public body and a service of the Ministry of Justice, is responsible for regulating such mediation activities. As in the majority of partner countries, mediation is on a paying basis for parties who have recourse thereto, apart from certain exceptions tied to the nature of the proceedings or the personal situation of the parties.

In 2010, **Italy** introduced a system of civil and commercial mediation for settling disputes out of court. The Ministry of Justice keeps a register of mediation bodies, both public and private.

Slovenia is also actively seeking to promote mediation under the auspices of courts of first instance, which keep lists of mediators. Prior mediation is compulsory if one of the parties has received legal aid.

The different experiences reveal a wide range of mediation models (particularly as regards types of mediators) as well for proceedings where recourse to mediation is possible. This wide range makes any comparisons difficult, all the more so as there are no statistical measurement tools in partner States. The absence of statistical tools also makes it difficult to assess the exact effects of these dispute resolution modes on the quality of service provided to users. It seems essential, especially at a time where some States have opted for compulsory recourse to alternative dispute resolution methods before referral of a case to court (France, Italy), to have precise indicators for making this kind of evaluation (percentage of recourse to such procedures, success rates for these procedures, etc.).

The number of mediators operating in a country, but above all the rate of recourse to mediation, offers a useful tool for measuring this activity. However, such indicators do not allow for assessment of the satisfaction level of users who have had recourse to these procedures or the reality of dispute resolution that excludes all recourse to the courts.

Sub-part 2: The quality of justice during the proceedings: communicating, organising, managing

In the context of the CQFD project, the proceedings phase is considered to start when the litigant file a case and to end when the court decision is issued. Thus, legal aid issues are addressed in subpart 1 as in some partner states it covers pre-trial legal assistance (PT). In some countries, legal aid can be managed outside of the court system. Front-desk services are described below even though they could also inform the general public and not only the litigants or court users.

In partner States, efforts to improve the quality of justice as regards the conduct of proceedings have focused on three main areas: better reception facilities for parties; more fluid, easier communication with the parties; and introduction of tools for quality management by judicial actors (in particular, heads of courts and judges).

Informing and communicating with the parties are indeed a major focus of attention for partner States in terms of the service provided to litigants. Accordingly, partner States have introduced innovations to facilitate communication with the parties during the proceedings, in particular via information technologies. Steps have also been taken to guarantee a high level of information on proceedings underway and to ensure greater predictability for litigants.

Judicial actors (court heads, magistrates) of partner States have expressed high expectations with regard to the management of quality during proceedings and in particular the need for

genuine tools for ensuring better follow-up of cases, or even self-evaluation tools for detecting and rapidly correcting any quality issues.

1. The development of specific, centralised one-stop-shops in courts

One-stop-shops: information and the performance of procedural acts

Several years ago, **France** started introducing "one-stop-shops" registrar's offices, competent for all aspects of a given judicial site. Since 2015, the Single Reception Platform for Litigants (SAUJ) has been introduced at all judicial sites. This lets litigants come to a court to obtain both general information and specific information on their trial and to perform certain procedural acts at the reception platform of a court, regardless of its territorial or subject matter competence. The SAUJ is competent for the entire judicial district. The reform underway aims to ensure a better quality of information for those who come to court and avoid subjecting citizens to the full complexity of the organisation of the justice system. Backed by aid structures for access to the law, the SAUJs will in coming years be empowered to coordinate assistance for access to the law and justice system in areas of everyday life (family, health, social security, work, persons, consumption, insolvency, etc.).

A similar approach pursuing the same goal has been taken at the Court of **Milan (Italy)**. By means of a centralised single reception platform based on the identification of requests via an interactive terminal, users are directed towards an agent who is competent to provide them with information on civil or criminal proceedings or with legal aid. Copies of acts are provided via the centralised reception platform, where some steps are performed directly.

There are certain prerequisites for introducing effective reception platforms that meet the needs of litigants.

- revision of the court's internal organisation. Before introducing a system of centralised, multipurpose one-stop-shops in courts, it is necessary to rethink the entire structure for welcoming the public in courts.

For example**, in France,** the SAUJ system is not limited to referring users to other court services. Other services must be pooled with this centralised one-stop shop to enable litigants to obtain answers to their queries at this desk. Thus, before opening a SAUJ, all services must work together to define those procedures and queries that can be handled by the centralised reception platform and those that must on an exceptional basis remain within specific reception facilities (e.g. owing to the highly technical nature of a query). In this respect, the introduction of such centralised reception systems implies the involvement of all magistrates and staff of a given court.

Since September 2016, as part of its project **"Justiça mais proxima"** and its component "Tribunal+" at the Court of Sintra, **Portugal** has been conducting a comprehensive assessment of the internal organisation and work processes of court staff (for details, please consult the dedicated website: https://justicamaisproxima .mj.pt). This project is aimed in particular at improving services provided at court front-desk, with the creation of a single reception platform for litigants; but also at improving the work done by the court's services via an evaluation of internal processes. The final evaluation report for the introduction of the reform was due for submission in July 2017. The conclusions will be presented at the Final Conference of the CQFD project, on 31 August 2017.

- staff training and qualifications are key to meeting the specific needs of litigants accurately and efficiently.

By way of illustration, in France, up until the introduction of the SAUJs, in many courts, reception officers were only able to meet needs depending on their competence and their daily caseload. The introduction of a centralised reception platform like the SAUJ requires versatility and broader legal knowledge and procedures. This is why France, in the light of the deployment of the SAUJs, has introduced special training courses for SAUJ officers through its National School for Registrars.

- the introduction of suitable tools (shared IT applications capable of dialoguing, interactive terminals, etc.).

For example, in France, information on a case is supplied via elements contained in courts' IT applications. Today, there are many such applications, depending on the type of litigation (proceedings before magistrates' courts, industrial tribunals, higher-level courts for civil and criminal proceedings, etc.). The officers manning the centralised reception platforms must be able to access all IT applications required to provide reliable, up-to-date information to litigants who request such information. They must therefore be empowered to access all applications and be trained in their use. As at end of 2017, the portal for the single reception platform for litigants, the new stage in the PORTALIS project, will let citizens use a single application to access all pending civil cases, regardless of the court hearing the case.

2. Better communication with the parties: development of electronic communication

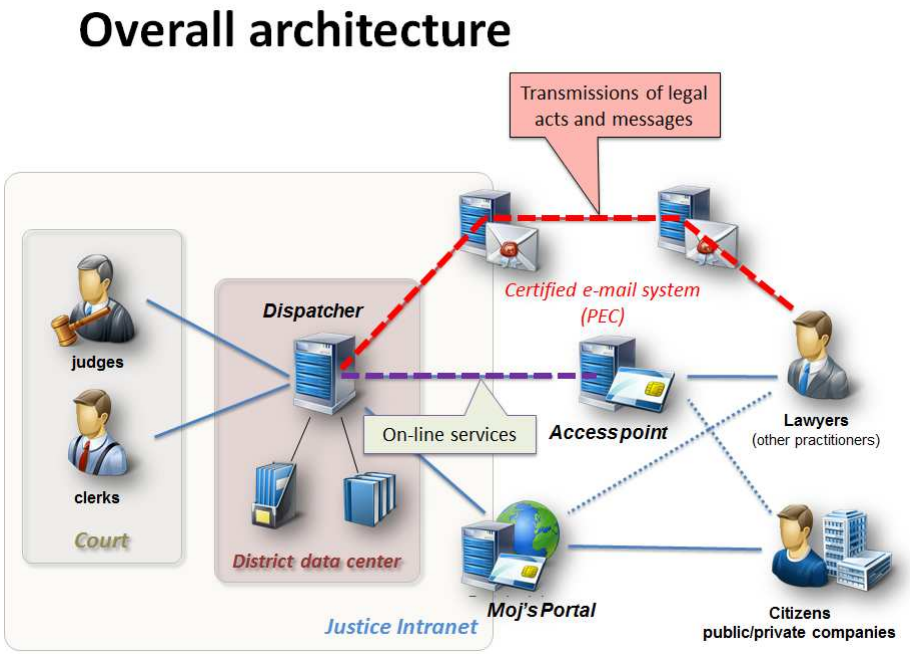
Communication with the parties is unevenly developed in partner States. Even though all States have introduced systems for communicating electronically with the lawyers, electronic communication with parties not represented by a lawyer remains marginal but constitutes a goal.

Estonia has a single computerised system that is common to all judicial actors. The system was launched in 2009 for criminal proceedings; criminal records were added in 2012; and civil and administrative proceedings were incorporated in 2014. This system allows electronic communication with not only court officers but also litigants who are not represented by a lawyer: unlike lawyers, for whom electronic communication is compulsory, private individuals have the option, but not the obligation, of using the dematerialised system. Thus, anyone may use an identity card as identification on the *e-file* platform and file a request, forward papers or documents for the proceedings, and receive procedural acts and judgments in dematerialised form. Access is free of charge. Lawyers, notaries, court clerks, legal representatives and governmental bodies may only communicate with the court by electronic means. The portal also allows users to access other useful information systems (business register, population register, etc.) (for details of the system introduced, please see the attached reports on the visit to Tallinn, 2-3 February 2017).

In **France**, agreements signed by the Ministry of Justice and the National Bar Council in 2005 introduced electronic communication with lawyers in civil proceedings. The mechanism has been rolled out gradually: first in higher-level courts, then in appeal courts for proceedings with compulsory representation. Thanks to the Code of Civil Procedure, it is possible to send,

receive and provide notification of all acts and conclusions transmitted as part of judicial proceedings. To date, electronic communication with lawyers in civil proceedings is operational for higher-level courts, courts of appeal and the Court of Cassation. It has yet to be introduced for oral proceedings. The mechanism is further along in administrative courts. Up until January 2017, they used the "Sagace" interface: by entering an access code, litigants or their lawyers could follow progress made on their case (see attached report on the visit to Paris, 4 November 2017). However, this interface did not allow communication between the parties and the court. The web app "Télérecours", which was first experimented in some administrative courts, has since 2013 enabled lawyers and administrations to file appeals electronically. Its use has been compulsory for lawyers and administrations since January 2017 (Article R 414-1 of the Code of Administrative Justice). This app allows the dematerialised management of petitions, statements of case and procedural acts between an administrative court and the parties represented by a lawyer.

In **Italy,** the dematerialisation of civil proceedings was envisaged in 2005 and finalised in 2012, with the launching of the system called "Processo civile tematico". Since the 2014 reform, lawyers have had dedicated access to the app for dealing with civil cases, and may not only communicate with the court but also certify the authenticity of certain acts and ensure they are served. Parties not represented by a lawyer may not communicate directly with the competent court by electronic means but receive some information on the conduct of their case, in particular notification of hearing dates.



Portugal also has a compulsory electronic communication mechanism for courts of first instance, as soon as a case is referred to the court (incorporated in the CITIUS information system).

In all countries, documents, including judicial decisions, are signed electronically.

To determine the quality indicators for electronic communication with the parties, the following must be taken into consideration:

- the actors concerned: lawyers and court officers, public administrations and authorities, litigants who are not represented by a lawyer,

- the quality and reliability of the information exchanged,

- the nature of the documents exchanged,

- the security of the system developed,

- the availability of the system

3. A high level of information for the parties: phases and time standards in the proceedings

As noted above, as far as informing the public is concerned, States have mainly focused on the phase prior to referral of cases to court (*legal information, alternative dispute resolution methods, strengthening of reception platforms, introduction of online information portals, etc.*). However, as far as partner States are concerned, maintaining a high level of information and communication with the parties throughout the trial, including on the predictability of timeframes, is a key factor for the quality of justice.

Estonia has a policy of ensuring greater transparency on the conduct of the proceedings for the parties (lawyer or litigant). The different stages in the case give rise to coordinated exchanges between the parties: organisation of the different stages of the proceedings, date and timeframes for the submission of documents and evidence, sharing of hearings. This information is communicated to the parties at all stages of the proceedings.

In **France**, for civil proceedings, a procedural timeframe may be drawn up jointly by the parties at the first pre-trial hearing, and papers or conclusions filed late may be rejected by the judge. As from the beginning of 2018, the portal for litigants will allow any citizen who so agrees to follow progress on his case online and familiarise himself with the different stages pending the final decision.

In **Italy**, at the first hearing, information on the organisation of the proceedings is provided electronically or communicated to the parties, along with filing deadlines for documents. Parties are automatically notified of any delays.

Partner States consider that, to guarantee a high level of quality *vis-à-vis* the parties, information on the foreseeable length of the proceedings and its main stages must be communicated as far in advance as possible and ensure a high level of reliability.

Certain States, such as **Estonia**, make available court statistics on the average length of proceedings depending on litigation type, thereby enabling litigants to be fully informed before their case is referred to the court. The Court of Harju has drawn up best practice guidelines, shared among legal professionals, for resolving difficulties with procedural deadlines. The court had to convince lawyers to participate. The project has gradually been broadened to include other courts in Finland. With regard to civil proceedings, for example, the following

elements are deemed best practices in the preliminary phase: a maximum of two hearings, if the judge deems this appropriate; a maximum of four procedural documents (lawyers have drawn up models).

Slovenia has introduced several time limit mechanisms (see attached reports on the visit to Slovenia, 5-6 July 2017), such as:

- in individual cases, the option, for the parties, of submitting a motion to the court president, who may order various actions (report by the judge hearing the case on the reasons for the length of the proceedings, and an opinion on the time needed to resolve the case); he may also set a time limit for the performance of certain procedural acts in the case concerned that could help accelerate the trial proceedings; he could also decide that the case should be given priority, request that additional magistrates be assigned to the court in question, etc.

- standards for the length of a case, defined every year by the Supreme Court (Article 60 c. of the Law on Courts), which cover the foreseeable length for the various phases of the court proceedings, the foreseeable length for the resolution of a case. These standards are designed to inform the public and constitute management tools for heads of courts. However, these are length standards, not deadlines. These standards are based on the case law of the European Court of Human Rights (standard case: 24 months is a reasonable length; priority case: less than 24 months; complex case: between 24 months and 5 years). The courts are divided into three categories (A, B, C), depending on the average length of their proceedings, with the exception of higher courts (A, B) and the Supreme Court (which, as a matter of principle, only comes under one category).

Broad circulation of this information, based on objective, fully accessible elements, would significantly improve the level of service quality for the parties. Failing this, States must be in a position to make available to citizens such precise information and guarantees upon request, via online digital tools or from the courts' reception facilities.

Partners consider that information on the predictability of the likely length of a court case is an important quality indicator.

4. Organising the court and assisting judges with their work

Most partner States have developed virtual judges' offices (exchange platforms, apps, etc.) facilitating their access to all of their files, assisting them with legal searches or the drafting of acts, or even allowing them to manage ongoing proceedings. Some partner States have also reinforced the teams around judges, providing the latter with often-specialised assistance and constituting "court teams" in certain States.

4.1. Allocating and following up pending cases: virtual office and follow-up of activities by judges

In Italy, the application Processo Civile Telematico (PCT, explained above) constitutes a virtual office for judges and also gives the section or court president an overview of all cases allocated and lets him monitor the overall activities of the court and each of the individual judges.

Thus, each judge has a virtual office: allowing him to access the cause lists for his hearings and procedural documents but above all to visualise the processing timeframes for each of the proceedings for which he is responsible and identify any accumulated delays in certain cases. Based on this panorama, he can introduce an adequate organisational structure and fine-tune his activities.

In the future, the system should make it possible to assign a complexity rating to each case: the Processo Civile Telematica already includes such a column, but for the time being all cases have been assigned a rating of 1, regardless of their complexity. Classifying cases by level of complexity should allow precise, differentiated management and the incorporation of qualitative procedures into the processing of proceedings, not just quantitative ones. The system is also intended to harmonise the jurisprudence of the different judges or even courts on identical questions or at the very least ensure that such divergences are flagged.

In Estonia, cases are allocated via the E-file application on the basis of the number of cases already assigned to each judge and his caseload: KIS is an interface specifically developed for judges to follow their cases, in particular their length, in order to avoid any delays. A new tool has also been developed to enable judges to work on procedural documents; it is still relatively underused even though judges have been specially trained in its use. The system includes automatic notification of urgent cases: judges are notified of a case's urgent nature at the case allocation stage. Court clerks have been specially trained to use the case allocation system (all courts except the Supreme Court rely on automatic allocation of cases, but manual checks are possible). Each court can configure the tool and record the complexity of its cases according to criteria decided locally; however, judges view the system as overly complex. The president of the court or the judge himself may at any time extract data on the distribution of cases. The president of each court receives regular notifications on pending cases, depending on their length (after three months, and after one year).

Portugal has also introduced an overall tool for real-time court management (random yet equitable distribution of cases, tracking of flows and stocks, follow-up on the activity of individual judges, etc.). Each judge has a virtual office allowing him to monitor his activity closely and assess efficiency.

In France, judges do not have virtual offices. Accordingly, in civil courts, the various apps for civil cases offer case registration, extraction of statistical data and the elaboration of follow-up tools. Skipper, the mechanism for administrative courts, is also a device for real-time extraction of data on the court's activity, partly enriched by transmissions from the Council of State.

4.2. Dematerialised access to the entire case file

The work and information exchange platforms introduced **in Estonia, Italy and Portugal** (described above) offer judges a fully dematerialised access to proceedings and documents as well as an overview of all pending or resolved cases. They also allow notification of decisions or transmission of documents, as well as electronic signature for all judicial acts and decisions.

The case management tool used in **Estonia** and **Italy** also offers judges a database containing decision templates that judges in Italy can personalise, together with pre-established forms.

In France, for civil cases, the final conclusions submitted by the lawyers representing the parties to the proceedings can only be accessed using the civil application installed in the court.

Most documents are still accessed via submission of paper files. When Version 3 of the PORTALIS project comes online in 2019, it will allow fully dematerialised access to papers and documents for proceedings heard by lower courts and industrial tribunals[23]. The development of the Télérecours mechanism, which has been compulsory for lawyers and administrations since January 2017, will offer administrative courts fully dematerialised files that judges can access remotely.

In **Slovenia**, the Supreme Court plays a strong strategic role, including by developing computerised case management systems. Each court also has an IT department for internal management of electronic tools. The Supreme Court introduced a Computer Centre in 1996 to guarantee a stable working environment and allow the definition of a medium-term strategic plan (this six-year plan is drawn up by the President of the Supreme Court). This Centre also offers user assistance, as IT managers work both in courts and for courts (26 employees work at central level, while 33 work for local-level courts) (see attached report on the visit to Slovenia, 5 July 2017). **In Estonia**, responsibility for planning IT development and tools lies with the Ministry of Justice, which has introduced a three-year plan for the development of ICTs in courts (court information systems, electronic communication, etc.). The plan is implemented by the Centre of Registers and Information Systems, under the supervision of the Ministry of Justice.

Partner countries agree on the need to facilitate the work of judges, particularly as regards nomadic work situations and the importance of effective information systems for staff. The creation of virtual offices that let judges access not only all documents and information relating to the cases with which they are dealing but also libraries of templates and models and online legal information is a real driver for improving judges' working conditions.

As they communicate with the parties, these tools must offer a high level of security. Given the changes they imply, States must strive to design intuitive, accessible apps and ensure that agents are adequately trained in the use of these tools.

4.3 - Assisting judges: the court team

Several partner countries have reinforced the teams around judges. **Estonia, France, Italy and Slovenia** presented models for restructuring judges' environment. These reforms are intended to ensure that judges can refocus on their core activities and to guarantee a high level of expertise and specialisation in the most complex types of litigation.

The skill level of the staff and agents assigned to courts must be high if they are to not only assist judges in their missions but also offer litigants adequate information on their rights and the proceedings, especially as part of the above-mentioned reinforcement of reception facilities.

In 2013, the position of judge's assistant was introduced in **Estonia**.

In **France**, in addition to assistants specialised in criminal law and judicial assistants who have been present in courts for several years, in 2016, the Ministry of Justice undertook to hire paralegals to conduct complex legal research and bring their expertise to bear in specific fields.

[23]In criminal matters, judges have access to digitised case files, but the exchange or production of documents still requires paper flows.

Court clerks have been specially trained as magistrate's assistants to provide special assistance to judges in addition to their usual duties.

In Italy, teams have been set up around judges in courts of first instance; mixed teams consisting of interns, clerks and honorary judges assist judges with research or preparations for hearings.

Assistants also exist in **Slovenia**, where they play a key role in technical proceedings (especially bankruptcy proceedings), always however under a judge's supervision.

These reforms require States to commit to a deliberate policy of both initial and continuous training throughout these agents' careers.

5. Refining local quality management tools

Traditional data collection tools are useful instruments for managing courts' activities at local level. However, as they primarily focus on performance, they are not optimum for detecting quality issues. Accordingly, self-evaluation tools have been developed for courts, to help them identify quality issues and remedy them at the earliest possible stage.

5.1. Collecting activity data for quality management purposes

The tools deployed in partner States to assist judges in the decision-drafting phase also allow the collection of statistical data and the analysis of the activity of a judge, service or court.

Thus, the above-mentioned mechanisms in **Estonia, Italy and Portugal** are management tools for heads of courts, who have access to real-time data on flows, stocks and timeframes for their court and the magistrates assigned to it. In **Estonia**, activity data are discussed at yearly conferences bringing together heads of courts and judges.

In **France**, heads of courts have access to elements on the performance of their court, established on the basis of their civil activity data (Pharos). Jointly discussing elements makes it possible to initiate a dialogue on the means allocated to individual courts and the terms for their use at local level. Heads of courts also have a reference framework established by the Inspectorate General of the Ministry of Justice that allows them to conduct internal audits without waiting for the audits scheduled by heads of courts.

Partners consider that, although these indicators are essential for managing judicial activity, they do not suffice for evaluating the quality of the justice service delivered. Partner States have therefore tried to develop general tools for self-evaluation and problem detection.

5.2. Tools for self-evaluation and detection of quality issues

Portugal and Slovenia have introduced internal benchmarking in courts so that judges and heads of courts can self-evaluate their activity and the service delivered. This benchmarking, which is described above, concerns the monitoring of procedural deadlines. This approach is viewed as a factor for improving a court's overall functioning.

Estonia has introduced professional seminars for discussing data collected on courts' activity and governance, thereby giving participating magistrates and judicial staff a better opportunity to detect quality issues.

France has opted for a different, broader approach. The Ministry of Justice has set up a working group composed of magistrates and judicial justice staff. After several months' work, this team has identified a series of indicators, the conjunction of which points to a fragile situation within a court. A self-evaluation grid has been drawn up, which includes a set number of indicators on a court's activity and human resources. Completion of this self-evaluation process gives a court an overview of its difficulties and their intensity. The resulting alert offers an opportunity to define the most suitable remedial measures and implement them as soon as possible, before the court is permanently impacted. For administrative courts, the Council of State sends monthly bulletins to first and second instance courts with quantitative and qualitative data on their activities. Since 2016, it has been disseminating data on appeal rates.

The Italian Ministry of Justice has launched a "Big Data" project with a view to producing analyses based on various civil, administrative and penal data sources. This type of analysis facilitates the preparation of strategic options regarding the organisation and functioning of justice; they also act as predictive tools for helping judges draft decisions. These tools are intended to help users develop a detailed analysis of the nature and number of cases that courts must manage. The qualitative analyses produced using these tools will serve to define civil cases that should not have been referred to a court, in the light of mediation, negotiation and arbitration options.

Finally, most partner countries have set up bodies to provide a fresh perspective on judicial decision-making processes and to examine and improve the assessment of actors outside the court. These bodies bring together the different court actors along with court officers and even paralegals. This has led to best practices agreements: this is the case **for Estonia and France**. For **Portuguese** courts, an advisory council meets quarterly. In addition to its chair, it comprises the director and prosecutor for the court, representatives of the legal professions, two mayors and qualified individuals.

Partner States' experience shows that managing and self-evaluating quality remains a difficult exercise. Analysis grids must necessarily be multi-factorial if they are to reflect a court's situation accurately. By capturing the many dimensions of quality, these grids make it easier to spot difficulties and take lasting, effective action with regard to a court's general activities.

6. Organisation of the justice system: a factor for improving the service delivered

Several partner States have recently reformed the territorial organisation of justice systems and the distribution of cases among the courts. Any reflection on the quality of justice must be accompanied by an analysis of the relevant size of a court, the perimeter of the services it must offer, its governance mode, and the management of means.

To best meet the needs of litigants and ensure optimal functioning of courts, reforms of the judicial map take into consideration different local and national factors and development, such as:

- demographic and economic trends in countries,
- changes in partner professions,
- territorial reforms of the State and local authorities,
- the structure of litigation, some of which requires specialisation,

- improvement of the management of means, which some feel should be pooled,
- and the simplification and dematerialisation of proceedings.

In Portugal, the reform of the judicial system initiated in 2013 and implemented from 2014 onwards was aimed at redrawing the judicial map around "department" ("districts"), moving from one court of first instance in each municipality to one court per department (except for Oporto and Lisbon), for a total of 23 courts of first instance. It was also designed to increase the specialisation of courts, taking due account of demographic and economic factors. The Court of Leira (whose presiding judge is participating in the CQFD project) has a high level of specialisation (see the report on the visit to Portugal, 15 May 2017), as each section is equipped with videoconferencing facilities to ensure localised justice and ease access thereto. The reform has also served to clarify the procedures between courts and simplify the allocation of means while offering courts greater autonomy. Finally, Portuguese legislators have opted for the introduction of a new management model, inspired by the private sector.
The reform has also led to a rethinking of the leadership role of the court's presiding judge, by vesting him with management and planning functions for his court. The lack of management in these areas was detrimental to courts' quality and effectiveness. The reform sought to strike a balance between the independence of judges and accountability mechanisms, in order to improve the quality of justice.

In Italy, the judicial map has been redrawn and the number of courts reduced: 31 courts, 220 judicial divisions and 667 offices of justices of the peace must be phased out. Since its implementation, the country has been divided into 20 regions, with three courts in each district. The Court of Milan covers 29 municipalities, as compared to 92 before the reform.

In **Slovenia**, the reform of the judicial map has come up against political considerations. However, the heads of district courts have been invited to give thought to and propose measures for adapting their court, via the merger or specialisation of local courts.

In **France**, a reform of the judicial map undertaken in 2007 led to the elimination of some courts, mainly magistrates' courts and industrial tribunals. This reform led to an evaluation mission, the report on which was transmitted to the Justice Minister in 2013. The aim was to re-examine the situation of 8 of the 22 *Grand Instance Tribunals* that were phased out in 2008.

Sub-part 3: Once the court decision is issued: instruments and standards to inform and assist

Partner States have taken steps to ensure adequate information for parties on judicial decisions and for the general public on courts' activities. However, the process of reflection on the phase of enforcement of judicial decisions remains largely unfinished[24].

The CQFD project helps underscore the need to develop quality instruments, standards and processes for the post-trial stage, notably as regards support to the parties during the phase of

[24] Comparative studies have been carried out on systems for the enforcement of judicial decisions at the European level. See in particular the 2015 case study on the functioning of enforcement proceedings relating to judicial decisions in Member States, which was conducted by the Directorate-General for Justice, Consumers and Gender Equality. This study concluded that there were similarities among the systems of the 28 EU Member States, **but stressed the lack of available data, for example on the length of enforcement proceedings.**
Please also refer to the opinion of the Consultative Council of European Judges on the role of judges in the enforcement of judicial decisions, CCJE (2010)2 final.

communicating and enforcing decisions and for detecting any quality issues. Nevertheless, there are some promising practices in these fields, as set out below.

1. Guaranteeing information on the court decision and assisting with its enforcement

Partners aim at better transmission of decisions that are easier to understand. However, although steps are taken to facilitate the enforcement of judicial decisions, the process of reflection on the quality of follow-up or assistance with enforcement remains largely unfinished.

1.1. Informing the parties on court decisions

Notification of a decision rendered by a court must necessarily be accompanied by precise information on remedies and time limits for appeals, and enable litigants to decide how they wish to respond to the decision rendered. Decisions handed down contain legal information on remedies.

Some partner States, in particular **Portugal**, have given thought to the way decisions are presented, in an effort to make them understandable for the greatest possible number, and have introduced rules and norms for presenting judgments and listing the grounds given by the judge. In Portugal, decisions on appeal run from 100 to 500 pages. Producing "standardised" judicial documents, as proposed by several IT systems listed above (see above, ***4.2. Dematerialised access to the entire case file*****)** facilitates the drafting process for judges and makes it easier for litigants to understand a decision. **In France,** even though decisions are standardised in administrative courts, this is not the case with ordinary courts, where more and more initiatives to promote rationalisation and harmonisation are emerging, with the support of the Ministry of Justice.

Partner States also stress the need to give thought to ways of providing the necessary assistance to litigants who are not represented by a lawyer, especially where such representation is not compulsory. However, the systems visited during the CQFD project do not seem to feature any practices common to States or standardised practices at national level. Accordingly, a detailed study in this field remains to be done with enforcement agents and courts.

1.2. Enforcing court decisions: communication and support

The parties must receive precise and intelligible information so that they can enforce judicial decisions easily and within a reasonable timeframe. In partner States, however, judicial institutions have little control over this dimension as far as civil and commercial matters are concerned. It should nonetheless be noted that the Court of Leira (**Portugal**) has two sections devoted to enforcement. Nevertheless, the enforcement of judicial decisions suffers from a lack of visibility, thereby precluding a clear picture of the situation and making it difficult to define relevant action to improve existing mechanisms[25].

However, initiatives are being undertaken to ensure that court officers can easily access decisions to be enforced. For example, **Italy** has introduced a digital file allowing court officers to rapidly access decisions they would like to have enforced. In 2003, **Portugal** introduced a platform for exchanging information with enforcement agents **SISAAE** (IT Support System for

[25]On the work of the CEPEJ in this field, please see http://www.coe.int/t/dghl/cooperation/cepej/execution/default_EN.asp?

Enforcement Agents). This system lets agents perform electronically the acts necessary for enforcement and authorises direct communication between agents and courts; it also includes a debtor search function, thanks to data-sharing with the tax services, as well as the trade register (for further details, see the report on the visit to Portugal, 15 May 2017). It further authorises an electronic procedure for the seizure of property.

In Estonia, legal aid also covers procedures for the enforcement of judicial decisions.

2. Informing the general public

There are two main vectors of information to the general public: the dissemination of case law, where there have been recent developments (e.g. Big Data), and information targeting the media, which is doubtless the main vector of information of the general public on justice.

2.1. Access to case law

Online publication of the case law of courts of appeal and supreme courts in partner States ensures better knowledge of both the nature and timeframe of the decisions handed down. **France** has opted for an open data project covering all judicial decisions. **In Estonia**, the Official Gazette is connected to the courts' information system (e-file). Now that such data are open to the public, a systematic analysis of judicial decisions rendered makes it possible to determine judicial practices, which in the past could only be objectified via hypotheses.

Such analyses give litigants greater predictability as regards decisions rendered by higher courts and thus insight into the appropriateness of appealing, without however discouraging appeals. These analyses also give judges, either individually or as part of the judiciary, viewed from a more collective perspective, an awareness of failings or assumptions that they have not identified in their practice, thereby making progress possible.

Partner States discussed the question of the percentage of first instance rulings upheld on appeal, stressing that this should not be the only quality indicator for decisions handed down. It was viewed as an interesting tool if combined with others, in particular an analysis by first instance courts of the grounds for reversal of judgments – and the existence of mechanisms for systematising this follow-up of appeals (see for example the Administrative Court of Melun). **France** plans to use partnerships with universities to research appeal decisions. **In Italy**, the Ministry of Justice has launched an experiment consisting of studying the types of cases brought before the courts and success rates, in relation to the parties' profiles. A meeting is organised with the losing party to examine the reasons for the failure of the proceedings.

2.2. Informing the media: strategies, training and designated personnel

Partner States have developed communication strategies targeting the general public by training magistrates or court staff in media relations and by appointing magistrates for this type of communication. Introducing and structuring such communication are key for ensuring that citizens understand the justice system.

Several countries have a network of magistrates earmarked for media communication (**Estonia, France, Slovenia**).

Estonia introduced a communication strategy in 2011 to correct the general public's negative perception of the courts and facilitate direct communication between the public and the courts.

This image gap clashed with the courts' role of protecting fundamental rights. At the same time, efforts began to standardise court publications to make them easier for the general public to understand. This national strategy was implemented in all courts via the adoption of communication strategies. Moreover, each court designated a judge for communication, to act as a spokesperson.

In France, two magistrates have been designated in each appeal court to take up communication functions (one for the first president and the second for the Public Prosecutor's office). This network of magistrates has been in place since 1993, and is based on the decree of 25 February 1994. They are responsible for communication within the appeal court's entire jurisdiction and are tasked with developing proximity communication. In particular, they are supposed to facilitate journalists' work in order to ensure greater knowledge by court partners and citizens. They provide technical and legal support to magistrates from courts within their jurisdiction, during the conduct of highly publicised trials. In this respect, they enjoy the support of the Communication Division of the MOJ's Directorate for Judicial Services. They are specifically trained to develop relations with the media. The Director for Judicial Services, Ministry of Justice, is responsible for operating this network of magistrates.

The French Ministry of Justice has long structured its communication with the media, in particular by setting up a spokesperson's office and services responsible for specialised institutional communication (legal services, judicial protection of juveniles, prison administration). With this organisational structure, it is possible to provide accurate, real-time information on legal reforms and the organisation and functioning of justice systems.

At the same time, in 2016, **France** set up council courts in order to open courts' activities up to civil society. These councils meet annually to discuss a theme chosen by the court, its partners, and institutional representatives. These court councils may be open to the press in order to increase local awareness of how the justice system works. The Public Relations Office of the Supreme Court of **Slovenia** is in the process of setting up a network of court communication correspondents, and the Court wishes to give judges communication training.

In Portugal, this responsibility rests with the presiding judge of each court, who plays the role of court spokesperson and resolves any communication issues, in accordance with the High Council for the Judiciary, especially in the most sensitive cases. The Council is in charge of the judiciary's communication strategy in Portugal: this body drew up a communication plan in 2015 (see the report on the visit to Portugal, 16 May 2017). However, the presiding judge does not receive any communication training, and the dedicated communication office that was supposed to be set up inside the Council according to a 2007 law has never been established.

In **Italy**, a 2006 decree structures the Prosecutor-General's relations with the press. The courts publish a yearly report of activities (Bilancio di Responsabilità Sociale) that contains much information on courts' activities and projects.

Part 3 – Indicators and perspectives for better measuring and improving the quality of justice at national and international levels

Standards and indicators should not only facilitate evaluation of the service provided to litigants but also offer courts useful tools for ensuring internal quality management, enabling them to detect any possible quality issues and correct them in the most suitable way.

1. Conclusions of the CQFD project: standards and indicators for the quality of justice

This part is intended to accompany the reading of the quality of justice scoreboard prepared by the CQFD project team (and reproduced below).

The practices identified in all partner States (described in Part 2 of this Handbook) during study visits or thanks to the questionnaires sent out (see Annex) provided an excellent basis for modelling purposes. This modelling of practices was conducted via a rigorous and methodical approach, in particular via a shared scoreboard on which the partners worked (reproduced below). This scoreboard is designed to identify common practices and instruments in civil, administrative and commercial matters only. It is primarily targeted at defining, based on practices but also the work of the European Commission, the CEPEJ or the case law of the European Court of Human Rights, quality standards for justice systems as well as indicators making it possible to evaluate the gap between the reality of practice and the corresponding standard(s).

This scoreboard is not intended to provide an exhaustive list of practices and standards with regard to the quality of justice. Rather, it seeks to provide a methodological tool for enabling others (States, courts, international organisations, etc.) to continue this line of thinking.

As for the method adopted, this scoreboard is primarily meant to identify the **fields of action on the quality of justice**, in accordance with the terms of reference of the CQFD project.

Thus, for the phase prior to referral of a case to court (1.1.), the following fields were identified:

- Access to legal information;
- Access to information on the judicial system and individual courts;
- Access to legal services;
- Access to pre-litigation procedures;
- Equal access to justice systems through legal aid.

During the trial (1.2.), the following fields were identified:

- Access to the court;
- Communication with the parties in ongoing proceedings;
- Quality management by courts;
- External evaluations and inspections.

Once the court decision is issued (1.3):

- The information and legibility of the decision rendered (operative part of the decision, remedies, consequences of judicial decisions, etc.);
- Enforcement of judicial decisions;
- Information for the public (communication with the media, publication of case law).

Second, a series of elements for ensuring **a high level of quality for the service provided**. Accordingly, for each field there are:

- Quality objectives for the justice system;
- Existing instruments for reaching this goal (for each of the instruments mentioned, the scoreboard lists the partner countries that have developed it);
- **Quality standards and indicators** for ensuring that the objectives pursued are indeed reached;
- Target users and providers for the service delivered to users. Here, the aim was to avoid decorrelating the quality objectives, instruments, standards and indicators from beneficiaries and to identify the authority responsible for delivering the service.

In general, the idea was to arrive at a grid of standards and indicators that facilitated an in-depth evaluation of the service delivered and made it possible to detect quality flaws. This grid was designed to be of direct use to justice system actors, for evaluating the quality of the service delivered or a court's internal organisation and functioning with a view to enhancing quality.

Wherever possible, the project attached indicators to the standards identified. In some cases, however, the project merely extracted standards. In the latter case, quality evaluation consisted of ascertaining the existence or absence of the standard in question in the judicial system concerned.

For this part, it seemed important to stress the need for further analyses and studies that are still necessary for deepening certain standards and indicators.

1.1. Before the trial

In this part, the project identified the instruments, standards and indicators for the quality of justice in the phase prior to referral, in particular in the following fields:
- Access to legal information;
- Access to information on judicial systems and individual courts;
- Access to legal services;
- Access to pre-trial procedures;
- Equal access to justice through legal aid.

For an overview of the elements set out below, please refer to the scoreboard for the quality of justice from the CQFD project.

1.1.1. Access to legal information

As seen in Part 2 of this Handbook, Internet sites are the primary tool for access to legal information: they offer general or specialised information on the law and justice system and sometimes propose interactivity with users (forms, simulators), enabling them to ascertain their rights and better understand the procedure.

Two types of standards were identified in connection with the CQFD project, in terms of access to legal information:

- The first standards are attached to the instrument itself (Internet site, documentary supports, etc.), in particular its **usability** and **relevance to users' needs**. For example, structuring the site and the tools it offers (in particular, efficient search engines) should ensure easy access to information. Moreover, to guarantee full access to sites, **their use should be free of charge**. It should also be **anonymous**. Here, it is important to note that information should be disseminated via several channels and different "educational" supports (see the scoreboard for the quality of justice from the CQFD project reproduced below), to guarantee full accessibility for all user groups;
- The second standards are linked to the information provided: this information must be reliable and up to date. It must also meet users' need for information – general information, specialised information, information for certain user categories, etc. Finally, the information proposed should be coherent from one public website to another, in the event that there are several public information sites on the law and justice system.

  The level of refinement and personalisation of the information provided is also an important standard, because the aim is to meet the specific needs of users (vulnerable populations) or answer their specific questions. To this end, partner states provide specific information supports for target publics with specific needs (children, foreigners, disabled persons, etc.); or the possibility of asking a question and obtaining a personalised answer online. This mechanism should itself meet the standards of free of charge and anonymity of exchanges, with this anonymisation retained when questions/answers are published under **Frequently asked questions** (FAQ).

A **series of indicators** should make it possible to measure the distance between the service provided and the standards identified:

- As regards users, including target publics with specific needs, it is important to assess their level of satisfaction as to the accessibility of the information and ease of use (e.g. site usability), and ensure that the information provided answered to their needs;
- As regards service providers, the following indicators were selected: regularity of checks for the consistency of the information provided (on the sites and different web pages of the same site) and corrective measures taken; validation and analysis of the data disseminated associated with a frequency criterion – systematic analyses and validation, regular analyses and validation, or random analyses.

  It is also necessary to ensure a dissemination level for tools making it possible to reach the target publics – in particular, through dissemination at suitable venues (schools, information centres, association's premises, etc.).
- As regards information and its personalisation: the quality of personalised interactive question-and-answer tools could be measured by the number of questions answered, response times, and for FAQs, the updating frequency for available information. For example, access to FAQ archives can only be a valuable tool for users if the answers published are regularly updated or if out-of-date information is deleted.

These indicators could be refined or others could be developed, with the help of website designers and jurists who specialise in clear writing techniques.

1.1.2. Access to information on the organisation of justice systems and individual courts

Access to a justice system implies that the public is also provided with information on the organisation of the justice system and on each court. Readily available, free of charge, simple and transparent information on courts' organisation and functioning constitute quality **standards**, as they promote **effective** access to justice. Actually, as the organisation and functioning of courts are rarely readily understandable for the public, the absence of such information could impede access to justice, especially in cases where representation by a lawyer is not compulsory. It would appear that such information must **also be available at local level, for each individual court**, as litigants must be in a position to identify the competent court and obtain information on its organisation and functioning.

Internet sites and supports like brochures remain the main vectors of dissemination for such information on the organisation and functioning of justice systems and individual courts. Indicators relating to both the tool and the information provided are identical to those defined for information on the law:

- As regards users, including target publics with specific needs: what is their level of satisfaction as to the accessibility of the information and ease of use (e.g. site user-friendliness)? Did the information meet their need?
- As regards the service providers: regularity of checks for the consistency of the information provided (on the sites and different web pages of the same site) and corrective action taken; validation and analysis of the data disseminated associated with a frequency criterion – systematic analyses and validation, regular analyses and validation, or random analyses.

  A dissemination level for tools making it possible to reach the target publics – in particular, dissemination at suitable venues (schools, information centres, association premises, etc.).
- As regards the quality of information: its reliability, consistency and relevance can be ensured if there are internal checks on the information provided and depending on the regularity of updates (real time or very frequent). The quality of such checks may be measured by their regularity and the steps taken to correct any inconsistencies or shortcomings. The reliability of the information implies validation and analysis of the data disseminated – the regularity with which such mechanisms are triggered (systematic, regular, random verifications) enhances the quality of such information for the public.

Central authorities should conduct an evaluation of the quality of such information, for the information they disseminate and for the information concerning each individual court.

1.1.3. Access to legal services: personalised legal information and consultations

Access to the law is an essential component of the phase prior to referral of a case to the courts, which States have rendered effective by not only making available information tools (see above) but also facilitating and support access to legal services and advice: in dedicated public places (FR) or through financial assistance via eligibility for legal aid provided in prior consultations (PT), etc. High-quality service is characterised by its accessibility, simplicity and relevance to users' needs.

These objectives are associated with a series of common, cumulative standards and indicators:

- Proximity to the service proposed to users facilitates access thereto and limits the "entry cost" for users. As for **indicators**, this proximity may be evaluated by the number of venues

where the public can obtain legal information or advice. A more refined evaluation may be conducted by using the following criteria: the presence of these venues throughout the country, the number of appointments per venue in relation to the number of requests; the waiting time for an appointment;

- The free of charge nature, for the litigant, of the service provided[26] and the confidentiality of discussions both contribute to accessibility. More refined indicators for evaluating these standards do not seem necessary at this stage: such evaluations may be made by verifying the existence or absence of these standards in the system concerned;
- Obtaining personalised advice or information from above all legal professionals enhances the **relevance of the service to the specific needs** of users. The professionalisation of the service may be measured by the number of professionals providing it; and in legal access points, types of expertise proposed and their relevance to users' needs, and the profile and training of the professionals involved (lawyers, other legal professionals).

  To ensure that services provided are fully **relevant** to needs, such services must be regularly evaluated by the stakeholders (professionals, users), in particular through user satisfaction surveys. The regularity of evaluation and the level of satisfaction measured thusly make it possible to **measure the gap with stakeholders' expectations and needs.**
- Personalisation of the service provided and its accessibility also imply the ability to offer dedicated aid to user groups with specific needs (disabled persons, minors, victims, etc.).

  Those providing such legal assistance should be authorised to do so on a voluntary basis and such assistance is supplied in a professional manner.

  Legal access points or user eligibility for legal assistance and aid services offer means of ensuring accessibility. They do not exclude other models, for which indicators will have to be adapted.

1.1.4. Use of alternative dispute resolution methods

Increased recourse to alternative dispute resolution methods favours settlement of disputes, most often before but also during judicial proceedings, with generally greater participation of parties in reaching a solution. However, the CQFD project was not intended to enter into the wide range of practices for out-of-court settlement of disputes. Rather, above and beyond the great diversity of practices, the project sought to identify standards to institutionalised dispute resolution methods.

In this field, quality may be viewed from two angles: the quality of the alternative dispute resolution methods themselves; the impact of such methods on the quality of the justice system (in particular, the impact of not going to court). The CQFD project primarily focused on the quality of the alternative dispute resolution methods themselves, as the question of their effects on the justice system would require a specific analysis that was incompatible with the project duration.

As regards alternative dispute resolution methods: in addition to the most common case of the optional use of alternative methods, a distinction was made between cases of compulsory use of alternative dispute resolution methods in the pre-trial phase, and the case of use suggested or ordered by a judge in connection with ongoing proceedings.

[26] In some systems, the free of charge nature of this service for litigants does not exclude the compensation of the professionals who provide the legal information and advice or consultations.

In cases of optional use, promoting and incentivising the use of alternative methods favour diversion: the aim is to "favour" such methods because alternative dispute resolution methods may also prove unsuccessful. The project showed that, in this field, States and courts do not have tools allowing them to evaluate the share of successful or unsuccessful mediation, which may or may not be followed by recourse to a judge.

As for the number of standards, to maintain the quality of the system, it would appear necessary to introduce regular evaluation and analysis of not only cases of non-use of alternative methods (where suggested or possible) but also their results when they are used. In an initial phase, such results could be measured by the percentage of cases where alternative methods have led to the resolution of the dispute in relation to those cases where it did not succeed, and in cases of unsuccessful mediation, the rates of those followed or not by recourse to a judge. A more refined analysis of litigation types where mediation is most frequent, or the highest or lower success rates, could shed interesting light on such mechanisms. In the national systems concerned, this kind of analysis would also include the number of mediations suggested or ordered by the judge (depending on the national system), broken down by litigation type (civil, administrative or commercial).

As far as all practices are concerned, despite the differences noted, it is possible to identify common standards:

- **Free of charge or at least a reasonable cost** are conditions for the increased use of these alternative methods and enhance their accessibility. It does not appear necessary to associate one or more indicators with the standard of free of charge nature, as the evaluation consists of ensuring that the service is indeed free of charge (or for example covered by State funding). The project did not identify indicators for the evaluation of the reasonable nature of the cost, because in this field the definition of indicators implies a specific, comparative study of the cost structure in the European States concerned (for example, some States apply regulated tariffs).
- **Confidentiality** also favours use of such alternative methods and contributes to increase parties' trust;
- The **professionalisation and specialisation** of the mediators or conciliators determine the quality of the service provided and its relevance to the parties' needs; the existence of conditions governing admission to the profession, such as training, accreditation or affiliation to a professional association, all form part of such professionalisation. There may also be a minimum level of qualifications for practicing as a mediator or conciliator, etc.

  This professionalisation may be guaranteed and strengthened through mechanisms for regular professional evaluation of the qualifications of mediators or conciliators. The quality of such mechanisms may be measured by the regularity of such professional evaluation.
- Having the parties themselves evaluate the service provided constitutes another **standard** for measuring and maintaining the quality of the said service. The existence and regularity of such evaluation, users' level of satisfaction and its variation over time are all **indicators** for measuring the quality of the mechanism.

1.1.5. Equal access to justice: legal aid

In the field of legal aid, there are different European standards (Council of Europe and European Union) on which the CQFD project relied. It also took into consideration the comparative analyses conducted, at the European level, when the EU Directive 2016/1919 of

26 October 2016 on legal aid was drafted, even though this deals with penal matters[27] (see in particular the impact study on the draft Directive)[28] and also, in civil matters, within the framework of the European Committee on Legal Co-operation (CDCJ) of the Council of Europe[29]. A global study was also launched by the United Nations (UNODC, UNDP) in 2015, based on a questionnaire comprising the identification of UN standards. This study was published in October 2016, accompanied by a focus on 49 countries, including Italy and Portugal (the study itself covers 170 countries and territories). Even though it concerns legal assistance in the broad sense of the term[30], it includes legal aid and embraces criminal, civil and administrative matters. As a result, it provided a source of inspiration for the standards and indicators developed below.

Standards are attached to not only the **quality of the legal aid** itself but also **its contribution to the quality of the main proceedings**: indeed, legal aid is one of the main tools for guaranteeing equal access to justice for all:

- First of all, the litigant must be able to **predict whether he qualifies for legal aid** and whether such aid will be **granted within a timeframe compatible with the trial**, with the **time limits for granting known in advance**. Predictability must be ensured, first and foremost, via the inclusion of eligibility criteria for legal aid in the law. Such predictability may also be facilitated by the provision to the public of information tools allowing litigants to obtain a simulation of their eligibility for aid (through simulators accessible online or information at the front desk).

  Accessibility to legal aid may be evaluated by means of **indicators** such as:

- The average timeframe for granting legal aid depending on litigation type in civil, administrative or commercial matters (where appropriate, in the light of legal rules);

- But also the gap between the real timeframe for granting aid and procedural deadlines in order to ensure that **legal aid is granted in a timely fashion for litigants**.

Also with regard to indicators, beyond the budgetary resources earmarked for legal aid selected by European organisations, it is also important to measure the **legal aid coverage rate**. With this in mind, demand-related indicators (not intended to be exhaustive) were identified, in particular:

- The number of accepted requests in relation to the total number of requests. These general statistical data should be completed by a **more refined qualitative analysis of cases of and grounds for refusal** (making a distinction between grounds linked to the merits of the case or ineligibility due to means testing) of legal aid;

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[27] Directive (EU) 2016/1919 of the European Parliament and the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings

[28] SWD(2013) 476 final, even though the Directive concerns criminal matters, where legal aid requirements are more stringent, the impact study contains interesting perspectives in connection with the analysis of quality standards for legal aid. http://eur-lex.europa.eu/legal-content/fr/TXT/?uri=CELEX:52013SC0476

[29] In November 2016, the CDCJ presented a report on Legal assistance regimes in civil matters in the Member States of the Council of Europe. A comparative analysis of existing data, CDCJ(2016)10. In 2015, the United Nations launched a global study on legal aid.

[30] The study retained the following definition of legal assistance: *"Legal advice, assistance and/or representation at little or no cost for the person designated as being entitled thereto", which includes the notion of "primary legal aid"; "this form of legal aid implies the communication of information, the reference to territorial offices, mediation and the education of the public. It is available regardless of the applicant's financial situation, and is provided either immediately upon request or within a maximum of several days following submission of the request"* and "the legal aid funded by the State", defined as *"legal advice, assistance and/or representation that is provided free of charge or at reduced cost to the beneficiary, with the rest of the cost borne by the State."*

- To refine this analysis, it would also be important to compare rates for full legal aid against rates for partial legal aid and their breakdown by litigation type in civil, administrative or commercial matters. As regards partial legal aid, the evaluation should measure the rate of such aid in light of the costs of the proceedings;
- For an overview of a legal system, it is also useful to rely on the indicator identified by the European Commission in its "Justice Scoreboard", which compares the eligibility threshold for legal aid (in the light of the economic situation of the litigant) with the poverty threshold.

Maintaining the quality of the legal aid system also depends on the regularity of its evaluation. Such an evaluation will help to:

- Ensure the simplicity and, more broadly, the accessibility of legal aid. Such an evaluation should support the revision of the forms and tools made available to litigants, the number of documents required from the user, etc. Such an evaluation could also be conducted at local level, to enable courts to adapt the services proposed, with due respect for legal rules;
- Ascertain that legal aid meets the changing needs of litigants, especially in a context of **procedural reforms**, **changes in court fees and lawyer's costs**, as well as changes in **living standards**. Such an evaluation of the needs is necessary to ensure for example that legal aid thresholds are not set too low. It could also be worthwhile conducting a local-level evaluation of the needs and expectations of litigants, as this kind of analysis would help enrich nationwide assessments of the legal aid system.

A complementary study on legal aid standards and indicators in civil, administrative and commercial matters could be conducted at the European level. Indeed, existing mechanisms, actors responsible for examining or re-examining requests, eligibility conditions, the fields covered by legal aid, etc. are very diverse.

1.2. Throughout the proceedings

This part identifies the instruments, standards and indicators for the quality of justice in the phase following the referral of a case to the courts, in the following fields:

- Access to the court;
- Communication with the parties in pendant cases;
- Quality management by the courts;
- External evaluations and inspections.

For an overview of the elements covered below, please refer to the CQFD scoreboard for the quality of justice (reproduced below).

1.2.1. Access to courts

a. Access to and organisation of justice systems: judicial maps, division and jurisdiction of courts over cases[31]

The **judicial map** (geographical implementation of courts), the jurisdiction of courts over cases (specialisation, division of cases among the different courts), or the **relevant size of a court**, covered during the CQFD project, should improve access to courts, but also facilitate the

[31] For a comparative approach, see the 2016 CEPEJ's Good Practice guide, « Structural measures adopted by some Council of Europe Member States to improve the functioning of civil and administrative justice », Article 13 of the EHCR, CEPEJ(2016)14.

internal management of the court and its activity. Considering all these parameters should help the litigants to better understand the justice system. The point was made during the project that, even though it constitutes a central component, the judicial map is not the only factor of access to justice, and must henceforth be envisaged with other instruments developed (in particular with the support of new technologies, and the functionalities they offer for the dematerialisation of proceedings). Moreover, the court network is shaped in consideration of national and local factors, which makes any modelisation difficult at an EU level. Those national and local factors could be the geography, topography and size of States and the socio-economic and demographic context of each of them (population, density, etc.). Those factors are generally combined to shape national judicial maps.

The project focused more on standards than indicators in these fields. Some indicators have been designed but they are primarily for national use.

In organising their justice system, States pursue different objectives, namely those of accessibility, legibility of the court system for litigants and relevance. Different standards were identified:

- In partner states, the reform of the judicial map favours **pooling and improving resource management while guaranteeing a high quality of service**. Such quality of service could be enhanced thanks to measures and mechanisms for assisting the most remote users or territories. These measures and mechanisms should give rise to regular follow-up and re-evaluation of existing frameworks. This assessment should include indicators such as: needs for dematerialisation of proceedings. An effort should be made to evaluate regularly mechanisms for mobile court hearings or other equivalent procedures for ensuring proximity to litigants;
- Another standard identified would be the examination, when structuring the judicial map, of different demographic factors (population, local density, etc.), socio-economic ones (the profiles and specific needs of litigants with a view to guaranteeing equal access to justice), and the geography and topography of a State. In terms of indicators, the relevance of the judicial map to these different factors should be evaluated regularly at national level;
- The existence of regular evaluation of the need for simplification could provide a useful indicator (see for example the existence of an item relating to simplification in impact assessments conducted prior to reforms of civil and administrative proceedings).

b. Court front-desks services

In courts with large daily inflows of users, improving access to the court depends on the introduction of a specific, centralised reception platform that is capable **of guiding and informing litigants, issuing them documents or even performing certain procedural acts** (see Single reception platforms for litigants in France, or the example of the Court of Milan, presented in Part 2 of this Handbook). In some States (IT), this service is combined with the availability of interactive terminals that make it possible to guide users towards the front desk that can answer their query. *It will be noted that even though these centralised reception platforms can provide information to all kinds of publics (litigants or note), a special effort has been made to develop services for litigants.*

This type of personalised, centralised reception meets certain **standards** for ensuring the quality of service provided:

- The staff assigned to them must be highly qualified to **deal with the wide range of requests** and be capable of providing the **right technical answers**. In particular, they should have received **training for these specific functions** – several combined indicators

make it possible to ensure that the requisites for achieving this standard are met: the existence of dedicated training courses, in particular training before taking up a post and continuous training allowing agents to maintain their skill level. This high level of qualification also depends on the profiles of the staff recruited or assigned such duties – versatility, a high level of specialisation, the level of experience required, etc. Regular professional evaluation, focusing on the specific nature of their functions, allows them to maintain this high level of expertise while also identifying needs for additional training;

- The performance of the tools made available to staff is also key to the quality of service. These tools must enable them to access court-related information (reception apps must be interconnected with court apps); they must make it possible to issue the documents requested and perform procedural acts online. It is necessary to verify the existence of these functionalities and conduct regular evaluations with the staff concerned of the performance of the tools provided in order to guarantee their ongoing adaptation to the missions entrusted to these reception services;
- As regards the service provided to users: the single reception platform must offer different functionalities above and beyond merely guiding users (in the court, or towards other services), such as issuing them the documents requested or performing certain procedural acts. Measuring average waiting time at the court front-desk and regularly evaluating the satisfaction levels of users (both individuals and professionals) by means of mystery surveys or user satisfaction surveys help ensure that the service proposed continues to meet users' needs.

  It is important to evaluate the adequacy of the resources mobilised in relation to the changing workload of the centralised reception platform: **counting the number of persons served**, the **number of procedural acts performed** or **documents issued** constitute useful albeit non-exhaustive indicators.

  These evaluations are useful for detecting new user or staff needs (particular when requests emerge or it is necessary to serve new publics – for example, the case of an influx of asylum requests at the Court of Milan).

c. Building signing and accessibility

Special **steps and physical modifications** are needed to ensure full accessibility to the courts for all users. Particular attention should be paid to special modifications for groups with specific needs (such as disabled persons). The CQFD project did not specifically examine the question of access for disabled persons, but the project team views this as a strong requirement for partner States in the light of international obligations and standards. These **measures and modifications** should allow equal access for all to justice facilities, suited to the different groups, such as the clarity of signing, the physical accessibility of premises, etc.

Two types of instruments have been developed: for all user groups, signing both inside and outside the court; in some partner States (EE, PT), internal signing includes the electronic display of hearings with real-time updating, and the modification of premises to meet the needs of specific user groups.

Signing must be clear for all user groups and make it easy to guide users towards and inside the court. The existence of **reception charters common** to the courts helps facilitate accessibility to justice facilities. The existence of such charters can constitute an element of quality policy as far as justice systems are concerned. Interactive signing (electronic display of hearings) represents a best practice if such displays are updated in real time and maintained on a very regular basis.

As far as standards are concerned, adapting court premises to meet the needs of disabled people covers an outside access, access to courtrooms and their adaptation to guarantee full access to court premises for the disabled. This accessibility must be adapted to the **different types of handicap**, including through personalised accompaniment where necessary.

Measuring the **level of user satisfaction** via regular client satisfaction surveys provides a means of ensuring that the adaptation of installations is suited to both present and future needs. The existence of **action plans for the accessibility of public places** (or more specifically court premises) and the **monitoring of their implementation** allow continuous upgrading of such installations. These action plans must be accompanied by indicators such as the **adaptation rate of court premises for the different types of handicaps, and changes in this rate over time**.

1.2.2. Communication with the parties

a. Electronic procedures: dematerialisation of proceedings for litigants

Dematerialisation has emerged as a factor driving simplified communication between parties and courts, thereby helping to facilitate access to justice systems. Electronic communication takes different forms in partner States and includes different functionalities (filing of claims, and in some systems, management of documents, notification, etc.). This communication may be compulsory (in some litigation) for professionals, whereas it is optional for private individuals in countries that plan to open up electronic communication with these individuals. *On this topic, please also refer to the following expositions devoted to information on individual cases (which, in some systems, may be followed via online platforms) and judges' virtual offices.*

Despite the wide range of systems and practices, often linked to technical capacities rather than legal barriers, standards have emerged:

- Tool's ease of use for all users (the parties, their representatives, and the courts);

  Minimum technical specifications for electronic communication systems, such as **tools' technical capacity** for storing, managing and archiving the documents exchanged; **the interoperability of the systems and interfaces** used by justice system actors, and **with the private systems** used by private individuals where direct communication with the parties is possible; finally, a **high level of security** for the system and exchanges thanks to effective encryption systems, secure archiving and electronic signatures;

- The rate of proceedings covered by the electronic communication system and the rate of procedural acts covered provide a means of measuring the scope of electronic communication: the system must make it possible to cover the greatest possible number, or even all proceedings in civil, administrative or commercial matters; it must allow for submitting claims online, transmitting the necessary documents, and if possible generating automatic notifications for the parties;

- Use of the system must not generate additional costs for litigants (free of charge nature), which would represent a curb on access to justice;

- System maintenance constitutes a central component of the mechanism's quality and could rely on the effectiveness of the means introduced, such as dedicated teams inside courts or management of the service by the central administration with local correspondents, or even management outsourced to private service providers. The existence of assistance for the parties in the event of a system failure also constitutes a standard for the quality of the system, particularly in the light of limitation periods ("forclusion").

A series of indicators should make it possible to measure the quality of the system and the communication it allows with the parties:

- The rate of proceedings covered can be measured by counting the number of cases of compulsory and non-compulsory referral by electronic means in civil, administrative and commercial matters (for all proceedings or for certain proceedings only, and in the latter instance, which ones and the number and percentage of referrals by electronic means). In cases where referral by electronic means is merely optional rather than compulsory, it is necessary to analyse the utilisation rate for electronic communication and count the number of referrals by electronic means compared to the number of paper-based referrals and the breakdown of these two categories of referral by type of civil, administrative or commercial litigation;
- The coverage rate for procedural acts can be measured by counting the different types of acts that can be performed electronically, where appropriate by litigation type for civil, administrative and commercial matters;
- Evaluation of the satisfaction and level of satisfaction for all users (judicial actors, private individuals) offers important marks for measuring how well the system meets needs;
- **Regular re-evaluation** of the **system's capacity** is necessary to ensure that it offers sufficient technical capacity (storage, throughput) to ensure ease of use and effective processing of procedural acts. This kind of re-evaluation is a prerequisite for guaranteeing ongoing system security (for correcting any security breaches). It must lead to corrective measures.

b. Access to and communication of information on individual cases and proceedings: foreseeable length and stages in proceedings

Whereas various pieces of information may be transmitted to the parties in the course of the proceedings, the emphasis is placed on the importance of the predictability of the likely length and stages of the proceedings and the need to inform the parties about the timeframes and stages in the proceedings. In addition to this **transparency that is necessary for the parties**, the foreseeable length of the proceedings and these stages represent a **key quality management tool** for courts (see the following expositions on quality management).

Communication of information on the foreseeable length of the proceedings and their stages takes the form of a variety of instruments making it possible to provide more or less accurate procedural timeframes:

- **Standards for the average length of proceedings** (by litigation type for civil, administrative or commercial matters) are the primary tools for enabling litigants to predict the length of proceedings;
- Communication of the timeframe for the proceedings **or** foreseeable timeframes (for the proceedings or each of their stages), as soon as such information is reliable, ensures that litigants have a high level of information on timeframes. To be reliable, such information must be regularly updated and information must be provided on any delays in the course of the proceedings. Some partner States (see Part 2 of this Handbook) have introduced mechanisms for mitigating such delays, such as motions for ordering measures to accelerate proceedings or giving them priority (Slovenia).

Several **indicators** help to evaluate the quality of the mechanisms introduced, which must guarantee access to and communication of reliable, updated information, thereby ensuring the predictability of timeframes and corrective measures in case of excessive delay:

- As regards effective access to such information, it is necessary to measure the **systematic nature of the communication of procedural timeframes, procedural timeframes and real-time information on delays**. In cases where such information is not systematic, the proportion and type of cases (litigation types in civil, administrative and commercial matters) in which the parties are informed about procedural timeframes, timeframes and possible delays.
- As regards the **reliability of the information communicated** or **accessible** (average length and standards), it is necessary to:
    - Compare the **lengths communicated with the effective** lengths of the case (or more precisely, the different stages of the proceedings) – this comparison can be made by ascertaining the percentage of cases in which the actual length does not match the predicted length (whether this concerns the announced length or average, standard lengths made available to the public).
    - Ensure that average lengths and standards are reviewed regularly and that the corresponding trends are analysed periodically.
- As regards the means made available to the parties with regard to delays, their effectiveness may be measured by counting:
    - The **number of claims filed for excessive delays** (or, in systems that so provide, in case of missed announced deadlines) **compared to the number of cases pending;**
    - The proportion of successful claims for **excessive delays** compared to the total number of claims;
    - A **qualitative evaluation of the underlying grounds** for delays – as there can be various reasons for delays, may complement these quantitative data or reveal a deeper systemic problem.

1.2.3. Quality management by courts: organisation and functioning of courts and judges' work

In the course of visits to partner States, it became clear that the internal organisation of courts, their management of quality and judges' management of their activities were key to the quality of service provided. Instruments have been developed that are both **aids for the functioning of courts** and **instruments to help judges** manage their activities.

a. Management of their activities by judges

All of the instruments developed, with the help of new technologies, are designed to assist judges in processing and following their cases in order to facilitate the management of their activities and allow them to track the status of their case files. The existence of personal work platforms, which can also be personalised by judges and feature a high level of security, has emerged as an important standard for assisting judges with their work.

Several **standards**, accompanied by **indicators**, have been identified for measuring the quality of the system proposed. A more refined evaluation of these mechanisms' contribution to judges' management of their activities would entail complementary analyses at the local level, but could also be conducted through surveys of the judges themselves.

- The level of service that these platforms offer judges constitutes an important quality standard for ensuring that judges have genuine virtual offices. The level of service can be evaluated by the number of functionalities proposed on a single platform, such as judges' tracking of their pending case files, access to the cause list, access to procedural documents, display of time limits and the existence of automated time limit warnings. These initial

functionalities allow judges to track their activities and caseload and manage them as best possible. Tracking time limits and introducing warning mechanisms imply the prior determination of standards for average case length or even procedural phases (see relevant standards and indicators below).

- *As far as standards of length are concerned, partner States view evaluating the complexity of case files as a delicate point, given that the classification of case files by level of complexity or the assignment of complexity ratings has proved a difficult exercise (cf. Estonia's experience). Italy has embarked upon the classification of case files via the assignment of complexity ratings.*
- The partners considered the production of individual activity data made available to judges as a useful instrument for allowing judges to monitor their activity and their caseload;
- Other features of the virtual office facilitate the work of judges and represent system quality criteria: in the drafting phase, judges must be able to access **standard models**, have **access to case law (including that of their court)** and draft and electronically sign their documents, decisions and procedural acts (court staff must also have online access to standard models);
- A **high level of security** for the system and its **capacity for processing and storing documents** are prerequisites for the viability and reliability of personal work platforms. By way of indicators, it is important to maintain a high level of system quality: in this respect, regular re-evaluation of the system, followed by steps to correct defects found or security gaps was identified as an important quality indicator.
- Finally, mastery of these tools **implies training for judges and court staff, but also the provision of maintenance or hotline teams for handling any system failures.**

b. Assistance and support to judges: "court teams"

The CQFD project partners identified the presence of reinforced teams around judges as an important factor of support for judges' work. The composition and role of the teams around judges differ from one system to another (court clerks, jurists, law students, etc.). Accordingly, standards focus less on their precise composition and role than on the high level of qualification and expertise of their members required to support judges effectively in their different missions (which vary depending on the justice system: performance of acts, conduct of specialised research, registration, hearing preparation and minutes, etc.). Proper assignment of staff, judicial assistants or other members of judges' teams according to their fields of expertise, experience and specialisation helps ensure targeted, useful assistance for judges in their work.

In addition to the ones already introduced by international organisations such as the number of clerks per judges, different **indicators** have been identified for ascertaining if these standards have been met:

- The number of judicial assistants per judge, with a view to measuring the size of the teams placed around judges; the type of tasks entrusted;
- As regards the specialisation and qualification of judicial assistants: their academic and professional profile (for example, their specialisation in relation to their academic and professional background), the range of specialties covered according to needs and types of litigation – combined with the rate of assignment of judicial assistants to tasks or chambers corresponding to their fields of expertise and specialisation. Rotation time (period of assignment to a team or judge, which may be linked to the legal framework) also provides a means of measuring the stability of teams and their acquisition of experience. The existence

and number of partnership agreements with law faculties or more generally universities or post-secondary educational institutions (a number that can be associated with courts' territorial presence) facilitate recruitment on the basis of profiles that are qualified yet diversified;

- As regards court staff (in particular clerks), a high level of qualification and specialisation may be reinforced by initial and continuous training for such staff, above all in justice schools or dedicated training in certain specialised functions (see the above expositions on centralised reception platforms for litigants and the standards and indicators relating to the staff assigned thereto).

c. Internal court quality management

As far as partner States are concerned, internal court quality management constitutes a tool to be developed and made available to courts. Different instruments may help in this respect:

- Strategies and action plans on the quality of justice developed locally. Such strategies may be derived from national strategies or action plans. They should set short-, medium- and long-term goals, depending on the priority areas chosen for improving the quality of justice. In this regard, these strategies and action plans must set annual and multiannual priorities, which it must be possible to re-evaluate along the way to take due account of the emergence of new needs or quality flaws noted. Their elaboration must be based on a prior assessment of the situation of the justice system in terms of the quality standards identified above. This type of methodical approach must also make it possible to prioritise steps to be taken and define a precise timetable for implementation.

  Several **indicators** should help ensure the tool's quality:

  - The frequency with which these strategies and action plans are drawn up, at national and local level;
  - The regularity of the follow-up of the implementation of goals and actions and the predefined timeframe. If the timeframe is not respected, it is necessary to identify the difficulties behind delays and possibly revise strategic documents;
  - The implementation rate for the goals and actions defined by the strategic documents, the reasons for non-implementation, and the corrective measures taken;
  - Regular revision of strategic documents based on the results of such follow-up.

- Self-diagnostic tools, in the form of self-assessment grids, allow heads of jurisdictions or courts to evaluate regularly the internal quality of their court (for existing tools, see Part 2 of this Handbook), using the standards and indicators identified above (in each of the quality fields listed in Part 3). These self-diagnostic tools may rely on activity data collected inside the court or be compiled by the judges themselves. Whereas these tools allow the identification of quality flaws, they must be followed by corrective measures. The results of such diagnoses may be discussed jointly with courts and justice system partners, depending on the quality flaw identified, also with a view to identify suitable corrective measures.

  The effective contribution of such tools to the quality of justice may be evaluated through different **combined indicators**, such as:

  - The regularity of self-diagnostics;
  - The existence of follow-up mechanisms or structures;

- The rate of implementation for the corrective measures identified with regard to the conclusions of the self-diagnostic and the response time for quality defects, it being understood that any defects identified may require corrective measures that are more or less complex to implement and do not follow a single timeframe;
- An effort should also be made to ensure that self-assessment grids are regularly updated to reflect changes in the strategies and goals set out in the action plans, take account of the introduction of new legal requirements for example, or meet new user needs.

As regards court quality management, partner States singled out one area for special attention: the existence of tools for monitoring procedural timeframes. *Previously, this question was tackled from the angle of communication of delays to the parties, whereas here it is covered as an instrument for the management of activities, as the two dimensions are closely linked.*

Different tools relating to procedural timeframes were identified, such as:

- Standards for length that make it possible to situate a court on the national level in relation to other comparable courts (see the case of Slovenia, mentioned above in Part 2 of this Handbook), through its inclusion in a group of courts (A, B, C). Transparency for such standards allows a given court to determine its relative position. In practice, these standards may be applied locally for managing caseload flows.
- Standards for length should be distinguished from announced timeframes and procedural timeframes, for which a different follow-up is required. In the partners' view, a system providing early warning of the risk of missed deadlines is both an important instrument and a quality standard that should help judges manage their activities better or even help heads of courts do the same. The identification of delays, especially for priority case files, may be followed by an exchange between an individual judge and the president of the court and, where appropriate, the president of the chamber.

Several indicators may be used for measuring the quality of mechanisms relating to standard timeframes or proceedings:

- The regularity of verification and the revision of standard lengths according to the results of such verification – in particular, it is important to verify regularly the gap between actual lengths observed and standard lengths and revise standards regularly;
- This verification may be conducted at the local level, by counting the percentage of cases in the court concerned that are below or above the standard length. This type of evaluation helps situate the target court at national level in relation to the other courts in the same group;
- As regards announced timeframes, it is necessary to measure the average gap between announced timeframes and actual timeframes, by ascertaining the percentage of cases that exceed the announced timeframes (by litigation type).

Internal quality management is enriched by regular exchanges with courts' local partners, whether this involves institutional partners (municipalities, health, social affairs, etc.), the legal professions or civil society partners (associations, NGOs). Several standards have been identified with regard to the institutionalisation of these exchanges:

- The existence of partnerships with local actors. The effectiveness of such partnerships may be measured by the regularity of exchanges with partners (e.g. regularity of meetings) or the existence of dedicated structures for such exchanges (committee, council, etc.);

- The inclusion of questions relating to the quality of justice within the purview of such partnerships with a view to identifying quality defects and taking corrective measures constitutes an important standard;
- **Inclusive partnerships** allow a broader diagnosis of the situation, viewed from different angles, most often multidisciplinary. The diversity of partnerships for such exchanges is viewed as an indicator of openness.

1.2.4. Evaluations and inspections

It should first be noted that mechanisms for evaluating the quality of justice have been distributed throughout the scoreboard described in Part 3. This scoreboard offers a tool for guiding internal or external approaches to the quality of justice. The aim is not to sum up the approach guiding the CQFD project (already explained above) but rather to provide a few brief clarifications and useful complements on evaluation standards.

In the future, it would appear necessary to test the standards and indicators identified in this Handbook in full-scale assessment processes, which was not possible with the CQFD project owing to time constraints.

a. Internal evaluation of justice systems

As already noted with the scoreboard as a whole, evaluating the quality of the justice system is a necessary instrument for identifying and correcting any quality defects. Such evaluations may take different forms: internal to the court, based on the tools mentioned above (devices for self-evaluation or regular evaluation in the different quality fields using the indicators identified above) and rely on the activity data generated. In the partner States, online work systems offer scoreboards for the activities of courts, chambers and departments, and judges. The transparency of the results of the evaluation of the quality of the service provided by courts is viewed as a quality standard that is likely to enhance user trust.

Regular evaluations and the implementation of follow-up measures offer a means of identifying quality defects at the local level and taking the necessary local and national steps to correct them. Such evaluations must further make it possible to define the training needs of judges and court staff.

Care should be taken to ensure that evaluations of the quality of justice are also conducted with their users (private individuals, professionals) through user satisfaction surveys. As seen with the scoreboard as a whole, these surveys provide perception data, thereby complementing the statistical data generated by objective quality indicators.

As regards the **evaluation approaches of international organisations**, readers should refer to the expositions in Part 1 of this Handbook. It should nevertheless be stressed that the results of these evaluations and the comparative studies produced by these organisations, even though they incorporate new quality standards and indicators, can help enrich national approaches by supplying States and individual courts with comparative data. It is up to these organisations and their Member States to determine which of the standards and indicators identified could be included in quality evaluation grids or give rise to pilot projects involving a broader circle of States or pilot courts.

b. Evaluation by court users

Evaluations by court users (private individuals and professionals) were incorporated into the quality scoreboard presented in Part 3. Indeed, **user satisfaction surveys** offer a tool whose findings can be utilised by public institutions (e.g. justice ministries) and individual courts to

evaluate the quality of the different stages of judicial proceedings and in a great many quality fields identified (before the trial, during the proceedings and following the judicial decision).

The CEPEP has already made an in-depth modelling effort in connection with its **"Handbook for the implementation of satisfaction surveys of users of the courts of the Member States of the Council of Europe" CEPEJ(2016)15**, December 2016. There does not seem to be any point in duplicating this work.

As regards standards and indicators that complement this work done by the CEPEJ, it will be noted that user satisfaction surveys are rarely conducted systematically or very regularly in the different partner States. User satisfaction surveys are most often national (France, 2013) and relatively ad hoc. Such surveys could be more regular and be conducted more systematically at the local level. To achieve this goal, it would appear necessary to develop, in addition to such formal instruments as opinion surveys, more everyday tools for measuring satisfaction, such as court exit polls or satisfaction surveys at the front desk, where courts have such reception systems.

In systems based on a "quality approach", such surveys are combined with mechanisms for quality certification and the awarding of quality labels (see the example of the Marianne barometer for public services in France). The Final Conference of the CQFD project covers this question, but the different countries do not practise this kind of certification. A complementary study would be necessary in this area to broaden the field of observation for existing practices.

c. Inspections

The incorporation of quality standards into inspection control frameworks remains an open question. Owing to its limited scope and duration but also the partner profiles, the CQFD project did not explore this dimension. Nevertheless, the partners wished to underscore its importance. A complementary study that goes beyond the analyses and conclusions of the CQFD project would appear necessary. To open up avenues for reflection and extend the project, representatives of judicial and administrative justice inspection bodies were invited to the Final Conference to exchange views on their experience (see the Conference minutes).

d. Actors for quality management and evaluation

In conclusion, a broader reflection process should also be opened up and conducted **with the different actors on quality management and evaluation** and their **strategic role** with a view to incorporating the role of **councils for the judiciary** in partner countries that have such bodies. This kind of body plays a central role in managing the quality of the justice system in Portugal, for example. Moreover, the European Network of Councils for the Judiciary (RECJ) launched a project in 2015 on the quality of justice, as an extension of its work on judicial independence and accountability. This led to the publication of a report in June 2017.[32] The findings from this work, which provide food for thought but came during the project, will be mentioned at the Final Conference.

[32] *"At the General Assembly in 2015, it was considered that the logical follow-up to the establishment of indicators relating to judicial independence and accountability would be to consider the establishment of indicators for the quality of justice, since the objective of an independent and accountable Judiciary is to produce quality justice for the citizens. Accordingly, it was decided that work should be done on the creation of a methodology to produce indicators for the quality of justice as an extension to the current project. It was recognised that this would be a difficult but worthwhile exercise".*

1.3. Once the court decision is issued

As indicated in Part 2 of this Handbook, practices were identified in partner States on information provided to the parties on the outcome of the proceedings (readability of judicial decisions, information on remedies, enforcement of judicial decisions, etc.). Reflection on the quality of the phase following the trial remains largely incomplete in partner States, and data, particularly of a statistical nature, on this phase are insufficiently developed. To overcome these constraints, the CQFD project relied on the principles identified by the European Court of Human Rights, the Consultative Council of European Judges (Council of Europe) and comparative studies, conducted in particular by the European Commission, to identify **standards**.

Further work involving a broader circle of States would make it possible to deepen these standards and indicators.

1.3.1. Information on and readability of judicial decisions

The information provided to litigants on judicial decisions, the readability and clarity of such decisions and well as their accuracy regarding the determination of the parties' rights and obligations, or the clarity and precision of the statement of reasons,[33] must help ensure that decisions are properly understood by the parties and thus fully enforced.[34] Emphasis should also be placed on the guarantee they provide against arbitrary treatment (see Opinion No. 11 of the Consultative Council of European Judges of the Council of Europe, CCJE(208)5, §35). The provision of complete information and explanations together with high-quality drafting help to guarantee equality of access to and the effectiveness of justice systems (a decision whose contents are clear and explicit is conducive to enforcement).

Although the principle is understood, combining it with **standards** making it possible to evaluate these qualities of clarity and comprehensibility of decisions is a delicate undertaking. Consequently, it appears difficult to define common drafting standards, in the light of the wide range of legal practices and traditions and justice systems. Analyses of clarity and readability are primarily qualitative by nature[35] and do not lend themselves to the lowering of common standards. The CQFD project therefore opted for standards relating to the core components of judicial decisions, in particular the provision of clear and precise indications to the parties as to remedies and periods allowed for appeals, the parties' rights and obligations, and statements of reasons.

Rather than seeking to measure drafting quality (which is difficult to reduce to indicators), quality standards give priority to ensuring that steps have been taken to make judgments easier

[33] Please see in this respect Opinion No. 11 of the Consultative Council of European Judges (Council of Europe) on "the quality of judicial decisions", CCJE(2008)5: "The statement of the reasons not only **makes the decision easier for the litigants to understand and be accepted**, but is above all a **safeguard against arbitrariness**. Firstly, it obliges the judge to respond to the parties' submissions and to specify the points that justify the decision and make it lawful; secondly, it enables society to understand the functioning of the judicial system."

[34] Please see in this respect Opinion No. 13 of the Consultative Council of European Judges (Council of Europe) on the role of judges in the enforcement of judicial decisions, CCJE(2010)2 final,

[35] For France, readers may refer to the report of the Working Group established by the Council of State, the "Groupe de travail sur la rédaction des décisions de la juridiction administrative" (Working Group on the drafting of administrative court decisions), April 2012 ; and to the Rapport de la Commission de réflexion sur la réforme de la Cour de cassation (Report of the Review Commission on the reform of the Court of Cassation), 2017, p. 129 and following.

for the parties to understand. Accordingly, such standards could include the communication or possibility of obtaining explanations on the obligations and rights attached to judicial decisions, remedies and periods allowed for appeals; special priority and assistance should be given to litigants not represented by a lawyer. Other elements make it possible to evaluate efforts by justice systems to ensure the readability of judicial decisions: the existence of courses for learning how to draft in clear language, the existence of standardised models for judges, etc.

1.3.2. Enforcement of judicial decisions

The effective and expeditious enforcement, in predictable and reasonable timeframes, of judicial decisions is essential to the quality of justice. Thus, the European Court considered that the right of access to a court *"would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party"* (Hornsby v. Greece, 17 March 1997, §40). Under its case law, the enforcement of a judgment or ruling forms an integral part of the proceedings, as defined by Article 6 §1 of the Convention.[36]

The CQFD project did not include standards on the cross-border enforcement of judgments within the European Union, which would entail a complementary, specific study, in particular on examples of standard litigation. This kind of analysis could rely on the conclusions of the study, co-funded by the European Union, on the application of European Regulation 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (called "Brussels I bis"). This study, which was conducted under the auspices of the European Chamber of Judicial Officers (CEHF) and the Council of Notaries of the European Union (CNUE), by the court clerks and notaries of various Member States (Belgium, France, Germany, Hungary, Italy, Luxembourg, Poland, Portugal and Spain) was submitted on 29 June 2017.

The CQFD project examined in particular those conditions which, upon delivery of the judgment, facilitate its enforcement.

Several **standards** may contribute to effective, expeditious and predictable enforcement for the parties:

- Enforcement deadlines are central components of the quality of justice and help enhance the effectiveness of judicial decisions. For assessing the reasonable length of trial proceedings, the European Court considers all phases, including enforcement, and an excessive enforcement delay can lead the Court to find that there has been an infringement of Article 6§1 of the Convention[37] and of Article 13 on the right to an effective remedy.[38] The Court evaluates this standard on delay in the light of the following four criteria, which make it

[36] "The Court recalls that Article 6 § 1 of the Convention requires that all stages of legal proceedings for the "determination of… civil rights and obligations", not excluding stages subsequent to judgment on the merits, be resolved within a reasonable time (Robins v. United Kingdom, 23 September 1997, Compendium 1997-V, p. 1809, § 28). **Execution of a judgment given by any court must therefore be regarded as an integral part of the "trial" for the purposes of Article 6** (Hornsby v. Greece, 19 March 1997, Compendium 1997-II, pp. 510–511, § 40)", (*Estima Jorge c. Portugal*, §§ 36-38).

[37] On this point, see the guide published by the European Court of Human Rights on Article 6 of the European Convention on Human Rights, Right to a fair trial (civil section) (EN), 2013, §282 and following.

[38] See the Handbook on European law relating to access to justice (EN) prepared by the European Union Agency for Fundamental Rights and the European Court of Human Rights, 2016, p. 143 and following.

possible to ascertain whether a delay is justified or not in the case in question: the complexity of the case, the issues at stake for the applicant, the latter's behaviour, the behaviour of the competent enforcement authorities (courts, enforcement agents). Enforcement delays may be caused by the behaviour of the parties or, as the case may be, a lack of diligence on the part of the competent authorities;[39] a complex case may justify longer enforcement deadlines. Finally, the higher the stakes for the applicant, the shorter the deadlines should be.

Meeting this first standard assumes diligence in the conduct of proceedings, as reflected first and foremost by rapid notification of the decision delivered, which could be measured by identifying **notification timeframes** (legal timeframes, actual timeframes). Fluid communication between the court and enforcement agents and the option for the latter of using electronic communication and performing enforcement acts electronically can **streamline and facilitate proceedings and have a positive effect on timeframes**. Such mechanisms must be designed to ensure respect for the rights of the parties.[40]

As regards indicators, given States' lack of data in this area, it would be useful to identify enforcement timeframes for judicial decisions, including average timeframes by litigation type in civil, administrative and commercial matters. *A case study in this field is needed to refine indicators with regard to the case type and the amounts involved, including the enforcement of cross-border judicial decisions in connection with Regulation Brussels I bis for civil and commercial matters.*

One of the system's quality standards is the **existence of mechanisms for monitoring compliance**, including mechanisms available to the parties but also the collection and dissemination of statistical data, broken down by litigation type in civil, administrative and commercial matters. These data offer a means of spotting possible difficulties, and should be accompanied by qualitative analyses where such difficulties have been identified (e.g. non-enforcement, excessive delays).

For the parties, the timeframes for enforcement and the cost of court proceedings must be predictable; when enforcement services are involved, they must be easy for the parties to access (accessibility and level of information on the service, proximity). User satisfaction questions could include the parties' level of information on enforcement and enforcement services. The CQFD project did not take up the issue of enforcement costs, as this would have entailed an analysis of the different systems (including modalities for the determination of scales). Notwithstanding, an emphasis could be placed on the eligibility of the enforcement phase for legal aid in certain partner States (EE).

1.3.3. Monitoring of case law: appeals, European case law

As appeal rates for first instance are not per se a criterion for the quality of justice, partner States preferred to opt for the existence of mechanisms for courts of first instance to analyse and monitor the consequences of their judgments on appeal. This kind of experiment was observed at the Administrative Court of Melun (FR). The **existence** of such mechanisms and

[39] CEDH, 10 May 2012, *Frasila and Ciocirlan vs Roumania*, req. n°25329/03

[40] See the CEPEJ Guidelines for better implementation of the existing Council of Europe's recommendation on enforcement (CEPEJ(2009)11REV2) (EN): "For the rule of law to be maintained and for court users to have confidence in the court system, there needs to be effective but fair enforcement processes. However, enforcement may only be achieved where the defendant has the means or ability to satisfy the judgment. Enforcement should strike a balance between the needs of the claimant and the rights of the defendant.")

the **rapid dissemination of the consequences and grounds for the reversal of judgments** offer courts a useful tool insofar as it encourages reflection on the quality of justice. The same holds true for cassation.

It was also felt that the existence of mechanisms for the dissemination and analysis of European case law (European Court of Human Rights, Court of Justice of the European Union) contributed to the process of reflection on the quality of justice. The primary role of national courts as the first guardians of human rights *"ensuring the full, effective and direct application of the Convention – in the light of the Court's case law – in their national legal system, in accordance with the principle of subsidiarity"*, was reaffirmed once again by the Brussels Declaration of 27 March 2015 and its attached action plan. Information and training for judges contribute to the full realisation of this role, but also, as seen above, to the process of reflection on the quality of justice in the light of the standards identified by the European Court of Human Rights.

The CQFD project did not attach indicators to these standards, as it was felt that with regard to the follow-up of the decisions handed down by the European Court of Human Rights, there was a need to evaluate the performance of the Brussels Declaration and its action plan in the signatory States. **Such an evaluation is scheduled for 2019, the year in which France will chair the Committee of Ministers of the Council of Europe**.

1.3.4. Communication with the media

The media (press, television, social networks) are the main vehicle for public information on justice systems. The quality of communication with the press and the existence of judges or staff specially trained in communication techniques promote transparency and a better understanding of the justice system by its users and by citizens in general.

Structuring this communication makes it possible to guarantee the clarity of the messages and information disseminated while offering the media an identified entry point. In partner States, this structuring exercise has taken the form of the designation of judges or court staff specially trained in communicating with the press. Moreover, this schema corresponds to the standards identified by the European Commission in its 2017 EU Justice Scoreboard, for explaining judicial decisions. The CQFD project envisions a broader schema, as the judges or staff assigned to communication can provide other pieces of information, for example on the functioning of justice systems or the role of judges or court staff. These European standards further include the existence of guidelines drawn up for judges on communication with the media.

A series of indicators have been attached to these standards:

- The number of judges and court staff specifically authorised to communicate with the media and their territorial presence make it possible to ensure adequate network density as well as their **capacity to process, analyse and respond to media queries**; the existence of dedicated assistance (tool kits, guidelines, ad hoc training, advice from the authorities responsible for global communication policy, etc.) represents a complementary standard for reinforcing this capacity to process and respond to queries;
- As regards communication training for these specially authorised judges and court staff: the percentage of judges and staff trained, the volume of initial and continuous training they receive, the range of training topics (communication on different media channels, courses on crisis communication, etc.), as well as the existence of training prior to appointment as

communication officers, offer means of strengthening the **professionalisation** of these functions;

The existence of training for judges and court staff in general, the percentage of these judges and staff training, and the volume of training.

Scoreboard for the quality of justice – the CQFD project

Phases	Quality Fields	Objective to be achieved	Target users	Service providers	Existing instruments	Quality standards	Quality Indicators
Before the trial	**Access to legal information**	- Adequacy - Simplicity - Accessibility	Citizens SMEs Includes specific user categories	Public administrations (e.g. Ministry of Justice) Judicial actors Civil society	**Dedicated websites** (FR, EE, SI, PT), may include: - automated forms (FR, EE, PT); - simulators (FR)	**Standards relating to the tool:** - Relevance to users' needs > Evaluation and consideration of users' needs - Ease of use (intuitive search engines) - Free of charge - Anonymity **Standards relating to the information provided:** - Information reliable - Information up to date - Information consistent inside the dedicated site and between existing public sites - Information tailored to specific needs, notably those of specific user categories Implementation **of these standards both at national and local levels (courts)**	- **Level of user satisfaction** for accessibility, simplicity, and relevance of the information to their needs *(evaluation via questionnaires) (analysis of variations in user satisfaction)* - **Verification of the internal consistency** of the information provided (**regularity and corrective measures**) *on different public sites and inside each site on the different web pages* - Regularity of analysis and la **validation of data disseminated** (systematic, regular, random analysis) - Number of **free of charge consultation and advice** in public places, and types of public places where such public consultation is possible

		- Information targeted	Specific population categories	Public administrations or institutions Courts	Information documents and materials (SI, FR) Interactive question-and-answer tools (EE, FR, SI)	- Existence of **multichannel dissemination** (web pages, videos, interactive screens in courts, paper brochures, etc.) - Existence de **different levels of detail and depth for the information** supplied (pictures and animations, tables, detailed written explanations) - Dedicated tools for different **population groups**, notably the most vulnerable ones (foreigners, disabled persons, children, etc.) - Option of asking questions and obtaining **personalised answers** **- Free of charge, anonymised** mechanism	- **Level of user satisfaction** for accessibility, simplicity and relevance of the information to users' needs *(evaluation via questionnaires) (**analysis** of la **variations in user satisfaction**)* - **Level of dissemination** of tools in venues suited to different publics (schools, information centres, associations' premises, etc.) - Percentage of public venues (town halls, information centres, social services, etc.) providing users with information documents - Number of **questions asked that were answered** - **Waiting period** for obtaining an answer to a question - For **FAQs: updating frequency** of available information

	Access to information on the organisation of justice and individual courts	Simplicity Accessibility Transparency of courts' functioning	All publics SMEs	Public administrations of institutions Courts	Dedicated websites (FR, PT) Information materials	**Standards relating to tools:** - **Usability, ease of use** (see standards for websites above) - **Free of charge** for users - Availability of information in **various formats suited to the public's different information needs** (e.g. visuals, animations, detailed written explanations, interactive maps) **Standards relating to the information provided:** - Information reliable - Information up to date - Information coherent inside the dedicated web site and between existing public sites - Information tailored to needs, notably those of specific user categories - **Individualised information** for each court	**- For all of these tools and standards: Level of user satisfaction** for accessibility, simplicity, and relevance of the information to their needs *(evaluation via questionnaires) (**analysis of variations in user satisfaction**)* - **Verification of the internal consistency** of the information provided (**regularity and corrective measures**) *on different public web sites, and inside each site on the different web pages* - Regularity of the analysis and **validation of the data disseminated** (systematic, regular, random analysis) The above indicators may take different forms at the local level.

	Access to legal services	- Adequacy - Simplicity - Accessibility	All groups Target publics SMEs	National public administrations or institutions Courts Lawyers Civil society	Legal consultations or personalised legal information (e.g. legal access points, FR; eligibility for legal assistance provided in consultations, PT)	**Proximity** **Personalisation** **Free of charge** **Confidentiality** **Professionalism and specialisation** **Specific assistance** for target publics and in particular vulnerable groups (disabled persons, minors, etc.) **Regular evaluation** by stakeholders of the service provided **Evaluation** via **user satisfaction surveys**	**Number of venues** offering personalised legal consultations: - **Presence throughout the country**, - **Number of appointments per venue**, compared to the number of requests - **Waiting period** for obtaining an appointment **Number of professionals** providing legal consultations or information **Profiles** (specialisation) and **training** of these professionals **Regularity of evaluations of the service provided** in public venues by the actors concerned (ad hoc, fixed intervals) **Level of user satisfaction** and **variations** over time (accessibility, relevance to needs)

	Access to pre-trial procedures	Settlement of disputes	All users	Public administrations or institutions Mediators, conciliators, etc.[41]	ADR methods (EE, FR, IT, PT, SI) - Cases of compulsory use of ADR methods (FR, IT, SI)[42] *See also cases of alternative methods suggested (EE, PT, SI) or ordered by judges (FR, IT), for ongoing proceedings* Memoranda on ADR methods between courts, lawyers and NGOs	**Encouragement and promotion of ADR methods** **Free of charge or reasonable cost** **Confidentiality** **Professionalisation and specialisation of mediators** - Conditions for admission to the profession - Certification, list - Basic qualifications, etc. **Evaluation and analysis of cases of non-use and results for the use of alternative methods**	**Percentage of successful / unsuccessful mediations** and breakdown by **litigation type** (in civil, administrative and commercial matters) As applicable, the **number of mediations** ordered by suggested by **judges**, and their breakdown by litigation type **Regularity of professional assessment of mediators** and **conciliators** Number of eligible cases where alternative methods were not used (*among the cases where alternative methods were not compulsory)* Percentage of cases where alternative methods led to resolution against those where they failed

[41] The terms "mediation" and "conciliation" used here reflect very different realities from one European State to another.

[42] For cases of compulsory prior use of mediation and the principles set by the Court of Justice of the European Union, please refer to the Court's attached decisions C-317/08 to C-320/08 Rosalba Alassini e.a. vs Telecom Italia SpA e.a., 18 March 2010: *"The principles of equivalence and effectiveness and the principle of effective judicial protection do not preclude national legislation which imposes, in respect of actions relating to electronic communications services between end-users and providers of those services, concerning the rights conferred by Directive 2002/22 on Universal Service and users' rights relating to electronic communications networks and services (Universal Service Directive), prior implementation of an out-of-court settlement procedure, provided that that procedure does not result in a decision which is binding on the parties, that it does not cause a substantial delay for the purposes of bringing legal proceedings, that it suspends the period for the time-barring of claims and that it does not give rise to costs – or gives rise to very low costs – for the parties, and only if electronic means is not the only means of access to the settlement procedure and interim measures are possible in exceptional cases where the urgency of the situation so requires.")*

Before the trial	**Access to the justice system (court costs)**	**Equality** Simplicity and accessibility Proximity Individualisation	All groups court users (parties and lawyers)	Courts Bar Communes	**Legal aid** (EE, FR, IT, PT, SI) - Simulation tools for legal aid eligibility (FR) - Legal aid for emergencies or certain categories of litigants (persons in great need or danger, minors, victims) (FR) - Interconnection with other administrations to extract useful data for examining requests - Test of the merits of the case and the income of litigants (EE, FR) **Exemption from court costs** (SI) Predictability of legal aid eligibility: - eligibility criteria laid down by law Granting of aid in timeframes compatible with the trial and known in advance	**Simplicity of the proceedings:** - Accessibility of request forms - Formulation in plain language - Limit on number of documents for submission **Level of legal aid** corresponding to the reality of court costs and according to the means of the litigant **Existence of a procedure for emergency legal aid** (persons in great need or in danger) Existence **of simulation tools** for legal aid eligibility (online or at the counter) **Average waiting period for the granting** of legal aid / breakdown by case / as applicable, with regard to the timeframes laid down by the law	**Gap between the waiting period for granting** of legal aid and the **trial timeframe** **Number of requests accepted** out of the <u>total number of requests</u>: - including cases of total / partial legal aid – and the rate covered by partial legal aid; - and the breakdown by litigation type, in civil, administrative and commercial matters **Existence of mechanisms for regular evaluation** of the simplicity of the aid-granting procedure and its accessibility to litigants Existence of a mechanism for **regular evaluation of the relevance of legal aid to changing needs** (procedural reforms, changing court costs, lawyer's fees, changes in living standards, etc.)

							NB: - Indicator of the European Commission: eligibility for legal aid in the light of the income of the litigant and the poverty threshold

During the trial	**Access to and organisation of the justice system (judicial map, court jurisdiction over cases)**	Accessibility Readability Relevance to needs	All groups	Public administrations and institutions Courts	**Reforms of the judicial map and distribution of litigation**: - Revision of the structuring of the map; - Simplification of the division of litigation between courts **Support of new technologies for dematerialisation and simplification of proceedings** - Online filing and processing of claims (see below, electronic communication with the parties); - Videoconferencing	**Pooling and improvement of resource management** while guaranteeing the quality of the service provided **Examination and structuring of the judicial map with multiple factors**: - Demographic changes and situation (population, density, etc.) - Socio-economic changes and situation (profile of litigants) - territorial structuring of the State, geography, topography **Structuring of litigation:** - Readability of the distribution of litigation - Relevance of the judicial organisation to the need for specialisation in some litigation *Accessibility of information on the judicial map and the competent court (see above, access to information on the organisation of the justice system)*	**Regularity of evaluation of the relevance of the judicial map** to changes in the demographic and socio-economic situation **Introduction, monitoring and evaluation of measures and mechanisms to assist the most remote users** (see new technologies, mobile court hearings, etc.) **Existence of strategies or action plans** to promote accessibility Regular evaluation of **need to simplify proceedings**

During the trial	**Access to the court (reception)**	Simplicity Services suited to needs	All groups, more specifically parties and professionals (lawyers, etc.)		**Specific centralised reception platforms in courts (FR, IT)[43] (PT: pilot projects) ("one stop shops")** **Computer terminals for guiding users towards a dedicated front desk depending on their needs (IT)**	**Qualification (specialisation and versatility) of reception staff** **Performance of tools available** for: - accessing court information (interconnectivity of the IT applications of the reception facility and the court) - issuing documents and performing procedural acts **Personalised services to meet users' needs**: - Guidance for users - But also the option of performing procedural acts **Free of charge** **Confidentiality** **Interactive** services **Hourly availability** of the service according to users' needs **Evaluation of the service provided** **Early detection of new user needs**	**Existence of dedicated training for reception staff** (volume of such training, training before taking up the post, continuous training, etc.) **Expert profile** for reception staff (versatility, in-depth knowledge of legal procedure) **Regularity of professional assessment of reception staff** - Existence of evaluations of their specific functions **Level of user satisfaction** (regularity of mystery surveys and user satisfaction surveys) **Average waiting time** **Number of persons served** **Number of procedural acts performed and documents issued (e.g. certificates)**

[43] These reception services are configured differently in the smallest courts compared to courts that serve large numbers of persons daily (several hundreds or even thousands at the Court of Milan).

	Access to courts (signing and accessibility for all users)	Clarity Simplicity Relevance Accessibility Equality	All users and specific groups	Public administrations (national and local) Courts	Signing inside and outside courts Electronic display of hearings (EE, PT) **Accessibility of court premises for specific user groups** (in particular disabled persons) [44]	**Existence of such signing** Level of **signing standardisation** (e.g. existence of reception charters common to all courts) **Clarity** of the signing proposed[45] Maintenance and real-time updating of **electronic display of hearings** **Access and facilities suited to different user groups**	**Level of user satisfaction** (to be measured in user satisfaction surveys) **Regularity of evaluation** of the adaptation of mechanisms to user needs Maintenance and real-time updating of interactive display devices Existence of action plans for the accessibility of public premises and evaluation of their implementation **Regular evaluation of ease of access** for specific user groups, and **level of user satisfaction** **Rates of adaptation of court premises, and changes in this rate**, for the different categories of disabilities

[44] In this respect, please refer to Article 9 of the UN Convention of the Rights of Persons with Disabilities on accessibility and Article 13 on access to justice, as States shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others: this principle also covers the provision of procedural accommodations to facilitate their effective direct or indirect participation in legal proceedings.

[45] It will be noted that the 2008 CEPEJ checklist for the promotion of the quality of the justice system and courts proposed such a standard for signing inside courts: III.3, "10. Is there clear signing to guide visitors in court premises?"

	Communication with the parties (electronic procedures[46])	Simplicity Accessibility Fluidity and security of exchanges	Litigants Lawyers	Public administrations Courts Private providers	**Online submission of claims and exchange of documents** **Communication with lawyers only (FR, IT, PT)** **Communication with non-represented applicants (EE)** **Compulsory E-communication for professionals** (EE, administrative justice FR) **Dematerialised management of claims, statements of case and procedural** (administrative justice FR, EE)	**User-friendliness of** instruments for electronic communication **Technical specifications** for the system: - Technical **capacity** for storing, managing and archiving documents; - **High level of security** (secure archiving, encrypted exchanges, electronic signature, etc.) - **Interoperability of the systems and interfaces** used by justice system actors (courts, lawyers, administrations), and with private systems in case of direct communication with the parties **Coverage rates for proceedings** (all proceedings, some proceedings), **coverage rates for procedural acts** (communication of documents, notifications, etc.) **Free of charge** **System maintenance**: - Introduction of dedicated teams in courts - or outsourcing of the service (central administration or even private sector) - Hotline for users	**Identification of cases of compulsory and non-compulsory referral by electronic means in civil, administrative and commercial matters** In cases of non-compulsory referral by electronic means: - **Number of procedures performed electronically // non-electronically, broken down by type of civil, administrative or commercial litigation** **Types of acts that can be performed electronically** (submission of claims, communication of documents, notifications) Rate of judges and court staff trained to use electronic tools Existence of a hotline for the parties in case of system failure **Regular evaluation of user satisfaction levels** (professionals and private individuals) **Regular re-evaluation of the system's capacity** to process documents, in terms of storage capacity and **security.** **Monitoring of action to correct defects found**

[46] Please refer to the studies of the CEPEJ and the European Commission on new technologies.

	Access to and communication of information on individual cases *(procedural deadlines)*	Reliability Updating Accessibility of information Predictability	Parties	Courts (judges or court staff)	**Standards for the length of cases and procedural stages** (SI) or **average length of proceedings** (EE) **Communication of timeframes for procedural stages** (IT, notification by electronic or oral means) **Coordination of exchanges between parties and courts on procedural stages** – dates and timeframes for the submission of documents and evidence, sharing of hearing time, etc. (EE); procedural timeframe for civil matters (FR) **Online tracking of the progress of the proceedings** (FR) **Communication on procedural delays** (IT, EE) (SI, possibility of a motion to order measures)	Communication or provision of information on **foreseeable procedural timeframes** Communication and provision of information (if possible online) on **procedural timeframes** **High level of reliability** for information on timeframes: - Information up to date - and founded on the data of the court or national data for average length of proceedings or corresponding standards Provision of **data on average length of proceedings** by litigation type in civil, administrative and commercial matters	**Systematic nature of the communication of lengths** of proceedings, procedural **timeframes**, **and delays** **Proportion of cases** where **parties are informed of timeframes, timeframes and possible delays (by litigation type)** Comparison of **lengths communicated with actual lengths** of proceedings: - **Percentage of cases where actual length did not match predicted length** (announced, standard, average) - **Rates of gaps** between predicted length and actual length **Number of claims for excessive delays** *(or, as applicable, missed deadlines)* for proceedings, **compared to the total number of cases pending**: - Proportion of claims for excessive delays admitted, in relation to the total number of claims (including inadmissible claims) - Existence of qualitative evaluation of delays (examination of underlying reasons for delays)

	Internal organisation and functioning of the court **(management of its activities by the judge)**	Case allocation and tracking of pending cases Assistance to judges (dematerialised, facilitated access to case files) Optimal organisation by judges of their work	Judges	Courts Public administrations and institutions (support and provision of IT tools)	**New technologies:** - Virtual offices for judges: personal, personal sable work platforms (EE, IT, PT), access to documents and proceedings (EE, IT, PT; FR administrative justice and 2019 first instance courts and industrial tribunals) - Access to decision templates (EE, IT) - Work planning and case management tools - Notifications on ongoing proceedings and warnings of delays (EE, IT, PT) - Electronic allocation of case files (EE, PT) - Assignment of complexity ratings to each case (EE – complexity criteria decided locally; to be introduced IT)	**Existence of secure, personal and personal sable work platforms** **Dematerialised access to entire case files** **Dematerialised notifications** **Allocation of case files and distribution of the caseload**	**Available functionalities:** - **Judges' tracking of their ongoing proceedings** (access to the cause list) - **Access to procedural documents** - **Display of deadlines** and **automated warnings of delays** in particular - **Electronic documents signature** - **Access to templates for decisions** (or documents, including for court staff) - **Access to case law** - **Access to individual activity data** **Regular re-evaluation of the computer system** (documents processing capacity, storage capacity, enhanced functionalities, system security) **Monitoring of action to correct defects found** **Automated correction of security breaches** Rate of judges and court staff trained to use electronic tools Existence of a hotline and maintenance team in case of system failure

	Internal organisation and functioning of the court **(assistance to judges)**	Support to judges Specialised, expert assistance	Courts Judges	Public administrations and institutions Court Court staff training schools	**Legal teams around judges (clerks, judicial assistants, etc.) (EE, IT, FR)**	**High level of expertise and specialisation for judicial assistants** **Assignment depending on their area of expertise and specialisation** **High level of qualification for court staff**	**Number of judicial assistants per judge** **Profile of judicial assistants** (level of specialisation) **Range of specialities** among assistants, depending on litigation type **Rate of assignment of judicial assistants** depending on their area of expertise and specialisation **Training mechanism and level of specialisation for court staff**: - Existence of initial and continuous training; - Existence of dedicated training for certain functions (see above expositions on centralised reception platforms for litigants)

	Organisation and functioning of individual courts **(management of court quality)**	Identification and correction of any quality issues	Heads of courts or jurisdictions Judges and court staff Actors and local partners of the justice system	**Court quality strategies or action plans (EE, FR PT, SI)**	**Existence of strategies or action plans for the quality of justice:** - Definition of yearly/multi-year quality priorities - Mechanisms for monitoring and evaluating the implementation of goals (e.g. committees, referring staff in courts and justice ministries) - Definition of implementation monitoring indicators for goals and priorities - Prioritisation of action items and timeframe for implementation	**Regularity in the establishment of strategies or action plans** for the quality of justice: - At national level - At local level **Regularity of the evaluation and monitoring** of the implementation of goals, through implementation monitoring indicators **Implementation rate for goals and actions** (particularly priority ones) **within the timeframes set** **Regular revision of strategic documents** according to monitoring results **Level of satisfaction for court users and actors** (introduction of regular surveys)

				Quality self-assessment tools **Collection of activity data for quality management purposes**	**Existence of self-diagnosis grids for evaluating the quality of justice** **Measures for monitoring the results of self-diagnosis:** - Existence of mechanisms and measures for correcting quality flaws - Utilisation of results for defining the goals of the above-mentioned strategies and action plans - Management of self-diagnoses and implementation of their results (presidents of jurisdictions, monitoring committees, etc.)	**Regularity of self-diagnoses at local level** **Existence of mechanisms or structures for monitoring self-diagnoses** **Existence of corrective measures and implementation rate for such measures** in the light of self-diagnosis findings **Speed of response to quality flaws** found **Regularity of the revision of self-diagnosis grids**

				Length standards for individual courts **Publication of standard timeframes** **Utilisation of length standards for managing caseload flows** **Announced lengths in individual cases** **Deadline monitoring** - Deadline warning mechanisms, including automated ones, for judges and presidents of jurisdictions or chambers	**Existence standard timeframes in courts** **Verification and regular review of standard lengths of proceedings** **Predictability of timeframes, reliability of announced timeframes** **Existence of monitoring mechanisms** **Early warning mechanisms for non-compliance with deadlines or the risk of missing announced deadlines** **Adoption of corrective measures following deadline warnings**	Regularity of verification and review of standard timeframes Percentage of cases in the court under/above standard lengths Average gap between actual lengths and standard lengths Average gap between announced lengths and standard lengths (by litigation type) Percentage of cases exceeding announced deadlines (by litigation type) Average length of delays noted

				Partnerships with local actors and partners of justice systems (FR)	**Existence of institutionalised partnerships with local actors and partners of justice systems** **Inclusive nature of structures (include different categories of local partners: officers, occupations, NGOs, etc.)**	**Number and form of partnerships with local justice system partners:** - Regularity of exchanges with partners (e.g. regularity of meetings) - Regularity of exchanges on the quality of justice, in particular for flaws identified and corrective measures Diversity of partners (types of partners)
	External evaluations / inspections			**Internal court evaluations** (see self-assessment grids below) **Evaluation by court users** (see CEPEJ Handbook on user satisfaction surveys CEPEJ(2016)15): - Regularity of national and local surveys; - Existence of a more everyday instrument for measuring user satisfaction (court exit poll, satisfaction surveys at the front desk) **Inspections** (incorporation of quality standards and indicators into reference frameworks)	**For the conclusions of the CQFD project on these different points, please refer to Part 3 of the Handbook, 1.2.4**	

Once the court decision is issued	**Judicial decisions** **(information of the parties)**	Accessibility Readability Simplicity	**Parties** (with particular attention to parties not represented by a lawyer)	**Courts** **Judges and court staff**	**Information on remedies and periods allowed for appeals** (all States) **Presentation of judicial decisions for facilitating their readability** (PT, FR – administrative justice and judicial justice initiatives) **Existence of judicial decision templates** (frameworks): - Support for computerised judgment drafting aids (interactive judgment models)	**Rapid notification of judicial decisions** **Accuracy and clarity of information on remedies and periods allowed for appeals** **Accuracy and clarity as regards the rights and obligations of parties, and reasoning** **Communication and possibility of obtaining information and explanations on the decision delivered**: - including assistance or special measures for litigants not represented by a lawyer	Notification deadlines Legal elements that must be included in judicial decisions (e.g. indication of remedies and periods allowed for appeals) Existence of specific mechanisms for unrepresented litigants

	Judicial decisions **(enforcement)**	Effective enforcement Diligent enforcement Reasonable timeframes			Legal deadlines for the enforcement of judicial decisions **Decisions accessible** online for enforcement agents (IT, PT); **platform for exchanges between courts and enforcement agents** and **possibility of performing enforcement acts online** (PT)	**Rapid notification** of judicial decisions **Predictability of enforcement timeframes** **Accessibility of enforcement services (information on services, proximity)** **Predictability of the cost** of enforcement (e.g. existence of scales) **Accessibility of decisions for enforcement agents** **Qualification and formation** of enforcement agents **Reasonable timeframes**: **- Online tools for performing enforcement acts** **Enforcement monitoring devices**, including the collection and dissemination of statistical data	**Notification timeframes for judicial decisions** **Enforcement timeframes for judicial decisions** (average timeframe by litigation type in civil, administrative and commercial matters) **Accessibility of information on enforcement and enforcement services** **Parties' level of information on enforcement and enforcement services** **Existence of statistical monitoring mechanisms** for the enforcement of judicial decisions

	Appeals and European case law	Analysis and monitoring of appeals and case law	Courts		**Mechanisms for the analysis, by first instance courts, of the consequences of their appealed judgments** (FR, administrative justice experiences) **Mechanisms for analysing European case law, human rights correspondents in individual courts**	Existence of monitoring mechanisms for first instance courts Systematic dissemination of information and analysis of appeal court decisions Organisations of regular seminars, working groups	
	Dissemination of national case law	See the standards and indicators already mentioned under access to information (first part of this table, phase 1)					

	Courts' communication with the media	Transparency Public information	All users	Courts Council of the Judiciary (PT)	**Communication with the media**: - By specially trained judges acting as court spokespersons (EE, FR, PT, SI); - Existence of a network of judges-communication officers (EE, FR; SI underway) **Formalised media communication strategies** (EE) **Existence of guidelines and tool kits** for judges **Existence of initial and continuous media communication training** **Organisation of press briefings and conferences** **Organisation of regular thematic meetings** (see court councils in France)	**Judges specially trained in communication** **Judges or presidents specially authorised to communicate** on behalf of the court **Dedicated training for judges** (initial and continuous) **Specific training for court staff** responsible for communication (when they take on this role) **Guidelines and tool kits accessible** to judges and spokespersons (existence of fact sheets)	**Number of judges specially authorised** to communicate, their territorial **presence** **Percentage of judges and court staff with communication training** (volume of initial and continuous training) **Range of training topics**: communication using different types of channels, including social networks; crisis communication training, etc. **Existence of dedicated training and assistance for judges specially authorised to communicate** (topics covered by such training)

2. Outlook: national and international prospects upon completion of the CQFD project

When the project ended, partners were sent a questionnaire on prospects for the implementation of the project conclusions at the national and international levels.

Below are the project partners' answers as well as some ideas for future action for evaluating the quality of justice. These conclusions and prospects will be discussed at the project's Final Conference, scheduled for 31 August 2017. Readers should refer to the minutes and conclusions of this event. Partner States may also test the project conclusions and indicators identified in certain pilot courts in coming months.

2.1. Using and disseminating the instruments and conclusions of the CQFD project at national level

Due to its methodical comparative approach, the CQFD project offers promising solutions for the future: innovative practices for welcoming users, assistance with access to the law or justice system, quality management within courts, definition and development of quality standards and indicators that can be tested rapidly at national or local level (in other, non-participating courts). All of the practices observed, the standards and indicators identified and the instruments developed through the project open up avenues that the partner States wished to share in this Handbook.

2.1.1. Developing national strategies on the quality of justice

ESTONIA:

Estonia plans to incorporate the tools of the CQFD project into its quality-of-justice management system, according to modalities that have yet to be developed and are to be discussed by the working group on quality management. Estonia intends to encourage presidents of courts to conduct self-evaluations of their court's quality situation.

FRANCE[47]:

France has already developed several strategies on the quality of the justice system, notably in terms of access to information and assistance with access to the law and justice system (see Part 2 of this Handbook). For example, thanks to the Single Reception Service for Litigants (SAUJ) that is being rolled out, by the end of 2017, it will be possible in virtually all judicial districts for litigants to receive information on rights and procedures, regardless of the court they visit, and to obtain procedural acts directly at the reception desk, without necessarily having to visit the competent court services. In parallel, PORTALIS is a large-scale modernisation project that relies on digital tools to transform the justice system as a public service in France. The aim of PORTALIS is to dematerialise interactions between all actors in

[47]Prepared by the French representatives in the CQFD project, France's answer concerns the ordinary courts at this stage. The conclusions and leads from the CQFD project will be shared with the administrative courts.

the civil justice chain by 2022. The project, broken down into six successive stages. Every 18 months, there will be a new advance targeting a different audience. For example, in 2016, France introduced an online information portal for litigants; in 2017, an information portal for agents assigned to a SAUJ will be unveiled and litigants who so agree may also follow the major stages in their proceedings online.

These projects are based on a gradual approach designed to effect a lasting improvement in access to information. Information will be physically available in justice system services where users may obtain information directly; it will be online with the availability of information suited to users' needs that can henceforth be personalised.

The CQFD project features a comparative analysis of the practices of partner States that can enrich this French approach: it offers a unique comparative overview of partners' strategies on key issues for France. The presentation of the digital projects undertaken by partner States provides an opportunity to ask questions and compare ongoing projects. In addition, the reflections, reforms or even conclusions already reached by our partners with regard to the judicial organisation, the size and specialisation of courts, their territorial organisation and presence enrich thinking already underway in this field in France.

ITALY:

The Italian Ministry of Justice plans to incorporate the findings of the CQFD project, in particular the quality indicators identified, into existing strategies to enhance the effectiveness of the justice system.

PORTUGAL:

The tools and conclusions of the CQFD project will be forwarded to the High Council of the Judiciary and to each court for purposes of sharing and comparing experiences and thus adopting best practices. In 2014, Portugal introduced national strategies for the quality of the justice system that will be enriched by the conclusions of the CQFD project, thereby helping to deepen exchanges on the quality of the system justice and thus improving practices.

SLOVENIA:

The different aspects of the quality of justice taken up in the project will be incorporated into the Supreme Court's existing strategic documents.

2.1.2. Including the standards and indicators identified as part of the evaluation of national justice systems

FRANCE:

Given the projects already underway in France to improve the quality of the justice system, the standards and indicators identified will enrich our ongoing reflections. In addition to the above-mentioned PORTALIS and the SAUJs, already well along, the Open Data project, which

is starting up in France, dovetails with the indicators identified for access to training and could rely on the work of the CQFD project.

Moreover, other standards selected by the CQFD project, such as the one relating to the optimisation of judges' work, comparative evaluations of their caseload and e-working, are not yet fully factored into the French projects. They could offer interesting avenues for future work, especially in courts and appeal courts. Even though France has had a nationwide instrument for evaluating clerks' workload (outilgreffe) for years, there is no real equivalent for magistrates, despite reference frameworks developed locally. However, some partner countries have used business applications to develop modules for assessing the caseload and volume of activity for individual magistrates from the same chamber or service when allocating files.

ITALY:

The quality standards and indicators identified by the project may be included in mechanisms for collecting statistics on the performance of the justice system. To do so, it will first be necessary to update the data collection and processing system.

PORTUGAL:

The standards and indicators will be adapted and used according to the specificities of the national judicial system.

2.1.3. Developing quality evaluation instruments: user satisfaction questionnaires, reports to Parliament, inclusion of new indicators in mechanisms for evaluating public services

ESTONIA:

Estonia plans to include quality indicators in its periodic reports on courts' activities, which will be presented at the plenary session of the Council for Administration of Courts.

The next user satisfaction survey of first and second instance courts will be conducted in autumn 2017, and will constitute a quality management component in Estonia. It makes it possible to identify problems with the quality of the justice system and take the necessary steps in target courts or the entire judicial system.

FRANCE:

An evaluation of the quality of welcome in public services, especially the courts, already exists in France: the Marianne barometer, which covers several administrations. With this reference framework, common indicators can be used to measure user satisfaction rates for their welcome in courts. Several courts are surveyed each year, and the reference framework offers the advantage of forming a body of minimum indicators common to all with a view to helping courts improve the quality of their welcome. It is then up to the Ministry of Justice to adapt this reference framework to its own needs, especially with

regard to the confidentiality of certain information that cannot be conveyed via e-mail or regular mail to anyone not involved in judicial proceedings.

ITALY

As a first step, evaluations of the quality of the justice system for the Court of Appeals and the Court of Mila will be included in the annual reports (Bilancio di responsabilità sociale). The annual report provided to Parliament could include quality indicators but these will not constitute goals, as this report does not contain any.

PORTUGAL:

Portugal considers that the evaluation of justice systems must be based on periodic surveys of internal and external users of the legal system and the general public. Every year, the courts set annual goals and provide information on their achievement in half-yearly and yearly reports that are transmitted to the High Council of Justice and the Ministry of Justice. These reports are published on the websites of the courts and the High Council of Justice.

SLOVENIA:

The standards and indicators for the quality of justice identified during the CQFD project will be included in the different reports and documents on courts' performance (for example: in the annual report on the effectiveness and efficiency of courts, which is transmitted to Parliament, the Justice Minister and the Council of Justice).

2.1.4. Disseminating the findings of the CQFD project at national level means of communication, target public

ESTONIA:

This Handbook will be a useful source for court presidents and managers in Estonia as well as those responsible for the administration of courts. They will receive copies of the Handbook, which will be downloaded onto the courts' intranet sites.

The Handbook will also be presented at the next plenary meeting of the Council of Administration of Courts, on 29 September 2017.

FRANCE:

As pilot for the CQFD project, France has invited to the Final Conference scheduled for 31 August 2017 all heads of courts and ordinary courts as well as the Vice-President of the Council of State and the inspection missions of the administrative courts and members of the administrative courts. Their participation in the Conference – some as key actors – will provide an opportunity to exchange views on the project findings and come up with new ideas for practices and the evaluation of the quality of justice in their respective courts.

This Conference, which will include time for exchanges of views with judicial actors, will also allow broader dissemination of the project conclusions and tools in national jurisdictions.

The heads of courts in attendance will be able to pass them on and perhaps test some instruments they might deem relevant.

Communication with the general public could be envisaged via the website of the Ministry of Justice and in communications published by the Ministry on its major modernisation projects. Even though the question of indicators remains a technical topic, it is important for users of the law and justice system to be informed about present or future progress and up to date on steps taken to ensure better access to the law and justice system. The Final Conference could give rise to various communications in the media.

Subsequently, the Conference results could be presented and discussed internally not only with the representatives of the conferences of first presidents and presidents, public prosecutors and the Prosecutor-General but also representatives of professional organisations of magistrates and civil servants, especially at technical committee meetings held on a regular basis.

The Conference results could also be highlighted in international forums so as to enrich their ongoing work on the quality of justice (see above).

ITALY:

Publication will first occur on the website of the Ministry of Justice as well as those of the Appeal Court and Court of Milan.

SLOVENIA:

The project results will be conveyed to key stakeholders in the judicial system (Ministry of Justice, Council of Justice, Constitutional Court, Prosecutor-General, Solicitor-General). The results will also be published on the website of the Supreme Court, and will also be available on the Court's intranet (this webpage will include other project documents, such as presentations of the different interveners during the visits, etc.).

The results will further be presented to all presidents of courts and senior MOJ officials at the Annual Conference on Best Practices, organised in December 2017 by the Supreme Court.

Finally, an article will be published as part of the "Judge's Informer", the Supreme Court's electronic newsletter.

2.1.5. Training magistrates and judicial staff in the quality of the justice system

ESTONIA:

Estonia plans to reinforce its existing training course on the quality of the justice system.

FRANCE:

The two national schools for judicial staff, magistrates and clerks (National School for Magistrates, National School for Court Clerks) are responsible for nationwide training. The MOJ may make proposals with a view to enriching their modules with the findings of the CQFD project.

Training on the project and its contribution to evaluating and improving the quality of the justice system was provided by CQFD project leader Karine GILBERG in late May as part of the Executive Training Plan. This training cycle addressed the following question: "Addressing issues of the justice system in response to the expectations of those subject to trial". Organised jointly by the National School for Magistrates and the National School for Court Clerks, the cycle was intended for magistrates and court clerk directors. This training on the instruments and conclusions of the CQFD project focused more particularly on strengthening the management and evaluation of the quality of justice in national courts, particularly through the implementation of quality indicators. It was also aimed at sharing the best practices of partner States and their pilot courts in this field.

ITALY

The idea of incorporating the quality of the justice system into magistrates' training programmes will be discussed with the Higher School for Magistrates (Scuola superiore della Magistratura), which is responsible for defining training programme curricula.

PORTUGAL:

The option of incorporating new modules on the quality of the justice system will be submitted to the High Council of Justice and the National School for Judges and Prosecutors (CEJ).

SLOVENIA:

The project findings will be transmitted to the Judicial Training Centre (JTC), which is responsible for training magistrates and judicial staff. They will also be discussed by the Supreme Court's working group on "Improvement of the Quality of the Justice System", which submits training proposals to the Judicial Training Centre. The project conclusions will also be incorporated into the Supreme Court's training aids.

2.1.6. Implementing the best practices observed in partner States

ESTONIA:

The conclusions of the CQFD project will make it possible to provide concrete solutions to problems identified in terms of court quality and will offer a source of inspiration for developing solutions in those sectors that are weakest in this respect, in the light of the best practices identified in partner States.

FRANCE:

Partner States' pilot courts have developed many innovative practices for reinforcing the quality of service provided to litigants (access to the law, the welcome extended to the litigant, court management tools, access to the justice system and allocation of legal aid, and partnership policies). Many of these practices have also been taken up by France, while others have caught the attention of the French project team. For example, France is particularly interested in quality management tools and the development of enhanced scoreboards made available to court presidents enabling them to monitor in real time the overall activities of the court and its different services, through indicators of timeframes, flows and stocks revealing anomalies (increases or decreases in the number of incoming or outgoing cases, old cases, excessive delays in dealing with proceedings, etc.). These tools make it possible to evaluate strengths and weaknesses, propose qualitative lines of action, identify the services and/or magistrates of a court in difficulty, and consider remedial action. Today, in France, the only court management tool is Pharos, which primarily focuses on court performance without offering detailed case monitoring. To ensure optimum court management, a more refined tool, the terms of which are yet to be determined, would be appropriate.

ITALY:

The Ministry of Justice and the courts intend to discuss the practices observed in partner States.

SLOVENIA:

The different indicators identified for evaluating the work of the courts will be compared with existing practices.

2.1.7. Using the project instruments and conclusions at local level: What kind of distribution to heads of courts, magistrate and staff responsible for collecting data?

FRANCE:

The Final Conference for the CQFD project, scheduled for 31 August 2017, will offer an opportunity for initiating an exchange of views with the heads of courts, who can distribute the findings locally (see 2.1.4 above).

PORTUGAL:

Portugal considers that the CITIUS tool allows for management of judges' work; it could be enriched by the conclusions of the CQFD project, notably at local level.

SLOVENIA:

As mentioned above, the project results will be presented at the Annual Conference on Best Practices. They will also be sent to each court via e-mail, and will be available for consultation at the Supreme Court's intranet site.

2.2. Actions by the pilot courts of partner States participating in the CQFD project

2.2.1. Communication with magistrates from partner States' pilot courts and other courts

FRANCE:

The magistrates of the Melun Tribunal de Grande Instance (higher-level court), a pilot court for France, were associated with the project partners' first study visit to France (November 2016). The president of the Melun Administrative Court also presented that body's tools.

The experiences in other countries with judges' follow-up and management of their activities (virtual offices, access to activity data, introduction of internal self-diagnosis and benchmarking tools for the court) presented in this Handbook and its annexes will provide courts with food for thought. These reflections can continue with all of the magistrates and staff of a given court as part of the elaboration of the court's project, as confirmed by a decree of April 2016 [48] (supplementing the Code of Judicial Organisation), which enables courts to work on preparing a cross-cutting project on a common theme.
These experiences will also give rise to exchanges of views within the framework of partner meetings with other legal professionals, in particular lawyers and court clerks, or with NGOs that help promote access to the law and justice system.

ITALY:

The project conclusions will be disseminated on the website of the Ministry of Justice.

PORTUGAL:

Portugal's plans to distribute the CQFD project results locally through all available channels (website of Vila Real Court, direct e-mails to magistrates, and through local-level meetings).

2.2.2. Introducing internal training or working groups in partner States' pilot courts for magistrates and judicial staff

ESTONIA:

An exchange of views on quality will be organised with the presidents of courts based on the CQFD tools and conclusions, following receipt of the results of the user satisfaction survey to be conducted in autumn 2017.

FRANCE:

Judges' tools for managing their activities, dematerialisation tools and management tools for presidents will be further developed in France in coming months. On-site training will be

[48] **Decree No. 2016-514 of 26 April 2016 on the judicial organisation, alternative dispute resolution methods and the ethics of consular judges.**

offered and implemented via groups inside the court. These groups will focus on improving the overall quality of services, not only the individual performance of magistrates. The working groups composed of the court's partners will make it possible to take due account of the respective needs and constraints of the actors of the justice system.

ITALY:

As the question of the training of magistrates falls within the purview of the Higher School for Magistrates, it will be for that body to decide on the curricula of local training courses.

PORTUGAL:

The regular meetings at Vila Real Court between the president, judges and court staff will offer an opportunity to examine quality issues within the court and increase awareness of the importance of the quality of service delivered.

SLOVENIA:

Specific training courses and awareness-building activities will be incorporated into the "Procedural Fairness" project organised by the Supreme Court for all courts.

2.2.3. Implementing the practices observed in the pilot courts

ESTONIA:

The Court of Tallinn wishes to study in greater depth France's experience with the Single Reception Platform for Litigants (SAUJ) with a view to adapting it to the national judicial system and defining a specific version for Estonia.

Estonia would also like to implement the practice in Slovenia whereby abstracts of decisions handed down by first instance courts are available as part of the body of national case law.

FRANCE:

Other countries' experience in promoting the predictability, for litigants, of the conduct of civil proceedings would be well worth implementing, whether this concerns:

- General predictability tools: average foreseeable length by type of litigation, stages and timeframes by type of proceedings, with these elements brought to the attention of the parties;
- Or tools for dealing with a case in particular: adaptation of a standard timeframe, analysis of the reasons for differences in treatment, identification of proceedings that do not follow a normal course, etc.

To implement these best practices from abroad, France will have to endeavour to identify the relevant criteria for defining quality indicators, for each phase of the proceedings: by way of example, the following could be monitored: the length of the pre-trial investigation, the length of the deliberations, and the time limit for obtaining an enforceable copy of the

judgment. These quality indicators must cover all types of proceedings as well as the processing of requests for access to the law, legal aid, or enforcement of a decision.

PORTUGAL:

Portugal hopes to use its IT system to allow the public to access online information on the different stages of proceedings.

SLOVENIA:

Partner States' practices on access to information (before and during judicial proceedings – in particular online access, access points to the law, etc.) as well as the information available in court premises (reception, signing, etc.) will be implemented as part of the "Procedural Fairness" project.

2.3. Local actions envisaged in support of courts and with their users and judicial partners

2.3.1. What kind of support for heads of courts and jurisdictions, for introducing quality standards and quality management tools?

ESTONIA:

Heads of courts will receive assistance with the introduction of quality management standards and tools. It would be useful to have translated, commentated documents on other countries' experiences with managing the quality of justice. Round tables will be organised with court presidents in order to promote the exchange of knowledge and experience with regard to managing the quality of the justice system.

FRANCE:

The projects backed by the Ministry of Justice will be deployed and conducted in partnership with heads of courts. As regards dialogues, especially budgetary ones, the performance of the jurisdictions of the courts concerned is of course analysed, but special themes tied to the quality of service are developed each year.

Thought is being given to the definition of standards for in-depth evaluation of courts' individual situations, hence the quality of service provided, particularly in the working groups bringing together heads of courts.

Moreover, with a view to improving court management, the Ministry of Justice has developed a tool called PILOT for managing magistrates' time and activities, which takes up a local initiative by an appeals court. A year ago, a collaborative tool called the Shared Jurisdiction File (DPJ) was rolled out nationwide to facilitate the work of heads of courts by making it possible to monitor and file all of the necessary documents for court management in a uniform manner throughout the country. This everyday court management tool also

makes it easier for heads of courts to take up their functions, by constituting court "memories" that are identical regardless of the court's geographical location.

ITALY:

In Italy, heads of courts are encouraged to implement quality standards and tools. This question, which falls within the purview of the High Council of Justice in Italy, will be discussed with this body.

PORTUGAL:

Court presidents are mindful of the need to give further thought to the introduction of standards and tools for managing the quality of the justice system. This awareness was created by the CITIUS platform and the data it provides.

SLOVENIA:

Heads of courts are backed by the Supreme Court, as part of that body's guidance with regard to the quality of the justice system ("Quality Improvement" working group, "Procedural Fairness" project, etc.). This support may be provided in the form of advice, sharing of know-how and best practices from other judicial systems, assumption of responsibility for courts' projects and activities, etc.

2.3.2. Setting up working groups dedicated to quality, with users of the legal system and the court's partners

ESTONIA:

Estonia is currently developing a project with the Bar Association and Court of Harju, the results of which will be discussed by the different court administration actors in late 2017.

FRANCE:

There are frequent, institutionalised contacts between judicial partners (lawyers, clerks, notaries), particularly as regards best practices for electronic information exchange, documents transmission, timeframe management, etc. The ongoing reflection process can only be enriched by the CQFD's work, which recalls the importance, from a quality perspective, of taking due account of the needs of users, whether or not they are professionals.

As regards stakeholders, the court councils recently introduced by the Code of Judicial Organisation (Decree No. 2016-514 of 26 April 2016 on the judicial organisation, alternative dispute resolution methods and the ethics of consular judges) offer fora for the exchange of views and communication conducive to reflection on the quality of the justice system for these users and, more generally, for citizens.

ITALY:

Italy has introduced working groups with certain users of the legal system ("large users", see report on the visit to the Court of Milan attached to this Handbook), based on an analysis of data collected on the performance of the justice system.

PORTUGAL:

Portugal has advisory bodies in each court, composed of 13 representatives of academia, municipal councils, lawyers, judges, prosecutors and court clerks. These bodies are designed to provide feedback on courts' work and ways of improving its quality and, more broadly, on the quality of the justice system.

SLOVENIA:

National and local surveys will gather experience feedback on the quality of the justice system. Working groups may be established to deal with specific questions (e.g.: solving problems that have appeared in connection with certain judicial proceedings).

2.4. Mobilising the tools and conclusions of the CQFD project at the international level (bilateral relations, multilateral fora)

ESTONIA:

Estonia primarily intends to develop bilateral cooperation projects: for example, the Handbook will be used in connection with study visits by foreign partners to Estonia's Ministry of Justice and courts. Every year, Estonia hosts several visits, especially from Eastern European countries. These study visits focus more particularly on the administration of the justice system, the use of digital tools in courts, and systems for managing such tools. The Handbook will become a valuable resource in terms of comparative experience and best practices, helping to underpin the information exchanged and advice provided during these visits by experts.

FRANCE

As the CQFD project was conducted with funding from the European Commission, these conclusions will help enrich the reflections and work underway on the quality of justice in connection with the "EU Justice Scoreboard". To initiate this exchange of views, France wished to invite to the project's Final Conference all representatives of EU Member States (ministries of justice, national courts or higher councils of the judiciary) who are meeting in groups of national correspondents for the "EU Justice Scoreboard" led by the European Commission (DG Justice). It also invited the European Network of Councils for the Judiciary (ENCJ), which has worked on the theme of the quality of justice.

The project conclusions could provide a broader source of inspiration for other regional organisations (CEPEJ and OECD) and help define new indicators for evaluating Target 16.3 of

UN Sustainable Development Goal 16 (Part 1 of this Handbook). In this regard, the Final Conference of 31 August 2017 will also bring together representatives of each of the regional organisations working on the quality of justice – European Commission (DG Justice), CEPEJ (GT QUAL), OECD (Public Governance Directorate).

The aim is to discuss with each of these actors currently missing data for evaluating justice systems and to share other innovative practices on each of the lines of the Final Conference, which correspond to the major themes of the CQFD project's conclusions:

- The necessary instruments and prerequisites for information, access and communication with the public;
- Quality-of-justice management tools for courts: mechanisms for self-diagnosis and consolidation of quality;
- Better responses to the expectations and needs of actors of the justice system through evaluation of the quality of the justice system by its users and external actors (judicial inspections, audits, certification of quality approaches, etc.).

Finally, in 2017, the French pilot court (the Melun Tribunal de Grande Instance) joined the CEPEJ Network of Pilot Courts, where it intends to share the project's conclusions and the results of its implementation in national jurisdictions.

SLOVENIA:

Slovenia suggests presenting the instruments of the CQFD project to the European Commission and the CEPEJ in order to broaden and amend certain questions and standards used in relation to the quality of justice.

ANNEXES

Annexe 1 – Judicial systems of partner countries

THE JUDICIAL SYSTEM IN ESTONIA

1) Constitutional and institutional system

The Republic of Estonia is a parliamentary democracy. The legislative power is exercised by a unicameral parliament, the « *Riigikogu* ». The Government holds the executive power, led by the Prime minister who is appointed by the President of the Republic. In this Government, the ministry of Justice coordinates the legislative projects and the harmonisation of the national law with the European legislation. It also manages the administrative institutions.

The President is the head of the State. The President is elected for 5 years by an electoral college of the 101 representatives of the « *Riigikogu* » and 244 local elected officials.

Two independent national institutions control the activities of Estonian public institutions: The National Audit Office and the Chancellor of Justice.

2) Judicial system and organisation

Estonia has a codified law system inspired from continental Europe law (essentially German Law).

The Estonian judicial system is organised by Chapter 13 of the Constitution, the law of the courts and the Status of the judges. The Minister of Justice is only responsible for the management and financing of the lower courts and Courts of appeal. The Supreme Court is independent, legally and financially.

The court system isn't institutionally separated in two orders between judicial and administrative. Nevertheless, a special control exists for the legality of the administration's acts and measures. The administrative justice occurs in the three levels of jurisdiction, as a separate court (first instance) or as a specialised chamber of the ordinary court (second and third level).

The territorial organisation of the courts has gone through an extensive reform in force since January 2006.

The judicial system is organised in three levels of jurisdiction: at the first level, the administrative courts (*Halduskohtud*) and the regional courts (*Maakohtud*), on the second level, the Courts of Appeal (*Ringkonnakohtud*) and on the third, the Supreme Court (*Riigikohus*).

- The County Courts are competent for civil and criminal matters. There are 4 County Courts. The administrative courts are the first instance courts dealing with administrative disputes. There are 2 administrative courts.
- The Courts of appeal review in appeal the decisions of the county and administrative courts of their jurisdiction. There are 2 Courts of appeal in Tallinn and Tartu.
- The Supreme Court is the highest court in Estonia. It acts as an annulment court for the decisions of the two first levels of courts but also as a constitutional court. It has jurisdiction to exercise judicial review, to rule on constitutional control requests and disputes concerning the administration of the courts. In order to achieve its constitutional role, the Supreme Court can be seized, among other ways, directly by the citizens. They may file a direct action to the Supreme Court only in limitative cases defined by law (only when the request concerns the protection of the fundamental rights of the individual).

3) Training and appointment of judges, prosecutors and court staff

Professional judges are appointed for life and cannot hold any other elective mandate or be named to any other public functions. The evaluation of the applicants as judges is done by the Examination commission of the judiciary which makes propositions to the plenary assembly of the State Court. The State Court names its own judges but the President of the Republic names the lower courts judges.

The training of the judges relies on a training council which adopts the training strategy, the annual training programmes and the examination programme. The Estonian judicial centre foundation achieves the council's mission by defining the training needs, analysing the results of the trainings, preparing the training tools and participating in the preparation and selecting of the trainers.

Lay judges are appointed by a committee. They must be proposed beforehand as applicants after having been elected by the city councils. They participate in the functioning of the First Instance Courts just like any professional judge.

The prosecution service has a hierarchical organisation and its members are selected and appointed by a selection and evaluation board. Any Estonian citizen who has followed legal studies and who meets the necessary morality conditions may be appointed as prosecutor. The general prosecutor is appointed to his/her position by the Government. The other prosecutors (county, city and substitutes) are appointed by the Minister of Justice. The prosecution service is independent in the exercise of its activities and prosecutes violations to the criminal law. Its members are subjected to strict professional obligations such as professional secrecy.

Estonia has no specific institution in charge of monitoring and assessing justice services. These roles are divided between the Ministry of Justice and the General prosecutor's office for the prosecutors and between the ministry and the President of the disciplinary chamber of the Supreme Court for the judges. Thus, the supervision and control is made by peers by two different and independent structures for judges and prosecutors. For the judges, the disciplinary chamber is composed of five judges of the Supreme Court and five judges of the lower courts. For the prosecutors, the disciplinary board is composed of two deputy prosecutors, two substitutes and a judge.

Source: Translated extracts from the French Ministry of Justice Comparative Law office ***Le système judiciaire en Estonie***

Information concerning the host court extracted from the answers to the questionnaire: Tallinn Court of Appeal

Concerning the organisation of the court: The court chosen by the Estonian Ministry of Justice, as a partner to this project, is one of the two country's **Court of Appeal (*Ringkonnakohtud*)**. This court comprises 29 judges (including the President of the Court), 27 law clerks, 9 secretaries, 5 registrars at the reception desk, 4 interpreters, 3 security officers and an assistant of the President of the Court. The court is organised in 3 chambers – administrative, civil and criminal. In 2015, it has ruled 2153 civil cases, 1265 criminal cases, 130 misdemeanour cases and 896 administrative law cases.

Lawyer representation is mandatory only in criminal cases and in some civil cases (forced hospitalization cases).

Concerning access to Justice policies and practices:

- There is no special desk to guide and inform litigants or regular citizens who wish to file a case but generally registrars offer guidance to citizens who wish to file a claim. Registrars are not lawyers. In case of need the registrars may involve interpreters.

- Concerning legal consultations: The Ministry of Justice in cooperation with the Lawyers´ Association has established a **legal information portal called "A lawyer helps"**, which is publicly available for the purpose of getting answers to simple and standard legal questions and document forms. They give an overview of NGOs who provide free legal assistance. More concrete answers are given by legal experts in the forum of the platform. The portal is managed by the Lawyers´ Association. The development strategy of the MoJ states that the portal should be handed over to the Bar Association, which would enable to integrate the platform with the activities of the Bar in the field of free legal aid and public representation. **The aim is to develop the portal as a primary source of public legal information for citizens.**

- Concerning general communication with the citizens: All 1st and 2nd instance Court, have personal web-pages, with similar layout, content and structure (www.kohus.ee) as they are administered in cooperation with the Ministry of Justice. Also, all decisions are published (except in some cases of business/state/adoption etc., in criminal cases taking into account the interests of the victims) in the National Gazette alongside laws.

(https://www.riigiteataja.ee/kohtulahendid/koik_menetlused.html)

There are neither uniform national rules nor specific court plans concerning legal reasoning and legibility of judicial decisions. Lack of clarity may be ground for quashing a decision and on a national level; new judges get specific training in legibility of judicial decisions.

Concerning communication with litigants: Documents can be filed and received electronically via the **judicial system´s portal that is called "E-file"** https://www.e-toimik.ee/. On the courts webpage there are available standard forms (including for specific common procedures like alimony claims): http://www.kohus.ee/et/kohtumenetlus/dokumentide-vormistamisest. They are also available in the registrars' office on paper. Small claims procedure is completely electronic and data can only be submitted online. They can be completed electronically, signed digitally and uploaded via the courts on-line portal E-file. There are also forms available on the courts webpage for claiming exemption from court fees and applying for state legal aid.

The parties and their representatives have on-line access to all documents of their cases through E-file portal and a majority of documents are sent to the court and from court to the parties via this portal. All decisions are delivered to the parties or their representatives personally – usually via on-line E-file portal.

If in criminal cases a provisional timetable of the case is communicated to the parties, **in civil and administrative case, generally no timetable is given.** However the General Assembly of Estonian Judges adopted in 2015 a document on the "best practices" in court proceedings, which provide that: "parties and their representatives are usually heard before deciding the timetable of the case". The schedule of hearings of lawyers and prosecutors are respected as much as possible, the length of proceedings must be predictable and in most cases, a message is sent to the litigant to warn him/her of the delay and to inform him/her of a new provisional timetable.

The **dates of rulings are always notified to the parties**. As the schedule is flexible and only indicative, the court is not strictly bound by it. Parties can request the acceleration of the proceedings after 9 months of inaction. The court information system is available to the judge to keep track of the pending cases. There are analysts working under the presidents of courts who assess pending cases, length of proceedings, and periods of inaction. The judges are expected to follow the reports and take necessary measures to accelerate the proceedings.

During our meeting in Paris, an ECHR decision against Estonia was raised concerning accessibility to legal information on the ground of freedom of expression. Kalda vs Estonia (19.01.2016), violation of article 10 on freedom of expression because a prisoner was refused access to legal information websites which could have helped him prepare his defence.

- Concerning communication strategy: The Supreme Court is cooperation with lower instance courts has adopted the **courts communication strategy** that was approved by the Council of Courts Management on 20.05.2011. The aim of the strategy was to **focus on solving 4 major communication problems**: 1) The public image of the courts does not correspond to their mission of protector of rights. In public perception the courts are associated with the words "punisher", "corruption", "expensive", "complex" and "slow". 2) Direct communication between the public and the courts is not regular and too passive, which makes the courts too distant and "closed" for the public. 3) Court staff does not recognize their role in communication. Communication is usually restricted to some criminal cases, not civil and administrative cases. No efficient cooperation with the journalists. 4) The courts information materials and strategies are not uniform which makes it difficult to the media to understand the court system.

Under the uniform strategy **each court adopted a policy of communication**. **In Tallinn Court of Appeal, a public relations office** was established in spring 2016 that organizes and coordinates public relations of all 1st and 2nd instance courts. It comprises of the head of the office and 3 regional press officers. The public relations office is responsible for implementation of the communication strategy and manages also internal communication of relevant courts. There was a need to establish a uniform service to all courts in order to improve quality. Regional press officers work in and for different Estonian courts, but are subject to the head of office who works in Tallinn Court of Appeal. They cooperate closely with the presidents of the courts. In addition to the press officers the courts must select **a media judge**, who is responsible of giving interviews to the press etc. In Tallinn Court of Appeal the president acts as a media judge.

- A satisfaction survey was conducted in 2013 in cooperation with the Ministry of Justice and the Supreme Court. A study was conducted by a polling firm on the following questions – access to information and satisfaction with dissemination of information, evaluations of hearings and judges' performance during the proceedings (including how comprehensible the proceedings had been), satisfaction with and trustworthiness of the justice system, satisfaction of prosecutors and other professional actors, recommendations for improvement of the judicial proceedings. All 1st and 2nd Instance Courts participated. Questions were posed to people who had on-going or past proceedings in the relevant court. The results were communicated back to the judiciary and they were taken into account by the working-group that elaborated the principles of the judicial quality management.

- Mediation is neither mandatory nor widespread. However in several areas (labour disputes, rent disputes, insurance disputes, and consumer disputes) there are bodies which have the competence

to mediate and decide on the dispute. Decisions of some bodies become enforceable if a claim is not submitted to a proper court, while decisions of some bodies are merely recommendations.

THE JUDICIAL SYSTEM IN FRANCE

This fiche was elaborated by the Judicial Services Directorate (Direction des services judiciaries), French Ministry of Justice.

I) Constitutional and institutional framework:

The French Constitution of the 5th Republic was promulgated on October 4, 1958. The Constitution is the highest norm in the internal hierarchy.

The Constitutional Council ensures that the Constitution, the Constitutional Texts and Principles are upheld. By interpreting article 55 of the Constitution, the Constitutional Council has indicated that International and European Treaties are the highest norms. Therefore, the Constitution must be reviewed if it is contrary to any Treaty prior to their ratification.

The 1958 Constitution establishes a Democracy based on the Separation of Powers. The Prime Minister and the President of the Republic head the Executive branch. The President of the Republic promulgates the laws after their adoption by the Parliament. The Legislative branch is bicameral. The National Assembly is the main legislative chamber. It is composed of 577 representatives directly elected through local votes. The other chamber is the Senate. Local elected officials indirectly elect the Senators.

According to the Constitution, both chambers have the same power. Bills may be submitted to the Parliament by the Government or by each chamber.

2) Justice system and organisation

France has a legal system stemming from Roman law and based upon codified laws.
The Civil Code was drafted in 1804 under Napoleon. Nevertheless judges have the duty to interpret the law, and the decisions of the higher courts have a certain influence on the inferior courts even if they are not bound by any higher court's decision. The judiciary is independent from the executive and the legislative powers. There are several categories of courts divided into two major branches, a judicial branch and an administrative branch.

• The judicial branch

The civil courts settle private disputes between individuals such as divorce, inheritance, and property... but do not impose penalties. The criminal courts judge individuals who have committed offences.

- First degree of jurisdiction
The District Courts (*Tribunaux d'instance*) have jurisdiction for civil matters and minor criminal offenses. They hear personal property claims under 10,000 euro as well as claims for which they have exclusive jurisdiction.

Claims over 10,000 Euros are heard by Regional Courts (*Tribunaux de Grande Instance*) which have general jurisdiction and hear every dispute with an unspecified amount which does not fall within the jurisdiction of another court. The judges and members of the Regional Courts are all professionals. Regional Courts also have a criminal division. The first degree of jurisdiction has also specialist Courts which are Juvenile Courts, Labour Courts, Commercial Courts, Social Security Courts and Agricultural and Land tribunals. The Criminal Court with Jury (Cour d'assises) trials those accused of crimes (murder, rape, armed robbery, etc.), attempted crimes, and those accused as accomplices. The *Cour d'assises* is not a permanent court, usually meeting every three months for about two weeks. This type of court is found in each "*Département"* - District.

- Court of cassation (*Cour de cassation*)

The last degree of jurisdiction is the Court of Cassation. It is the Highest Court in the judicial French system. The Court of Cassation does not judge on the facts but checks whether the inferior courts in civil and criminal matters have properly applied the law. The judges are appointed by the President of the Republic on a binding recommendation of the Higher Council of the Judiciary. They are divided into six different chambers: First Civil Chamber, Second Civil Chamber, Third Civil Chamber, Labour Chamber, Commercial Chamber, and Criminal Division. A Presiding judge heads each division.

The Office of the Prosecutor is also present at the Court of Cassation. The Chief Prosecutor who does not try the case but advises the Court on how to proceed heads it. The main role of the Office of the Prosecutor is to guarantee the consistency of the interpretation of the law and to ensure its conformity according to the intention of the legislation with the public interest and with the public order.

• **The administrative branch:**

- Administrative Courts

The administrative courts are the first instance and appellate judges of administrative litigations. These courts settle disputes between public authorities (the government, regions, "*départements"* - districts or administrative bodies) or State-owned companies on the one hand, and individuals and businesses on the other hand. The administrative courts also deal with taxation, town council/local elections and civil service litigation.

- The Council of State (*Conseil d'Etat*)

The Council of State is the highest jurisdiction of the administrative branch. The Council of State as also a special jurisdiction of first and last resort. The first resort competence of the Council of State covers litigation of special importance (decrees, ministerial acts, the decisions of collegial bodies invested with national competence, individual measures involving civil servants appointed by Presidential decree) or whose scope exceeds the competence of an administrative court.

The Council of State exercises traditional powers as a court of cassation in relation to some 30 specialized courts, the most important of which are the *Cour des Comptes*, the Court of Budgetary and Financial Discipline, the Magistrates Disciplinary Committee, and the

disciplinary committees of various professions.

• **Training of judges and court personnel**

The Act of 22 December 1958 establishes the status of the judiciary. Every judge may be appointed during his career at judging functions and/ or at the office of the prosecutor (principle of unity of the judiciary).
Judges and prosecutors follow the same training within the same school. On 1st January 2017, there were a total of 8427 magistrates.

- The Higher Council of the Judiciary (*Conseil Supérieur de la Magistrature* – CSM)
Some attributions of the CSM are related to the appointment and discipline of judges and Public prosecutors. These rules are aimed at sheltering the judiciary from the risk of partisan influences. In France, the CSM assists the President of the Republic who under the Constitution has the mission to guarantee the independence of the judicial authority.

- The French National School for the Judiciary (*Ecole Nationale de la Magistrature – ENM*)
Through the French National School for the Judiciary, France has developed a specific model enabling judges to share a common legal culture and to integrate new legislative developments into their professional practices throughout their career. This school is an independent public institution, which is under the supervision of the ministry of justice.
Its function is to ensure the training of future French judges and Public prosecutors who are for the main part law graduates recruited by examination after University, and the continuing professional training of judges and prosecutors during their career.

- The National Registrars College (*Ecole Nationale des Greffes* – ENG)
The ENG aim is to provide initial training for chief registrars and registrars, as well as officers on duty in various areas related to court administration.

Information concerning the host court extracted from the answers to the questionnaire: Melun First Instance Court (TGI)

- Concerning the organisation of the court:
The *Tribunal de grande instance* of Melun is a First Instance Court in the jurisdiction of Paris Court of Appeal, which supervises its operations. It is a middle size court for France, ranked 37th out of 164. The judicial district also counts a *Tribunal d'instance* and a juvenile court.

35 judges work in the court, including judges ruling for the *Tribunal d'instance*, 13 prosecutors, 99 court staff and 36 in the *Tribunal d'instance*).

The court has jurisdiction over general civil and criminal cases, the juvenile court dealing both with criminal cases and child protection cases. It does not adjudicate administrative litigations.

In 2015 the activity of the court was divided up as follows:

- *Tribunal de grande instance*:
- 6 000 Civil cases (all included)
- 5 500 Criminal cases
- 1 000 Social security cases
- *Tribunal d'instance*:
- 11 000 civil cases (including court orders)
- 1 700 criminal cases (petty offences)
- Juvenile court:
- 2 331 child protection on going cases
- 1 000 new criminal cases

Family law and personal status represent between 65 and 70% of all civil caseload, contract law 9% and tort law 5 %.

Representation by attorney is optional for criminal cases in which offenders risk prison sentence under 10 years. Legal representation is mandatory for part of civil cases only: divorce, tort law and contract law.

- Concerning access to Justice policies and practices

The court has a special desk called *guichet unique de greffe* (GUG) which guides and informs litigants coming to court or wishing to file a case. Professionals working at the GUG are court staff: it counts two clerks and two assistant clerks. The desk is installed in reception hall and easily accessible.

The GUG works with other desks, existing over the Seine-et-Marne district, giving free information in various fields of law, through a variety of local desks.

In the court facility, the GUG specifically works with attorneys who provide free information every day between 12.30am et 3pm. It has a direct link with the clerks working in the local *bureau d'aide juridictionnelle*, the specific service dealing with legal aid over the district for all lower courts in the jurisdiction of Melun.

The court benefits from the recent new national web site www.justice.fr, but it doesn't have its own web pages.

The court also benefits from the local *conseil départemental d'accès au droit* (CDAD) a service for access to law which web pages offer information on local duty hours existing all over the district.

The court has led its own survey twice already, asking people to fill in anonymous files during a few weeks.

Developing litigants' information is definitely part of a national plan. Local courts are part of this national plan. They both try to implement national guidelines and find new ways in developing litigants' information, based on the local population’s need. The orientation is enshrined in the law and public policy.

Concerning the communication with the local or national media, communication that used to be mostly related to specific cases and their judicial dealing, is now developing towards information given about general explanations of the national or local justice system, of local difficulties or achievements.

The court mostly communicates about its organisation, general orientations decided by the President or the Prosecutor, specific difficulties or achievements.

It generally happens during official hearings that are held, once or twice a year, when new judges or prosecutors join the court.

- Concerning communication with the citizens

General information is available online through national, state or private local web sites. These information and orientation systems are available on dedicated web sites such as www.justice.fr or www.justice.gouv.fr. These general web sites offer information about local justice services. The link "justice en région" enables a litigant to find the local justice services: courts, prisons, legal information desks, public child protection services, lawyers, clerks... A general website www.service-public.fr offers a wide range of forms a citizen can submit.

The citizens and litigants have also access to information on-line concerning their eligibility to legal aid with the new web site www.justice.fr.

- Concerning communication with litigants

The communication face to face with citizens can be different whether for a civil or criminal case and whether or not they are assisted by a lawyer.

If representation is not mandatory, the litigants will be provided with the information about the schedule of his or her case: date of hearings and decision. The defendant will also be warned by the court about consequences attached to his absence in court.

If representation is mandatory, the lawyers will be given the information instead.

When lawyers have not met deadlines, the judge can decide to cancel the case; the litigants are then given the information that the case is terminated.

The court is not bound by the schedule it gives, and can decide of some changes in order to adapt it to the case. The court can for example postpone the date of the hearing.

But, if the court thinks the communicated schedule needs to be maintained, the court can object to late writings and refuse to take them into consideration. The court can also close the case until the litigants have met with what they were asked to do.

Concerning the development of mediation, judges have the legal means to encourage possible litigants and litigants who already filed a case to try to go through a mediation process: litigants are invited by the judge to meet a mediation professional who will, freely deliver them information about the mediation process. This information can be delivered before or during the judicial proceedings, and litigants can always decide to go on with mediation, without any effect on their proceedings.

THE JUDICIAL SYSTEM IN ITALY

1) Constitutional and institutional system

According to its Constitution (January 1rst 1948), Italy is a democratic Republic in which sovereignty is in the People and autonomy is granted to its regions. The President of the Republic (PR) is the head of State. Elected by the Parliament for 7 years, his powers are limited. The PR chooses the President of the Council, usually head of the ruling party. The President of the Council runs the Government which exercises the executive power.

The legislative power is led by a bicameral Parliament composed of the Chamber of deputies and the Senate. Both are elected by the universal suffrage for 5 years. The Parliament may overthrow the government by voting a motion of non-confidence or by denying a "confidence question".

Judicially, the *Corte suprema di cassazione* (Supreme Court of cassation) is the highest judicial court in civil and criminal matters, the *Consiglio di Stato* ("State Council") in administrative matters and the *Corte dei Conti* ("Court of Audit") in budgetary matters. The Supreme Court of cassation rules the conflict of competences between the three Courts.

The ministry of Justice leads no criminal policy, non-existent in theory, as criminal public action is inevitably set in motion as soon as the violation starts under the principle of legality. As a consequence, there is no hierarchical link between prosecution and the executive. The Minister (Keeper of the Seals).

Furthermore, a Constitutional Court, composed of 15 judges (5 appointed by the PR, 5 by the Parliament and the last 5 by the judges of the judicial and administrative supreme courts), rules on the constitutionality of the laws passed by Parliament and the Regions, the conflicts of competences (between the State and the Regions, the Regions and the State's executive bodies) and the charges of constitutional violation against the PR.

As soon as he was installed as President of the Council in February 2014, M. Matteo RENZI announced a series of reforms and the judicial reform, along with the constitutional and institutional reform, as a priority. The judicial reform was launched in June 2014 by M. Andrea ORLANDO concerning civil, criminal, statutory matters… In September 2015, the minister installed two commissions, the first to launch a territorial reform and the other concerning the status of judges, the constitution and functioning of the Italian Magistrates Superior Council.

Despite the negative answer by referendum to the constitutional reform in December 2016 leading to the resigning of M. Matteo RENZI, the principal judicial reforms have already been adopted. The number of courts has been shortened from 1398 to 650 and reorganised with the creation of "Business courts". Civil proceedings have been largely computerised allowing budget savings and better foreseeability of the courts' decisions. Anti-corruption laws have been reinforced and a civil liability for magistrates has been set to hold them liable for certain cases of negligence.

M. Andrea ORLANDO's position as Keeper of the Seals has been confirmed in the new Government led by M. Paolo GENTILONI.

2) Judicial system and organisation

In civil and criminal matters, the judicial bodies are:

- The *giudice di pace* - justice of the peace is an honorary judge, non-professional (usually an ex lawyer), with a judicial role. Introduced in 1991, the function was extended to criminal matters in 2000. The initial idea was to give this the "very small disputes" at a municipal level. Today, the judges of the peace cover civil and criminal as well as administrative matters.

- The *tribunale ordinario* - ordinary tribunals: have statutory jurisdiction over civil matters. In criminal matters, they cover violations which are not statutorily attributed to another judge. They are

composed of "togati" judges, professional, but non-professional judges may also sit. The ordinary tribunals are First Instance Courts and Courts of Appeal for most of the decisions taken by the judges of the peace.

- The *Corte d'assise* - criminal courts are composed of two professional judges and six jury members drawn randomly from citizens' lists established by town halls.

- The *Corte di appello* – Courts of Appeal rule on appeals against the decisions of the ordinary tribunal in civil and criminal matters. There is about one court of appeal for each judicial district (26 courts).

- The *Corte suprema di cassazione*, the Supreme Court of cassation controls at the top of the judicial organisation the respect and non-violation of the law by the judges. Divided in 10 sections (3 civil, six criminal and one specialised in labour matters). Facing 50000 new requests a year, the President of the court required a filter in the admission of requests. A law, adopted in 2009, introduced a filter in civil matters which consists in an evaluation by a college of 5 judges. In criminal matters, a filter of "manifestly unfounded cases" has also been introduced.

The administrative courts control de legitimacy of administrative acts and may annul them. The administrative judges are different from the ordinary judges and have separate governance.

- Other specialised courts: military court, tax court, budget court (Court of Audit) and also the business courts.

- *Tribunale delle imprese* – Business courts: created by decree in January 2012 as part of the judicial organisation reform led by M. MONTI in order to increase the competitiveness of the country. 12 tribunals, in the district of the Appeal Courts which have specialised sections in intellectual and industrial property, now rule on commercial matters or linked to corporate law.

3) Status of the magistrates: judges and prosecutors. Training and appointment of judges, prosecutors

The independence of the judiciary is announced in the Constitution according to which the magistrates are bound only by law and are unmoveable. The judges and prosecutors are members of the judicial order, they are recruited through the same competition, share the same trainings and careers. They are appointed by decree of the minister of Justice after consultation of the Supreme Council of Magistrates (CSM). The head of courts however, judges and prosecutors, are appointed by presidential decree after the CSM's advice.

The CSM watches the independence of the judiciary regulates the principal activities of the courts and applies the disciplinary sanctions. Chaired by the PR, it is composed of the President of the Supreme Court of cassation, of the General Prosecutor of the Supreme Court and of 24 other members (1/3 elected by Parliament and 2/3 by the other magistrates).

The General Prosecutor near the Supreme Court of cassation is not the hierarchical leader of the prosecution. His role is to control the proper functioning of the prosecution service. As such, the General Prosecutors near the Courts of Appeal send annual reports in order to control the activity of the prosecution services near the Courts of appeal and the services of their district.

Since 2007, a new **recruitment process for magistrates** has been established favouring candidates with prior judicial experience. The CSM in charge of recruitment applies these rules. The Constitution also allows direct appointment for « outstanding merits » to positions as advisor at the Supreme Court, for university law professors and lawyers with more than 15 years seniority. A law adopted in July 2005, modified in 2007, created a School for the Judiciary supposed to provide the initial and continuous training for Italian magistrates. Until then, the CSM was in charge of this training. After the end of an initial training of 18 months, the new magistrate may exercise criminal matters only in collegial panels, for 4 years and the exercise of certain functions is excluded.

The career of the magistrate is assessed by the CSM every 4 years. Certain external elements such as the advice of the Bar may be considered. After two negative evaluations, the termination of the magistrate's functions may be considered. A magistrate may exercise the same function in a court for

a maximum of 10 years and the head of courts and deputies may hold their position for 4 years renewable once. In 2007, a law has drawn drastic restrictions to skipping from judge to prosecution functions in the same court, district or other… The law also codified the disciplinary rulings of the CSM by describing misconducts constituting disciplinary offences.

Also in 2015, Parliament adopted a law concerning **civil liability of magistrates** implementing the reforms announced by M. RENZI and answering to the judgement of the CJEU handed down against Italy (*Traghetti del Mediterraneo du 13 juin 2006- C-173/03*) for the restrictions imposed by the law to an effective liability action against a magistrate. If the liability of the State with a possible recourse action against the magistrate has finally been maintained (rather than a direct action against the magistrate as proposed initially), many elements have been introduced such as:

- an extension of liability cases, also applicable to non-professional judges.
- removal of the admissibility filters for the recourse action by the State against the magistrate,
- henceforth, the recourse action is mandatory if the violation results from an inexcusable negligence,
- rising of the seizing thresholds on the magistrates' salaries,
- better coordination with the disciplinary sanctions of the CSM.

Source: Translated extracts from the French MoJ Comparative Law office ***Le système judiciaire en Italie***

Information concerning the host court extracted from the answers to the questionnaire: the First Instance court of Milan (Tribunale Ordinario)

- Concerning the organisation of the court: The Tribunale Ordinario di Milano is organized in **four services**: civil, criminal matters hearings, preliminary investigations, administrative tasks. More particularly, **13 chambers in civil and labour matters (each specialized in specific matters)** 11 chambers in criminal matters (each specialized in specific matters), Corte d'assise (judging on most serious crimes), re-examination chamber and precautionary measures. (https://www.tribunale.milano.it/files/organigramma_tribunale.JPG).

The Tribunale comprises 259 professional judges, honorary judges, 32 registry directors and 109 civil servants headed by a Director. The administrative staff is composed of 103 clerks, 159 assistants, 38 operators, 52 auxiliaries and 16 *conducenti* (drivers?). The prosecution service is composed of 79 professionals, 63 honorary attorneys and 295 registry directors and members of staff.

The Tribunale is normally a first instance judge but it is also the Appeal Court for many sentences of Justice of peace. It has **competence over general civil, commercial and criminal matters**. It does not have competence over administrative questions, dealt by the Tribunale Amministrativo.

Concerning lawyer representation, while for justice of peace there are many cases where lawyer representation is not mandatory, there are just a few hypothesis in Tribunale that do not require this representation.

- Concerning access to Justice policies and practices: The policy concerning litigants' information is not part of a national public plan dedicated to access to Justice and the Constitution has no specific rule concerning the matter.

Concerning **communication with the media**, a legislative decree in 2006 regulates only the relationships of the General prosecutor with the press and there is **no such rule for the Tribunale**. As such, the Tribunale has not developed a specific communication policy with the media but since 2011 the Tribunale publishes yearly the Bilancio di Responsabilità Sociale (Social Responsibility Budget), providing many information on its activities, projects and numbers.

- Concerning general communication with the citizens: The Tribunale di Milano has a **Civil Infopoint and a Criminal Infopoint**, providing general information to citizens, and assistance to lawyers in matters of telematic trials. Infopoints also releases copies of simple acts and are part of URP (Office of relations with the public). The court also has a **personal web site** accessible to litigants or citizens (https://www.tribunale.milano.it) which gives much information on how to file a case. The Ministry's website also offers practical information sheets on various procedures but case law is not communicated on these institutional websites.

All decisions of Corte di cassazione are published online. On the public website of the court, the user can reach the case law and search between civil and criminal judgments (of the last five years) of the Court of Cassazione, through a search engine easy to use. Judgments of the lower courts are no longer officially published.

Concerning statistics, in 2001, a presidential decree established the **General Directorate of Statistics and organizational analysis at the Ministry of Justice (DG-STAT)** in the DOG (Judicial Department of the organization, the staff and services), which produces part of the National Statistical System. **The statistics produced, quantitative indicators and studies on consumer satisfaction are published on a public website (https://webstat.giustizia.it) of the Ministry of Justice**. Only a few Tribunali participated to this survey (Roma, Torino, Catania, Rovereto), carried out only once, on the initiative of the CEPEJ in order to improve the efficiency of judicial services.

Forms to register cases are provided only for cases in front of the Justice of peace. The Tribunale, on the other hand, gives online access to forms referring to voluntary procedures (such as mutual consent separation, issues related to inheritance…). But, these forms however cannot be completed and

transferred electronically by the litigant in order to register his case. The user must print and fill the paper forms and then file it at the Registry.

- Concerning legal consultations: Many associations provide online free advice on legal matters (trade unions, associations of consumer / businesses / property owners …).

- Concerning communication with litigants: For **legal aid**, the litigants have access online to information concerning their eligibility. There are no interactive questionnaires however, because to be eligible for legal aid is only necessary for the applicant to prove his annual taxable income isn't higher than the threshold (€ 11,528.41 or more considering income of other family members).

The litigant and/or his lawyer have access, online, to anonymous access to information on the status of the proceedings. On the MoJ webpage http://pst.giustizia.it/PST/it/pst_2.wp?request_locale=it the user can also have free online access to information on active telematic services at the judicial offices, public list of access points, Supreme Court registers, and bankruptcy proceedings. Civil **lawyers** can have full access to the case material of their clients' proceedings, by the mean of **PCT (Processo civile telematico**).

Information concerning **foreseeable delays** of the case is not available however. The Law 89 / 2001 (known also as the Pinto Act after its author) provides the right to demand fair compensation for the damage, economic or other, due to the unreasonable length of a process. This law introduces a new internal appeal that the applicants must start before turning to the Strasbourg Court, if legal proceedings exceeded the reasonable period of time of a process, according to the European Court of Human Rights under Article 13 of the Convention.

The litigants are not warned of the delays of proceedings and a fortiori are not informed of a new provisional timetable message. Also, no alert mechanism has been developed in order to inform the court or service in charge of the case of the risk of missing a deadline.

Case law concerning legal reasoning and legibility of judicial decisions has been developed. Indeed, in a recent judgment n° 1914 of February 2nd, 2016, the Corte di cassazione confirmed that reportable violations of law reportable to the Supreme Court under Article 111 of the Constitution include non-compliance with the obligation to render obvious the grounds of decisions. Failure to state clearly the reason of a decision occurs not only in cases of absolute lack of motivation, but also when the exposure of the statement of reasons is not suitable to disclose the reason for the decision. Such situations occur also in cases of apparent motivation, or of a deadlock between irreconcilable statements, or even in cases of motivation puzzled and objectively incomprehensible.

The litigants are not informed of the enforcement terms for the ruling.

Special procedures are available in certain conditions, an injunction is possible for the payment of sums of money when the creditor gives written evidence, and the "*procedimento sommario di cognizione*" can be used when the evidentiary phase seems simple.

- Mediation: Since 2010, a compulsory mediation process (mediazione obbligatoria) was introduced, but declared unconstitutional in 2012 for legislative profiles. A decree reintroduced this compulsory mediation in 2013, in various matters (property, hereditary, insurance contracts, banking contracts, financial contracts, damages from medical and health responsibilities …).

Furthermore, since 2014 "assisted negotiation" (negoziazione assistita), based on the French model has been introduced. It is mandatory for cases regarding compensation for loss of circulation of vehicles and boats, and for payment not exceeding EUR 50.000,00 (with some exceptions).

- A satisfaction survey has been carried out in 2014 in the Tribunale di Milano on the perception, by companies, of the quality of justice and activities of the Tribunale. 234 companies responded to the questionnaire (11.5% of the population), of which 206 (88%) with less than 99 workers and 28 (12%) with more than 100. The sample that has emerged is broadly in line with reference population. 148 companies (63% of the sample) said they had had dealings with the Tribunale over the past five years, 80 (34%) had no relations, and 6 (3%) have not answered the question. Of the 148 companies,

135 (91%) have had dealings with judicial offices in Lombardia; of the 135 companies that have had relations with the Lombard system, 86 (64%) were users of judicial offices in Milan. Of the above said 135 companies, 47 (34.8%) had a negative legal outcome, 54 (40%) positive and 34 gave no answer (25.2%). The survey should be made each three years. In annexe we send the Bilancio di Responsabilità Sociale 2014 containing the survey result.

ISTAT (National Institute of Statistics) periodically carries out researches also concerning these matters, especially for civil justice, as part of the general survey AVQ (Aspetti della Vita Quotidiana, Aspects of daily life), a multiscale survey. The results are published on Istat's website (http://www.istat.it/it/opinioni-dei-cittadini). The survey is on a yearly basis since 1993. The survey is carried out, in the first quarter of each year, on a sample of about 24 thousand families (for a total of about 54 thousand people), distributed in 850 Italian municipalities of different demographic size. A municipal detector goes to the homes of the extracted families (who have been previously informed) and makes some questions to all family's members, collecting their answers through two questionnaires (one of them filled by the detector, and the second one filled by each interviewed person).

THE JUDICIAL SYSTEM IN PORTUGAL

1) Constitutional and institutional system

Portugal is led by a Constitution enacted in 1976 and amended several times. It establishes a semi-presidential regime and a representative democracy structure. Sovereignty is exercised by 4 bodies: the President of the Republic, the Assembly of the Republic, the Government and the Courts, according to the principles of separation of the executive, legislative and judicial powers.

The President is elected by direct universal suffrage for a 5 year mandate, renewable only once. He appoints the Prime minister, head of public administration, according to the results of the legislative elections. The Prime minister holds the State Council (consultation body of the President), the Council of ministers and the High council of national defence). He has the power to dissolve the Assembly and to dismiss the Government. The Assembly of the Republic is the legislative body. It also controls the compliance of the laws to the Constitution and assesses the acts of the Government and of the public administration. The Government conducts the general policy and leads the public administration. It is responsible before the President and the Assembly.

The Constitutional Court (« Tribunal Constitucional ») is composed of 13 judges (10 appointed by the Assembly, 3 by these appointed judges) for a 9 year period. It has the competence to appreciate the constitutionality of legislative acts. It may also control the regularity of elections. The courts administer justice and are independent from the political power.

2) Judicial system and organisation

The Portuguese judiciary is composed of a Constitutional Court, a judicial and an administrative order. The judicial order is headed by a Supreme Court and composed of 5 Appeal Courts and 23 First Instance Courts.

The Supreme Court (« Supremo Tribunal de Justiça ») sits in Lisbon and is composed of civil, criminal and social chambers. Except in cases specified by law, the Supreme Court only rules on the Law on not on the facts.

The Appeal Courts are directed by a President but managed by a management board of the court (judge president, coordinator prosecutor and judicial administrator). They work in plenary session and in chambers, civil, criminal and same chambers with the same objective jurisdiction than the Supreme Court chambers.

In each District Court there are specialized Central Courts based, in general, in the capital of the district. Central criminal Courts deal with cases over 5 years of prison, Central Civil Courts deal with cases over €50.000,00. The Central Court may also include a family and minor's court, a labour court and a civil enforcement court.

In each District Court there are also local/municipal courts and sections of proximity. Sections of proximity are little sections working with one/two court clerks, that can give the information to the public, receive documents among others tasks and where judges can also hold trials.

The District Court houses the Judge President, one Coordinator Prosecutor and one Judicial Administrator to manage all the Courts of the district.

The reform of the judicial map (which dated back to 1993) was approved in 2013 and implemented since 2014. The general principle which led to the division and creation of 23 First Instance Courts was to bring the administrative division (Districts) in line with each of the courts, apart from two exceptions, Lisbon (3) and Oporto (2), because of their large number of population and economic activity. The objective was also to address the issue of the lack of specialisation of the judges in technical matters and to readjust the geographical coverage of the courts to the new demographic and economic realities.

The 2013 reform has also reformed the management role of the Judge President of the Court, as well as respective functions. It was considered indeed that the deficit of organisation, of management and planning of the judicial organisations were mainly responsible of the lack of efficiency and quality of the judiciary. Thus, the reform tried to install a balance between judges' independence and accountability mechanisms to avoid abuses and improve the quality of justice.

"Courts of Peace" are intended exclusively for trial in declarative actions, which value does not exceed the jurisdiction of the Judicial Court of First Instance. They're voluntary (there's no legal obligation to the parties to seize a Court of Peace before going to common courts). Its decisions have the binding force of a First Instance Court, and can be appealed to the local First Instance Court. Justices of Peace are an autonomous body, with its own supervising and disciplinary authority (Council for the Supervision of Peace Courts).

The administrative order comprises courts in charge of tax matters (« tribunais tributarios »), administrative District Courts (« Tribunais administrativos de circulo »), Central Administrative Courts (« Tribunais centrais administrativos ») and atop the administrative Supreme Court (« Supremo Tribunal Administrativo »).

These courts are competent to appreciate appeals against administrative acts, suspensions of implementation requests against these acts and State's liability actions.

A Court of audits is also responsible for controlling the legality of public expenditure and auditing public accounts. Sitting in Lisbon, it is composed of a President, appointed by the President of the Republic for 4 years, and 16 judges.

Portugal is a statutory law country. All Portuguese courts have competence to control the conformity of the legal statutes with the Constitution. The first civil code was adopted in 1867 and remained effective until 1966 when a new code was adopted. This code is still in effect with a major reform in 1977. The first commercial code was enacted in 1833 and the first civil proceedings code in 1876. This code has been replaced and revised many times until a new version has been approved in June 2013.

3) Status of magistrates: judges and prosecutors. Training and appointment of judges, prosecutors

The recruitment of judges and prosecutors is done by public competition and then during initial training. Since 2008, the submission of applications to the « Centro de Estudos Judiciários » (Centre for judicial studies) can be made through 2 different ways: through academic qualification (for holders of a masters of law degree) or thanks to professional experience (at least 5 years of practical experience in the courts).

Training of judges and prosecutors is under the responsibility of the « Centro de Estudos Judiciários ». The training entails three essential modules: initial training, further training and continuous training. The successful completion of the initial training, 22 months followed by a 10 months internship is a prerequisite to the access to first instance judge or prosecutor functions.

Further training takes places in the two following years after the judge or prosecutor is installed. During this training, the judge or prosecutor leads critical reflections on judicial and institutional issues linked to his/her exercise of the function and in depth studies on specific issues of law. Continuous training is achieved through debates, seminars, conferences and study cycles… on themes of actual importance in judicial and judiciary matters.

Concerning their careers, judges and prosecutors are separated in two professional bodies, both independent from the central power. Appointments to the Supreme Court are made through qualification competition, open to judges and prosecutors and to other judicial experts. Appointments to the Appeal Courts are done by promotion of the first instance judges, with a classification by merits.

For prosecutors, progress is based on merit and seniority. Access to higher functions of public prosecutor and deputies is submitted to a competition and according to seniority. The upgrading to the function of General Prosecutor is based on merits and the General Prosecutor of the Republic is appointed by the President of the Republic on a proposal of the Government.

The Supreme council of magistracy (Conselho Superior Da Magistratura – CSM) is responsible for the appointment, the mobility of the judges of the judiciary order. For prosecutors however, this competence is in the hands of the Supreme council of the Public prosecution. Disciplinary sanctions can go from advertisement to revocation.

The CSM is composed of a President and 16 rapporteurs, 2 appointed by the President of the Republic, 7 elected by the Assembly and 7 elected by their peers). The Supreme council of the Public prosecution is composed of the General Prosecutor of the Republic who chairs the Council, of the district level General Prosecutors, of a Deputy General Prosecutor, of 2 Public Prosecutors and 4 Deputy Prosecutors elected by their peers, 5 members elected by the Assembly and finally of 2 personalities appointed by the Ministry of Justice.

Sources: Translated extracts from the French MoJ Comparative Law office ***Le système judiciaire au Portugal*** *and from the presentations of M. Alvaro MONTEIRO* ***The court management in Portugal*** *and Ms Patricia COSTA* ***Portuguese judicial organisation***

Information concerning the host court extracted from the answers to the questionnaire:

Vila Real first instance court

- Vila Real Court is a Lower Court dealing with Civil, commercial, criminal, labour and family cases and which rules 6487 cases a year (Civil cases – 1.508, Criminal cases – 881, Family and Minors – 707, Labour law – 550). The court is organised around a judge President, judges and court clerks between a High and Municipal instance, a High Criminal Instance (for crimes punished with more than 5 years of prison) a High Civil Instance (for cases over €50.000,00). Vila Real Court also houses a Labour Court, a Family and Minors Court, an enforcement Court, Two Municipal Civil Courts and two Municipal Criminal Courts, and five Municipal Courts of general competence.

The court comprises 24 judges, 19 prosecutors and 148 clerks.

The litigants that appear before this court are individuals and private corporate entities, approximately in same rate.

- Concerning access to Justice policies and practices: **Access to Justice is enshrined in the Constitution**. The right of access to the law and to effective judicial protection is a fundamental right provided in article 20 of the Constitution of the Portuguese Republic. The Law of Access to the Law and to the Courts enshrines the access to the law and to the courts, to legal information and to legal protection; this latter comprises the legal consultation and legal aid. Also in this regard we have the bill 34/2004, July, 29th, which concretize the article 20 of the Constitution of the Portuguese Republic.
- In Criminal cases the **lawyer representation** is mandatory. In Civil Cases the lawyer representation is not mandatory for disputes under €5.000.
- Litigants **have access online to information concerning their eligibility to legal aid** but there are **no any interactive questionnaires available** to determine the amount of the allowance they are entitled to.
- Concerning general communication with the citizens: the selected court provides a special desk to guide and inform litigants or regular citizens who wish to file a case, indeed, **the central/general staff unit** of the Court can guide and inform litigants or regular citizens to file a case, if this one is simple. If the case is more complex, the clerk informs to the litigants that they must appoint a lawyer. In cases for which lawyer representation is mandatory the central staff unit also informs the litigants that they need to appoint a lawyer.

The special desk is composed of judicial clerks, a special branch of administrative clerks that works only in courts. The court has a **personal web page**, in which litigants and citizens can find general information about the court, such as the structure of the court, rules and regulations about the court, the annual report. This information can also be obtained directly in the front office desks at the court.

These information and orientation systems are available on dedicate web sites, in particular from the Ministry of Justice, CSM, Courts and other organizations linked to the Ministry of Justice.

There are also **standard forms available** to register some type of cases, which can be **downloaded online**.

- Concerning communications with the media: The **development of a national policy** concerning communication of the courts with the media **is in its very first steps**. At a first level by the Portuguese CSM, which has a website where press releases are published and contacts are provided. The CSM has also approved a communication plan. At a second level by the Courts of Appeal, which also have web pages and communication plans. As determined by the CSM, information for the media, regarding specific and sensitive cases, should be articulated between the Court and CSM.

The Court of Vila Real is developing a communication plan, which aims:

- To share/exchange knowledge between different internal and external public;
- Institutional cohesion;
- The image of the institution;
- Relationship with the citizen;
- Relationship with the media;
- Relationship with the community;
- Professionalism;

The experience has been positive. In fact, the communication plan allows knowing who is the Court's point of contact for the media. Journalists can contact/communicate directly with the judge president and, thus, obtain information concerning general issues, in particular concerning certain types of cases.

- Concerning legal consultations: Litigants **may benefit from legal consultations through lawyers, if they are considered eligible to legal aid**. Apart from that, some organizations/associations (consumers associations, victims protection associations, etc.) provide free legal consultation before registering the case.

- Concerning communication with litigants: the policy concerning litigants' information is part of a national public plan dedicated to access to Justice. At first, general information regarding the judicial system could only be found in the High Judicial Council website and on the institutional websites of the Ministry of Justice. More recently, following the 2014 reform of the judicial map and of the courts' organisation, individual courts' websites (in which general information, structure, organisation, and statistics of each court can be found) were created through the cooperation between the Ministry of Justice, High Judicial Council and the General Prosecutor's Office, the information being afterwards inserted and updated by each court.

Information regarding individual cases can only be accessed, in general, by the litigants in the specific case. If the litigant is assisted by a lawyer, that information can be accessed directly by consulting the digital file, available to lawyers through specific software created to manage judicial files.

The lawyer has access online to the case material, if it is already available (mandatory for civil files for some years, but still not mandatory for criminal files). The lawyer has access to all the case material.

- provisional timetables: One of the main aims/objectives of the Court of Vila Real is **trying to implement a functionality that informs the litigant of the provisional timetable of the case**, in particular predictable date of hearing and predictable date of ruling. Considering we still don't have the appropriate informatics tool, we're using a sheet of paper to monitor the various stages of the case.

The court is not bound by the schedule communicated to the litigant, which is merely indicative, but is important to give information the approximate length of the case.

Excessive duration of a case can, in some cases, lead to disciplinary responsibility of judges and/or clerks, as well as compensation of the litigants for damages and losses (to be paid by the State).

The litigants are **not really informed of a new provisional timetable**. But when the judge holds a preliminary hearing the judge indicates the day of trial and, in this stage, the parties know the probability of the end of the case. In any case, if a hearing is adjourned, the court informs the litigants of the fact as soon as possible, by any means available (mail, phone, e-mail, etc.).

- concerning the decision and enforcement: The **decision is communicated to the lawyer of the litigant**, when appointed, or to the litigant directly, by providing a copy of the ruling.

Only judicial decisions of the Court of Appeal and Supreme Court are published and available online.

The delays for appeal and the requisites to enforce the ruling are provided by law. As for the costs, after the ruling is definitive, the will be calculated following the law, and communicated to the litigants, along with the delay and means of payment. In any case, the litigants can ask the court's front-office desk for all this information and the enforcement terms for the ruling (delays, costs for example).

Simplified procedures are available for injunctions rulings and pecuniary obligations from contracts under €5.000.01.

Concerning monitoring and statistics: Following legal commands and guidelines provided by the Portuguese High Judicial Council (CSM), every three months each court sends the CSM information regarding the cases opened and finished during that period, as well as information regarding backlogs and acts waiting to be performed for an excessive period of time. Every semester, each court sends the CSM a report, analysing those statistics and describing the measures taken to reduce backlogs and resolution time, as well as the plan of activities for the subsequent period. These reports are then sent to the Ministry of Justice, and published in the CSM's and courts' websites. Some of the indicators taken into account are the clearance rate and the backlog rate. Currently, the Portuguese CSM is

studying if it's possible, and how, to determine the ideal caseload for each court and judge, taking into consideration the type of jurisdiction, among other factors. These measures have already had a positive impact on the reduction of backlogs and resolution time. The Ministry of Justice also publishes statistic data every year regarding the judicial system performance.

In order to inform the court or service in charge of the case of the risk of missing a deadline, the unit dealing with the dispute can put an electronic alarm for the case and inform the judge in order to solve the delay.

A **monitoring mechanism of the implementation rate exists**. An electronic system gives all the information about the ongoing cases in court, such as, the number of cases, the duration/length of cases, etc., including enforcement cases.

- Mediation: The litigants are **not encouraged** to lead, before the lower courts proceedings, an initial extrajudicial mediation. The mediation process is not a mandatory prerequisite before filing a case.
- The court is thinking about the implementation of a satisfaction survey, but at this moment there isn't any. The current management model is recent and it needs more time to be fully implemented.
- Concerning legibility of judicial decisions: By law, each decision must be legible, reasoned and intelligible. In civil cases, written decisions with a word processor are mandatory (since they will be inserted in the digital file). Even in other jurisdictions, almost all decisions are written with a word processor. When not, and the litigant can't read the decision, she/he may ask for a transcript. The lack of legibility or reasoning is a ground for appeal.

THE JUDICIAL SYSTEM IN SLOVENIA

1) Constitutional and institutional system

The Republic of Slovenia has been an independent and sovereign State since June 25th, 1991. The Constitution was adopted in December 23rd, 1991. Amended several times, the last constitutional amendment was adopted in June 20th, 2006. Slovenia has been a part of the EU since May 2004 and the Euro zone since January 2007.

It is a parliamentary democracy. If Slovenian is the official language, Italian and Hungarian have the status of official language in the regions where Italian and Hungarian communities live.

The executive power is exercised by the Government (lead by the Prime minister – "President of the Government" and the President of the Republic. The Prime minister is proposed by the President of the Republic and elected by the National Assembly. The President of the Republic is elected by direct universal elections for 5 years renewable once.

The legislative power is exercised by two chambers:

- The National Assembly (Državni zbor) is composed of 90 members (Deputies) elected by universal elections for 4 years. A member for each Italian and Hungarian national community is elected. The National Assembly is the main law-maker. The laws may be proposed by the Government or by any Deputy. A law may also be proposed by at least 5000 citizen (registered voters).

  The National Assembly may impeach the President of the Government or ministers before the Constitutional Court on charges of violating the Constitution and laws during the performance of their offices.
- The National Council (Državni svet) is mainly a consultative institution. Its 40 members are elected for 5 years by indirect elections and represents social, economic, professional and local interest. It comprises: 4 representatives of employers, 4 representatives of employees, 4 representatives of farmers, craftsmen/women and liberal professions, 6 representatives from non-economic activities and 22 local representatives. Its powers are limited: it may propose laws, convey opinions, require the National Assembly to decide again on a given law prior to its promulgation and require inquiries on matters of public importance.

The independence of the judiciary is guaranteed by the Constitution.

The Audit Court checks the public budget and all public spending. Its members are appointed by the National Assembly. A national report is submitted each year to the National Assembly.

The Constitution also provides for the election of a National Human Rights Ombudsman/woman. Elected by the National Assembly after proposition of the President of the Republic for 6 years renewable once, the Ombudsman/woman is an independent institution which controls the respect of human rights and ensures the protection of citizens against administration and justice failures.

2) Judicial system and organisation

Slovenia is a civil law tradition country.

The judiciary is organised by two main laws:

- The Courts Law, which applies to all courts except for the Constitutional Court. It determines the organisation, the competence and the administration of the courts. It also includes provisions concerning the Judicial Council (since November 2017 in the Judicial Council Act);

- The Judicial Service Act, which determines the judges' status, the access to the function, the election, the rights and responsibilities, revocation and disciplinary procedures.

There are three degrees of jurisdiction:

1) First instance:

- **Local Courts (*okrajna sodišča*) – 44 Local Courts:** One judge courts which deal with lower criminal offences (<3 years imprisonment). In civil matters, they are competent to deal with cases concerning ownership rights and property damage under 20 000 euros. They deal with right of ways and tenancies/leases and with family disputes concerning alimonies and paternity contesting. They are finally competent for land registry and civil enforcement matters.
- **District Courts (*okrožna sodišča*) – 11 Courts:** First instance Courts in all civil and criminal matters above the local courts threshold, they are competent for minors justice, execution of penalties, human rights and fundamental freedoms violations. They rule in all other family matters and are competent concerning bankruptcy, exequatur procedures, intellectual property and company registry.
- **Labour (*delovno sodišče*) and Social *(socialno sodišče)* Courts – 4 Labour and 1 Social Court - specialised Courts.**
- **Administrative Courts *(Upravno sodišče)*:** has the status of higher Court.

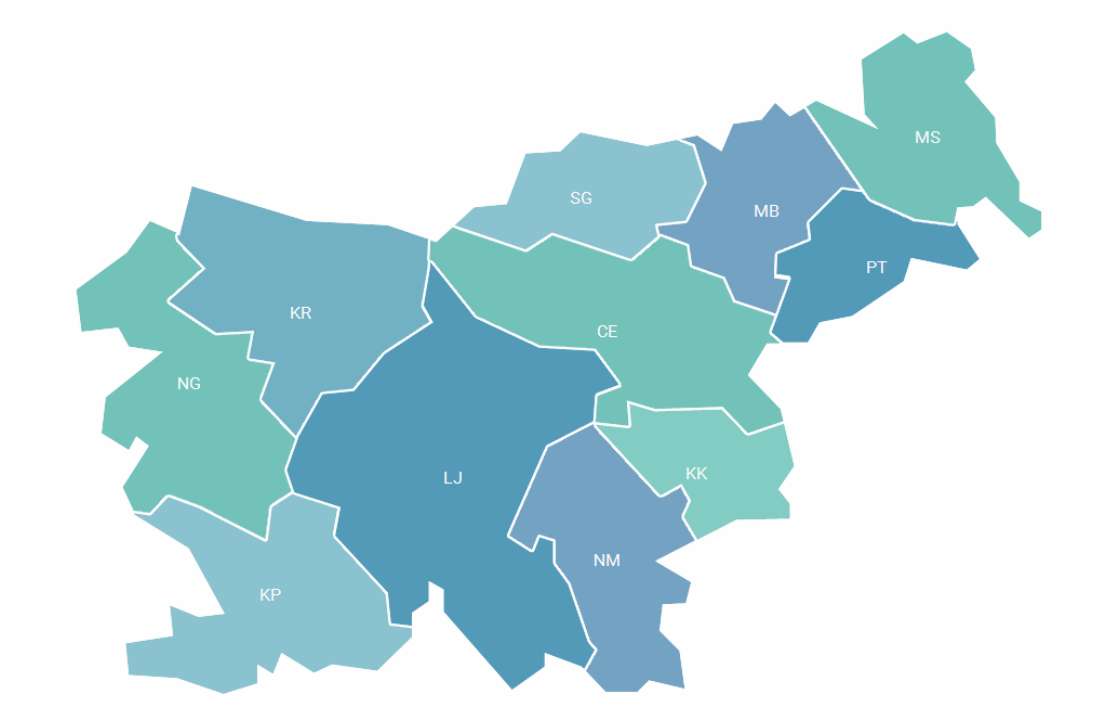


Figure: the 11 Court districts

2) Second instance: **Higher Courts (*višja sodišča*) – 4 Courts + 1 specialised Court**

Appeal instance for the decisions of Local and District Courts. It also settles competence disputes between the First Instance Courts. The Higher Labour and Social Court is specifically in charge of the appeals from the Labour and Social Courts.

3) The **Supreme Court** *(Vrhovno sodišče)* and the **Constitutional Court** *(Ustavno sodišče)*

The Supreme Court is the highest court in the judicial system. It deals with extraordinary legal remedies in civil, commercial, administrative, labour and social matters, as well as third instance appellate court in criminal matters. It is also responsible for the inspection and audit of lower courts.

Its President is appointed for 6 years renewable by the National Assembly after proposition of the Minister of Justice and opinion of the Judicial Council and the plenary assembly of the Supreme Court Judges.

The Constitutional Court is an independent judicial body outside of the regular court system, for the control of constitutionality and legality of judicial acts and the protection of human rights and fundamental freedoms. It is composed of 9 law specialists of more than 40 years old, elected by the National Assembly on proposition of the President of the Republic for 9 years non-renewable. The members elect their president among them. Any individual, as long as the conditions set by the law are respected, may present an constitutional action to the court if he/she considers that an individual act of the State, a local administration body or a public authority has violated his/her human rights or fundamental freedoms. The action can also be lodged by the Ombudsman/woman with the consent of the individual which rights and freedoms are protected.

3) Status of magistrates - judges: Appointing, training, disciplinary procedures, assessment

Judges are elected by the National assembly after recommendation from the Judicial Council. They are functionaries of the Republic of Slovenia and have a permanent mandate, which guaranties a high level of protection and stability in their functions. They are unmoveable and can be revoked by the National assembly after proposition of the Judicial Council, if they violate the Constitution or the law severely or if they intentionally commit a wrongful act by abusing their function, intentional act determined by a judicial decision.

The Judicial Council (*Sodni svet*) protects the status of the judges. It is composed of 11 members. The National assembly, after proposition of the President of the Republic, elects 5 members among law professors from the law academies, lawyers and law experts. The other 6 members are elected by the judges among themselves. The President of the Council is elected by the members among them.

Judicial assistants and senior judicial advisers, employed by each court, are civil servants. Their main function is to assist judges. They have judicial functions as they prepare the hearings, question the parties, draft decisions, manage the land registry and deal with non-contentious cases.

Training of judges

The Judicial Training Centre at the Ministry of Justice, created in 1998, is in charge of the initial and continuous training of judges, prosecutors and all court staff. The training is mainly organised through conferences, seminars and workshops.

The Centre also organises the State legal exam and the examinations for judicial interpreters and experts. The judges who wish to participate to the internships, consultations and other meetings need to request it to the Court President. The President also makes sure that specialised judges can participate to relevant training sessions.

Disciplinary procedures

The procedure is provided by law. The formal proposal for disciplinary sanctioning is lodged and presented by the disciplinary prosecutor, a judge of the Supreme Court.

The Disciplinary Court of First Instance and the Disciplinary Court of Second Instance rule in disciplinary proceedings. The Disciplinary Court of First Instance consists of eight judges: two judges of the Supreme Court, two high court judges, two district judges and two local judges. One of the Supreme Court judges is the President of the Disciplinary Court of First Instance. The Disciplinary Court of First Instance rules in an individual case in a panel of three judges, at least one member of which must have a status equal to that of the judge against whom the disciplinary proceedings are being brought. The Disciplinary Court of Second Instance consists of five judge of the Supreme Court.

Assessment of judges (judicial service):

An overall control of judges is also performed through the assessment of judicial service. It is conducted by the Personnel Council every three years, or before such period has elapsed at the request of the Judicial Council, the President of the Court, the President of a Superior Court or the judge

himself/herself. An assessment of the judicial service is required for the promotion of the judge. If the Personnel Council in the assessment of judicial service determines that a judge is not suitable for performing judicial function, his/her judicial office can be terminated upon the approval of the Judicial Council.

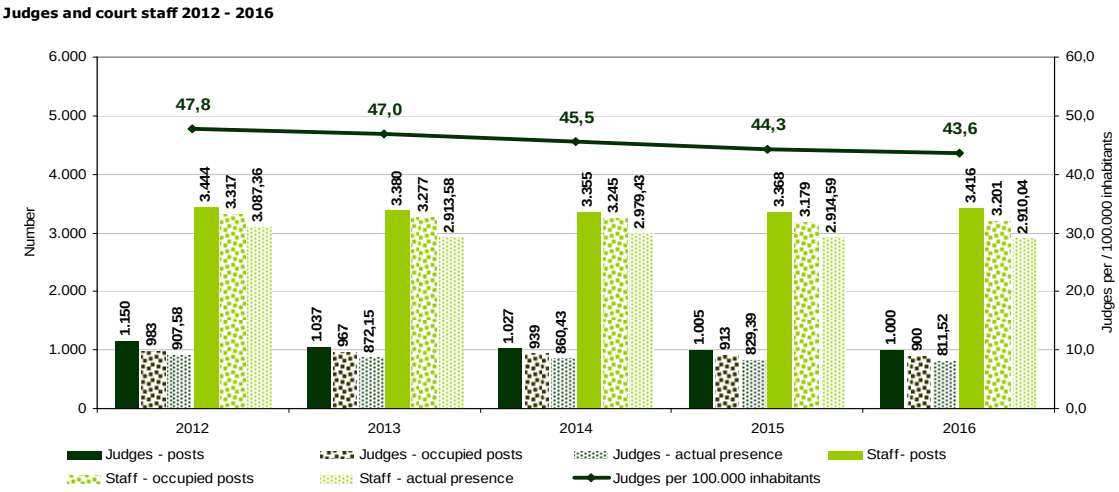
***

According to the Protection of Right to Trial without Undue Delay Act (2005) individuals may lodge requests for excessive procedural delays.

Sources: Translated extracts from the French MoJ Comparative Law office ***Le système judiciaire en Slovénie***

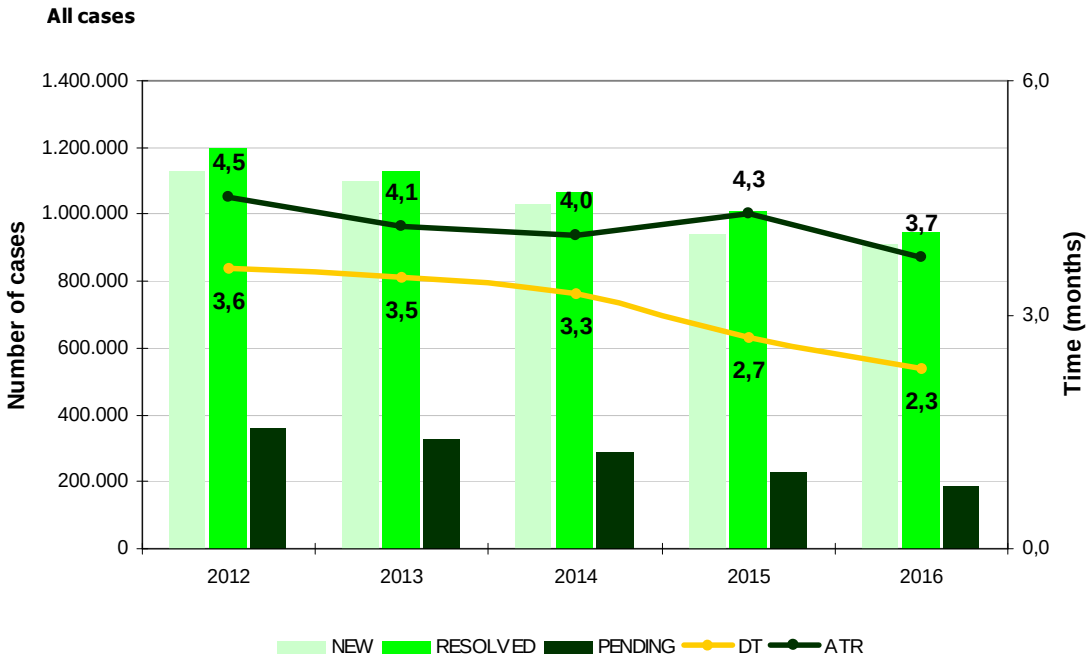
SOME STATISTICAL DATA ON SLOVENIAN COURTS

1) Number of judges/court staff



2) Workload

a. All cases

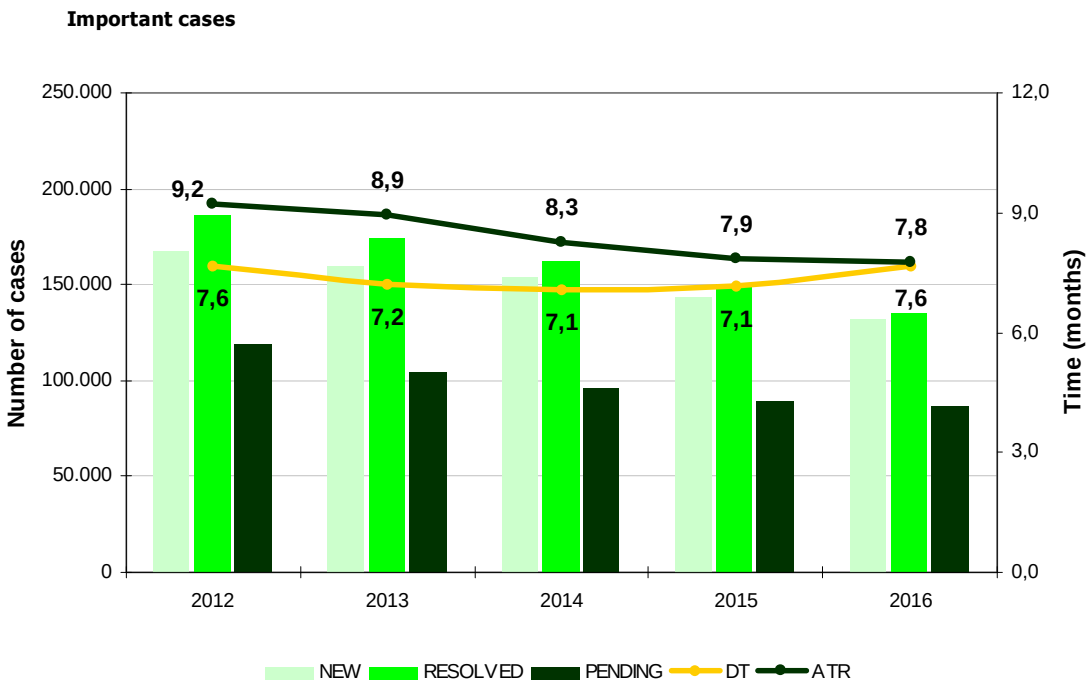


DT – disposition time (number of pending/number of resolved cases*12)

ATR – actual time to resolution (calculated from duration of resolved cases - mean average)

Note: All cases are the total of **important** cases and **other** cases. Important cases are cases, where deciding on merits of the case is required (e.g. litigious cases, criminal cases etc.). Other cases are generally formalised and summarised procedures (e.g. land registry cases, business registry cases, civil enforcement cases) and some other minor issues.

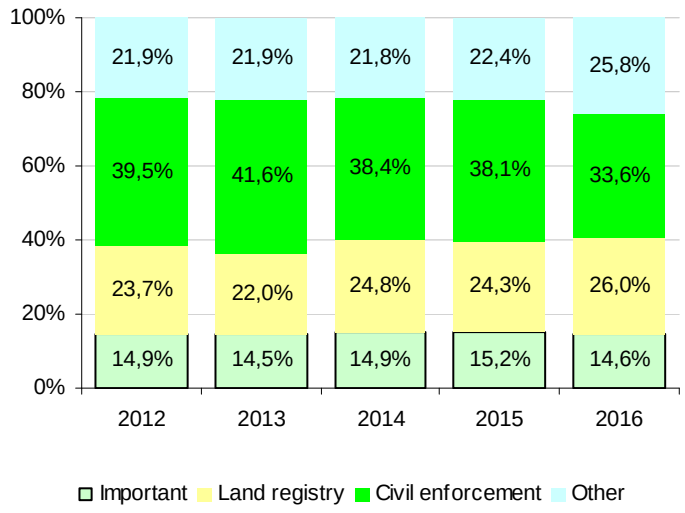
b. Important cases



3) Structure:

a. Incoming cases

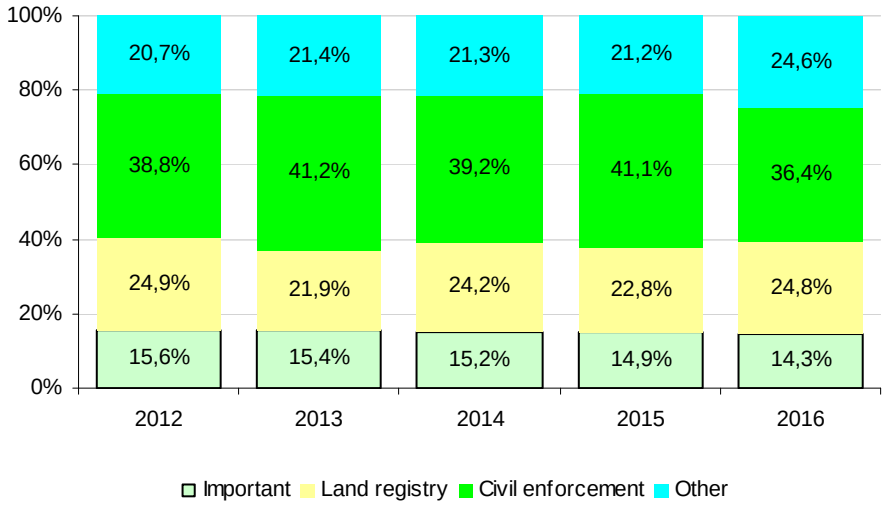
Composition - new cases



Note**: land registry** cases and **civil enforcement** cases are part of the other cases. They are separated on the graph due to sheer volume of cases.

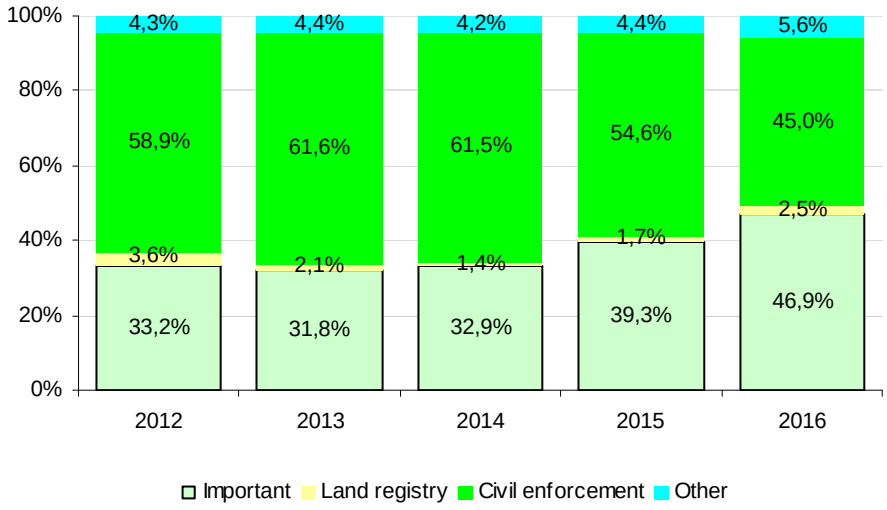
b. Resolved cases

Composition - resolved cases



c. Pending cases

Composition - pending cases



Information concerning the host court extracted from the answers to the questionnaire:

Koper District court

The court has **several departments**, resolving first instance cases of district jurisdiction: civil (litigious) commercial, criminal and investigations.

The court is headed by the president and the director. Court administration is supported by the human resources-legal office, a financial accounting office and an office for court administration and analysis.

The work of the court is assisted by the reception office, the office for informatics, technical maintenance service and archive. An office for alternative dispute resolution (ADR) and an office for free legal aid are also established at the court. There are **5 local courts within the court's district**, dealing with cases of local jurisdiction.

At the end of 2015, there were **20 judges** (mainly district judges and some higher judges) and **89 court staff** (judicial advisers, judicial assistants, registrars, typists, administrative and technical staff) (by occupied posts).

At the local courts within the district, there are 30 additional local judges and 122 additional court staff (by occupied posts).

Additional information on court staff, according to CEPEJ categories (31. 12. 2015, by occupied posts), data include the district court and its local courts): there were 32 Rechtspflegers (judicial advisers and higher judicial assistants), 33 non-judge staff (staff working on resolving cases), 131 administrative staff (registrars and other staff, working in administration of cases and administration of the court) and 15 technical staff.

It is a **court of general jurisdiction** (the specialised administrative and labour and social courts are organised separately). The general jurisdiction is exercised by district courts (commercial cases, family cases, pecuniary claims over 20.000 EUR, insolvency cases, business registry cases, criminal investigations, criminal cases against minors, severe criminal cases, specialised criminal cases) and local courts (non-litigious cases, pecuniary claims up to 20.000 EUR, disputes over tenancy, inheritance cases, civil enforcement cases, land registry cases, misdemeanours, criminal cases where the sanction is a fine or prison up to 3 years.

In **2015**, the **District court in Koper resolved 13.064 cases**. The distribution of resolved cases, roughly corresponding to the courts departments): criminal: 2.206 / civil (litigious): 769 / commercial: 893 / civil (non-litigious): 190 / bankruptcy: 241 / business registry: 6145 / other: 1.541 / free legal aid: 835 (the total number includes also the court management (Su) cases and ADR (mediation) cases.

The number of resolved cases in more specific types of cases within law field and court departments:

Criminal law:

- juvenile delinquency (including preparatory cases): 30 cases

- criminal investigations and investigation acts: 675 cases

Insolvency department:

- compulsory settlement: 4 cases

- commercial bankruptcy: 92 cases

- personal bankruptcy: 132 cases

Other cases include, for example, legal assistance between courts, international legal assistance, etc.

The litigants consist **mostly** of **individuals** (e.g. litigious cases, family cases, criminal cases) and **private legal entities** (e.g. commercial cases, business registry cases).

Generally, **no special arrangements regarding access to courts (information, filing etc.) are in place**. In civil enforcement procedures, the access to information on individual cases and filing claims

is possible through the web portal and bulk filing is also possible (mainly used by big companies and lawyers).

- Concerning access to Justice policies and practices: **Lawyer representation is generally not required** (except at the Supreme Court with extraordinary legal remedies). Civil procedures (also administrative and labour and social procedures): if a representative is chosen, he/she must be a lawyer or other person that passed the State Legal Exam (the party can also perform procedural acts by him/her self).

Criminal procedures: if a representative is chosen, he/she must be lawyer (the defendant can also perform procedural acts by him/her self). In some cases, a lawyer can be substituted by the lawyers' candidate (e.g. at district courts) or lawyer's apprentice (e.g. at local courts).

- Implementation of a satisfaction survey: The **extensive surveys on satisfaction** with the functioning of courts in Slovenia **are planned as a bi-annual activity**. The surveys target the General public, Court users (non-professionals – parties and other people present at courts), Legal professionals (lawyers, public prosecutors and state attorneys) and Employees (judges and court staff) and they take place in every court.

The first survey was conducted in 2013 and the second in 2015. The **extensive analysis and complete results** of all surveys were **published** (in 2014 and respectively 2016) **on the website of the Slovenian judiciary** (available in Slovenian only):

http://www.sodisce.si/sodna_uprava/statistika_in_letna_porocila/zadovoljstvo_javnosti/

Detailed data is available upon request (e.g. charts and comments can be explained or translated).

- Concerning general communication with the citizens: The **selected court does not provide a special desk** to guide and inform litigants or regular citizens who wish to file a case, though some general information can be obtained at the departments' offices (registrars, judicial assistants and judicial advisers).

When the procedure is already in progress, the case file can be looked into, copies of documents can be made and some additional information can be obtained (e.g. on paying court fees, deadlines etc.)

There is a **general web page of the judiciary and additionally, each court has its own web page** with information on the court (organization, contact information etc.,), news, public announcements and schedule of hearings.

Some regulation concerning litigant's information is set in the procedural laws and the Court rules (by-law by the Minister of Justice). There, the minimal standards on access to information are set (business hours of courts, when a party can request to see the case-file etc.). The Supreme Court is initiating a project on procedural fairness, where making information available to the public, as well as parties, will play an important role.

The importance of procedural fairness is reflected in several Supreme Court documents (the priorities at the opening of the Judicial Year, working documents on the quality of judiciary). Nevertheless, they do not form part of any law or general public policy document prepared by the government (to our knowledge).

The results of the survey on satisfaction with the functioning of courts will also be used to assess the quality of the service given to court users.

- Concerning communication with the media: There is **no national policy concerning communication of the courts with the media** and the **District court in Koper has not developed a specific policy** of communication with the media. This is in the **domain of Supreme Court of Republic of the Slovenia**. The purpose of the communication with the media is to create a positive image of the court and the judiciary system.

- Concerning communication with litigants: **Every court has a web page** with its organisation structure and contact information, along with the data on the work of the court (workload, number of resolved cases, disposition time, etc. and annual reports). At the Supreme Court, there is also a

frequently asked questions section, where most important questions regarding the work of courts are published. There are also some materials, covering particular issues (e.g. brochures for children as participants in court procedures). Currently, there is no referral orientation according to the legal issues. The information is available on the web page of all courts (e.g. http://www.sodisce.si/okrolj/), as well as at the more general judiciary web page (http://www.sodisce.si/).

The **information can only be accessible online**. There are **some printed brochures** (e.g. for children as participants in court procedures, the District court in Ljubljana has its own presentation booklet in printed form). Generally, printed materials can be accessed at the courts (court buildings – waiting rooms, court rooms and offices accessible to public etc.).

No form is generally required to file a claim/request at the court. However, there are **exceptions** – in the following types of cases, **forms are required and are generally available on the court web pages** (http://www.sodisce.si/sodni_postopki/obrazci/): civil enforcement on the basis of the authentic document, request for the free legal aid, for registering a business company (the form must be filed at the notary, except for the one-person limited liability company), request for an European Payment Order (EPO), claim form at the European Small Claims Procedure (ESCP), for land register procedure, no form is provided to users in advance, because it is generated at the court at the request of the user, for registering a one-person limited liability company, no form is provided to users in advance, because it is generated at the contact point (*točka VEM*) at the request of the user.

Some other forms are available as well: user's request to be registered at the IT system for providing information in bankruptcy proceedings, request for the official confirmation that a person is not currently under criminal investigation/procedure, request for a supervisory appeal (a legal remedy to use in case a party feels that his/her right to a trial without undue delay is endangered (a trial in reasonable time, art. 6/1 ECHR)), mandatory information on the applicant's assets (for request for the exception to paying court fees. Some forms and explanations can also be found on the Ministry of Justice web page.

These forms are completed and transferred electronically by the litigant in order to register his case.

Parties **generally do not have access to the case material online**. There are **some exceptions** where some information or court decisions are published online (land registry, business registry, insolvency cases). In the civil enforcement procedures, parties can access the information on every procedural act in the case (e.g. date of serving to parties, type of decision, etc.) and to their own writings (but not the court or other party writings, though they are digitalised).

- Concerning legal aid: **Additional information is available on the court's web page**, including the income/assets thresholds and types of legal aid. The free legal aid system is in place, with professional lawyers performing legal aid and being reimbursed by the state. **The request for free legal aid is filed at the courts**. There are several forms of legal aid available, including "legal advice" (before any court procedure is started). The "private" free legal aid is not illegal; however it is not institutionalised (outside the free legal aid system). There are some NGOs that can help with legal advice and lawyers occasionally provide pro-bono services.

- Provisional timetables: **Currently, the litigant is not provided with a provisional timeframe**. A **new amendment to the Civil Procedure Act** provides for such information (before the first hearing, a judge would be obliged to **prepare a plan of procedure** in accordance with the parties (expected procedural acts, dates of hearings etc.), however the amendment is yet to be adopted by the Parliament. In practice, some predictable delays are accounted for at setting dates for the future main hearing session, usually according to the experience of judges (e.g. if the expert opinion should be acquired, the next hearing will be scheduled to give an expert enough time).

- Mediation: There is **active encouragement to judicial mediation**: all courts of first and second instance have to adopt ADR programmes. On the basis of these programmes, mediation is offered in disputes arising from commercial, labour, family and other civil relationships, with regard to claims that are at parties' disposal and that parties can agree upon. The court may adopt and implement the

programme as an activity organised directly in court (court-annexed programme) or on the basis of a contract with a suitable provider of ADR (court-connected programme).

- Concerning the decision and enforcement: The **decision should be orally communicated to the parties at the conclusion of the main hearing**. However, **in practice, most judges choose to issue a written decision** (an option, provided by procedural laws for more complicated cases). For the cases without a main hearing the decision is issued in writing. The written decision is usually **sent via mail** and should be served to parties personally (with the proof of receipt). In civil enforcement cases, the court decision can be served to parties' "safe" e-mail inbox, with the parties' consent ex-ante.

The litigants are **not informed of the enforcement terms for the ruling** (delays, costs for example). The decision **contains the information for lodging an appeal**. If no appeal had been lodged, the decision becomes final and the party may start **the civil enforcement procedure**. However, this **is a separate judicial procedure** and no information on starting the civil enforcement procedure is given to the party during litigation.

The Civil Procedure Act provides for **simplified "small value claims" procedures** as well as **payment order procedures** in civil and commercial cases. The **on-line procedure is currently available (and widely used) for the civil enforcement** on the basis of the authentic document. Those procedures are, simply put, request for payment order, registered and processed automatically, centralised at one specialised court only. If the request is uncontested, the civil enforcement is allowed automatically and a case is sent to the local court according to competence (by location). On the other hand, if the request is contested, a litigious procedure is initiated and a file is sent automatically as a litigious case to a local or district court. Civil enforcement on the basis of the authentic document cases represents approx. 20% of all incoming non-criminal cases (2015 data). A party may start the civil enforcement procedure, which is a separate judicial procedure at a local court (decisions are not enforced automatically).

No data is available on the percentage of court decisions, for which the parties have decided / not decided to start an enforcement procedure. The local court is competent to allow the proposed enforcement procedure. General data on the number of new cases, as well as of allowed/denied proposals is available upon request. The power to perform most of the enforcement acts is vested in bailiffs (private enforcement agents); however there are some exceptions (e.g. the sale of debtor real estates by the court or the notary). No data is collected whether the enforcement procedure was successful (the decision was actually enforced).

- Concerning legibility of judicial decisions: There is **no specific plan or national policy concerning legibility of judicial decisions**. The **standards for the legal reasoning and legibility are (traditionally) provided by the procedural law and there is plenty of case-law** on the issue.

Both the Civil Procedure Act and the Criminal Procedure Act provide reasons for which an appeal may be filed, including the following (quite similar for both procedures):

if the judicial decision (i.e. judgement) is affected by shortcomings for which it cannot be reviewed, in particular

- if the disposition is incomprehensible, inconsistent, or in contradiction with the reasoning for the decision, or

- if it fails to contain reasons (at all), or fails to contain reasons in respect of crucial facts, or if the reasons are vague or self-contradictory.

All the 2nd and 3rd instance court's decisions are anonymised and published online. The search is possible using several criteria such as keywords, legal field, legal institute, relevant law provisions etc. and ECLI (at http://sodnapraksa.si/). The published decisions include data on the court, judge/chamber, disposition, reasoning, and the "base" of the decision (the most important facts and reasoning).

Concerning monitoring and statistics: The **case registers are computerised** and they **contain calendars**, so **a deadline can be entered into the calendar**. In **some specialised procedures** (e.g. land registry), **automated alerts** are set in place. This tools are **mainly used as reminders, and no special follow-up** is required, if the alert mechanism is triggered.

In the BI tools, advanced search can be made and different information can be acquired, such as cases with the longest duration from the last procedural act, backlogs, age of pending cases, etc. According to the Court Rules, **a judge must inform the court president about backlogs** (when the case is not resolved within time limit, set by the Court Rules), who can demand a **report about the reasons for the backlog**.

Annexe 2 – Questionnaire to Partner countries: national and local policies and practices on quality of Justice (September 2016) (last update: May 2017)

- Questionnaire –
CQFD Project « Court Quality Framework Design »

This questionnaire is meant to collect essential information concerning the justice systems and the functioning of the courts selected by the partner States of the CQFD project, in order to have a first database on policies and practices concerning quality of Justice.

The answer to this questionnaire is the first step of the project before the first meeting of the partners in Paris on November 2nd and 3rd, 2016. The collected answers will be analysed by the French ministry of Justice and will serve as basis for discussions so as to determine shared indicators on quality of Justice. These elements will be refined all along the project.

1. Information concerning the selected court					
1.1. Organisation of the court					
Q1	Could you describe the internal organisation of the selected court (structure)?				
	Estonia	France	Italy	Portugal	Slovenia
	Tallinn Court of Appeal comprises 29 judges (including the President of the Court), a legal service and the registrars office.	The Melun "tribunal de grande instance – TGI-" is a first instance court, headed by Paris court of appeal. It is a middle size court : 37th out of 164. The judicial district also counts a tribunal d'instance – TI- and a juvenile court – TPE	The Tribunale Ordinario di Milano is organized in four services: civil, criminal matters hearings, preliminary investigations, administrative tasks. More particularly, civil service is composed of 13 chambers (each specialized in specific matters) and Labour chamber while criminal matters is composed of 11 chambers (each specialized in specific matters), Corte d'assise (judging on most serious crimes), re-examination chamber and SAMP (precautionary measures). The full organization chart (https://www.tribunale.milano.it/files/organigramma_tribunale.JPG) shows the structure in more detail. The Public prosecutor office is composed of seven specialized "departments",	Could you describe the internal organisation of the selected court (structure)? Judge President; Judges – High and Municipal instance; Court Clerks; High Criminal Instance (for crimes punished with more than 5 years of prison); High Civil Instance (for cases over €50.000,00), Labour Court, Family and Minors Court, Enforcement Court; Two Municipal Civil Courts; two Municipal Criminal Courts, and five Municipal Courts of general competence.	Background information: The participant (Slovenia) is the Supreme Court. Due to the nature of the cases at the Supreme Court (mainly extraordinary appeals at third instance, no hearing sessions for the parties), a first instance court (District court in Koper) was chosen as an example for this study. The answers to Q1—6, 8, 16 and 17 refer to the District court in Koper, and the rest of the answers are of general character (they apply to all courts/court system). The court has 3 departments, resolving first instance cases of district jurisdiction: civil (litigious) commercial, criminal and investigations. The court is headed by the president and the president's office. Court administration is supported by the human

			the Office for execution of criminal penalties and the Office of definition of simple cases (SDAS). The structure is summarized in http://www.procura.milano.giustizia.it/giudiziaria-.html		resources-legal office, financial accounting office and office for court administration and analysis. The work of the court is assisted by the reception office, office for informatics, technical maintenance service and archive. An office for alternative dispute resolution (ADR) and an office for free legal aid are also established at the court. There are 5 local courts within the court's district, dealing with cases of local jurisdiction (see Q4).
Q2	How many judges, prosecutors, law officers, registrars, court staff… does the court count?				
	Estonia	France	Italy	Portugal	Slovenia
	There are 29 judges, 27 law clerks, 9 secretaries, 5 registrar (reception desk) officers, 4 interpreters, 3 security officers and an assistant of the President of the Court.	The court counts : 35 juges, including judges ruling for the tribunal d'instance 13 prosecutors 99 members of court staff + 36 in the tribunal d'instance	TRIBUNALE DI MILANO Judges (professional): 259 Honorary judges: Registry directors: 1 dirigente (head), 32 direttori, 109 funzionari Administrative staff: 103 cancellieri, 159 assistenti, 38 operatori, 52 ausiliari, 16 conducenti PROCURA DELLA REPUBBLICA PRESSO IL TRIBUNALE	24 judges; 19 prosecutors; 148 clerks.	At the end of 2015, there were 20 judges (mainly district judges and some higher judges) and 89 court staff (judicial advisers, judicial assistants, registrars, typists, administrative and technical staff) (by occupied posts). At the local courts within the district, there are additional 30 local judges and 122 court staff (by

			Prosecutors (professional): 79 Honorary attorneys: 63 Registry directors and staff: 295		occupied posts). Additional information on court staff, according to CEPEJ categories (31. 12. 2015, by occupied posts), data include the district court and its local courts): there were 32 Rechtspflegers (judicial advisers and higher judicial assistants), 33 non-judge staff (staff working on resolving cases), 131 administrative staff (registrars and other staff, working in administration of cases and administration of the court) and 15 technical staff .

1.2. Activity and nature of caseload					
Q3	What is the level of jurisdiction of the selected court (lower court, appeal court, Supreme Court)?				
	Estonia	France	Italy	Portugal	Slovenia
	Tallinn Court of Appeal is a 2nd instance court (hearing only appeals).	Both TGI and TI are lower courts	The Tribunale is normally first instance judge; it is also the appeal court for many sentences of Justice of peace.	Lower court.	A first instance district court.
Q4	What is the nature of the cases dealt with by the selected court (civil, administrative, commercial, criminal…)?				
	Estonia	France	Italy	Portugal	Slovenia
	There are 3 chambers –	Civil and criminal cases,	The Tribunale Ordinario has	Civil, commercial, criminal,	It is a court of general

	administrative, civil and criminal.	including a court dealing with juvenile court dealing both with criminal cases and child protection cases	competence on general civil, commercial and criminal matters. It does not have competence on administrative questions, dealt by the Tribunale Amministrativo.	labour, family.	jurisdiction (the specialised administrative and labour and social courts are organised separately). The general jurisdiction is exercised at district courts (commercial cases, family cases, pecuniary claims over 20.000 EUR, insolvency cases, business registry cases, criminal investigations, criminal cases against minors, severe criminal cases, specialised criminal cases) and local courts (non-litigious cases, pecuniary claims up to 20.000 EUR, disputes over tenancy, inheritance cases, civil enforcement cases, land registry cases, misdemeanours, criminal cases where the sanction is a fine or prison up to 3 years.
Q5	How many cases are ruled annually by this court?				
	Estonia	France	Italy	Portugal	Slovenia
	In 2015: 2153 civil cases, incl appeals on substance (e.g not procedural issues) 937 cases; 1265 criminal cases, incl 376 on substance; 130	2015 activity Tribunal de grande instance Civil cases (all included) : 6 000 Criminal cases : 5 500 Social security cases : 1 000	Following numbers refer to 2015 **Civil**: ordinary cases = cognizione ordinaria: new cases 17521 / concluded cases 21225 intellectual property and	6487	In 2015, the District court in Koper resolved 13.064 cases. The distribution of resolved cases by law filed (roughly corresponding to the courts departments): criminal: 2.206 / civil

	misdemeanour cases, incl 49 on substance; 896 administrative law cases, incl 380 on substance.	Tribunal d'instance : civil cases : 11 000 – including court orders criminal cases (petty offences) : 1 700 Juvenile court child protection : 2 331 on going cases criminal cases : 1000 new cases	trademarks cases = proprietà industriale e intellettuale, marchi e brevetti: new cases 264 / concluded cases 325 company law cases = rito societario ex D.Lvo 5/03: new cases 69 / concluded cases 71 summary cases = procedimenti sommari ex a. 702 bis cpc: new cases 3403 / concluded cases 2551 land/agriculture cases = controversie agrarie: new cases 8 / concluded cases 7 interdiction et incapacité = procedimenti contenziosi (interdizioni): new cases 61 / concluded cases 60 appeal procedures = appelli: new cases 471 / concluded cases 542 employment disputes = cause di lavoro: new cases 8101 / concluded cases 8229 separation and divorce cases = separazioni e divorzi: new cases 7635 / concluded cases 7882 non contentious justice cases = volontaria giurisdizione: new cases 60014 / concluded cases		(litigious): 769 / commercial: 893 / civil (non litigious): 190 / bankruptcy: 241 / business registry: 6145 / other: 1.541 / free legal aid: 835 (the total number includes also the court management (Su) cases and ADR (mediation) cases.

			58860 injunctions = decreti ingiuntivi: new cases 51837 / concluded cases 54257 bankruptcies and forced executions = fallimenti e procedure esecutive: new cases 14682 / concluded cases 19020 **TOTAL = new cases 164.066 / concluded cases 173.029** **Criminal:** monocratic criminal trial = new cases 14720 / concluded cases 13272 collegiate criminal trial = new cases 856 / concluded cases 763 giudice per le indagini preliminari = new cases 36.569 / concluded cases 41.577 Assize court = new cases 5 / concluded cases 12		
Q6	What is the distribution between civil, administrative, commercial and criminal cases? If possible, specify between more specific types of cases (for ex concerning civil cases: family law, law of persons, law of contract, tort law…)				
	E	F	I	P	S
	See Q5. The most common civil cases were: contract law, family law, bailiffs law, bankruptcy law and property	Tribunal de grande instance: Civil cases : family law and laws of persons : 65/70% ; laws of contracts : 9% ; tort	For civil jurisdiction the detail was provided in answer to Q5. For Criminal	Civil cases – 11.508; Criminal cases – 881; Family and Minors – 707;	The number of resolved cases in more specific types of cases within law field (Q5) and court departments

	law. Most common administrative cases were prison law, tax law, aliens law, planning and building law, social law. Data for criminal cases N/A, they hear all types of criminal cases.	law : 5 %	jurisdiction we have: organised crime (Criminalità organizzata) : new cases 3274 - concluded cases 2971 weak people (Soggetti deboli) : new cases 2754 - concluded cases 2115 preventive measures (Misure di prevenzione) : new cases 0 - concluded cases 391 citizens (cittadini) : new cases 65 - concluded cases 64 economic crimes (Criminalità economica) : new cases 3704 - concluded cases 3136 companies (imprese) : new cases 435 - concluded cases 432 corruption, crimes against the public administration (Reati contro la Pubblica Amministrazione) : new cases 2443 - concluded cases 2320	Labour law – 550.	(Q1): Criminal law: - juvenile delinquency (including preparatory cases): 30 cases - criminal investigations and investigation acts: 675 cases - specialised cases (e.g. corruption, terrorism etc.): cases Insolvency department: • compulsory settlement: 4 cases • commercial bankruptcy: 92 cases • personal bankruptcy: 132 cases Other cases include, for example, legal assistance between courts, international legal assistance, etc.

Q7	Is lawyer representation mandatory for all cases presented before this court or only some of them? Could you specify in which cases this representation is not required (indicating if possible the number or proportion of cases it represents against the total number of cases)?				
	E	F	I	P	S
	Lawyer representation is mandatory only in criminal cases and in civil some cases (forced hospitalization cases)	Lawyer representation is optional for criminal cases concerning offences, where offenders incure prison sentence under 10 years. Lawyer representation is mandatory for part of civil cases only : divorce, tort law and contract law	While for justice of peace there are many cases where lawyer representation is not mandatory, there are just a few hypothesis in Tribunale that do not require this representation. We do not have, at least at this moment, the exact detail of this amount in reality.	In Criminal cases the lawyer representation is mandatory; In Civil Cases the lawyer representation is not mandatory for disputes under €5.000,01.	A lawyer representation in generally not required (except at the Supreme Court with extraordinary legal remedies). Civil procedures (also administrative and labour and social procedures): if a representative is chosen, he/she must be a lawyer or other person that passed the State Legal Exam (the party can also perform procedural acts by him/her self). Criminal procedures: if a representative is chosen, he/she must be lawyer (the defendant can also perform procedural acts by him/her self). In some cases, a lawyer can be substituted by the lawyers' candidate (e.g. at district courts) or lawyer's apprentice (e.g. at local courts).
1.2. Type of litigants before the court					
Q8	What kind of litigants usually appear before this court, individuals, private and public legal entities… Provide, if possible, the breakdown between the different categories?				

	E	F	I	P	S
	All kind of litigants, usually (but not always) professionally represented.	Most of civil litigants are individual and private legal entities. Most of cases involving public legal entities are dealt by the administrative court, unless the legal entity is acting as a private field as a private entity would. Most of criminal offenders are individual and private legal entities, although public legal entities can also be prosecuted. Figures do not provide any breakdown between the different categories.	All sort of litigants above described appear before Tribunale di Milano. We do not have the precise distribution of them at this moment.	The litigants that appear before this court are individuals and private corporate entities, approximately in same rate.	The litigants consist mostly of individuals (e.g. litigious cases, family cases, criminal cases) and private legal entities (e.g. commercial cases, business registry cases). Please see table at Q5 for the number of cases by law fields. Some detailed data is available depending on types of cases (e.g. number of personal bankruptcy cases and business bankruptcies). Generally, no special arrangements regarding access to courts (information, filing etc.) are in place. In civil enforcement procedures, the access to information on individual cases and filing claims is possible through the web portal and bulk filing is also possible (mainly used by big companies and lawyers).

2. General communication Policy

2.1 Available information facilities in the selected court					
Q9	Does the selected court provide a special desk to guide and inform litigants or regular citizens who wish to file a case? What is the profile of the staff in charge of the special desk (registrars, law officers…)?				
	E	F	I	P	S
	There is not a special desk for that but generally registrars offer guidance to citizens who wish to file a claim. Registrars are not lawyers. In case of need the registrars may involve interpreters.	The court has a special desk "guichet unique de greffe" - GUG - which guides and informs litigants coming to court or wishing to file a case. The staff belongs to the court staff: it counts two clerks and two assistant clerks. The GUG works with other desks, existing over the Seine-et-Marne district, giving free informations in various fields of law, through a variety of permanences. In court, the GUG specifically works with attorneys/counsels who provide free information every day between 12.30 am et 3 pm. It has a direct link with the clerks working in the local "bureau d'aide juridictionnelle", the specific service dealing with legal aid aver the district for all lower courts.	Tribunale di Milano has a Civil Infopoint and a Criminal Infopoint, providing general information to citizens, and aid to lawyers in matters of telematic trials. Infopoints release also copies of simple acts and are part of URP (Office of relations with the public).	Yes. The central/general staff unit of the Court can guide and inform litigants or regular citizens to file a case, if this one is simple. If the case is more complex, the clerk informs to the litigants that they must appoint a lawyer. In cases that the lawyer representation is mandatory the central staff unit also informs the litigants that they need to appoint a lawyer. The special desk is composed of judicial clerks, a special branch of administrative clerks that works only in courts.	No, though some general information can be obtained at the departments' offices (registrars, judicial assistants and judicial advisers). When the procedure is already in progress, the case file can be looked into, copies of documents can be made and some additional information can be obtained (e.g. on paying court fees, deadlines etc.)

Q10	Does the court have a personal web page or web site accessible to litigants or citizens?				
	E	F	I	P	S
	All 1st and 2nd instance court have personal web-pages. However they are with similar layout, content and structure (www.kohus.ee), administered in cooperation with the Ministry of Justice and the relevant court. Documents can be filed and received electronically via the judicial system´s portal that is called "E-file" https://www.e-toimik.ee/.	The court doesn't have a personnel web pages but benefits from the ministry of justice's web pages which offers many information. It also benefits from the recent new web site "justice .fr". The court also benefits from the local "council for law access" - CDAD "conseil départemental d'accès au droit"'s web pages which offers information on local law permanences existing all over the district.	Yes: https://www.tribunale.milano.it**Erreur ! La référence de lien hypertexte est incorrecte.**	The court has only a personal web page, in which litigants and citizens can find general information about the court.	Yes. There is a general web page of the judiciary and additionally, each court has its own web page with information on the court (organization, contact information etc.,), news, public announcements and schedule of hearings.
Q11	Has a satisfaction survey been led in this jurisdiction or for a group of jurisdictions it belongs to? If positive, when and along which methodology? Could you communicate its results concerning litigants' information? Are these surveys recurrent, periodic?				
	E	F	I	P	S
	A satisfaction survey was conducted in 2013 in cooperation with the Ministry of Justice and the Supreme Court. A study was conducted by a polling firm on the following questions – access to information and satisfaction	Satisfactory survey can be led by the justice department. The court has twice led its own survey, asking people to fill in anonymous files during a few weeks.	In 2014 Tribunale di Milano has carried out a survey on the perception, by companies, of the quality of justice and activities of the tribunale. 234 companies responded to the questionnaire (11.5% of the population), of which 206	The court is thinking about the implementation of a satisfaction survey, but at this moment there isn't any. In fact, the current management model is recent and it needs more time to be fully	The extensive surveys on satisfaction with the functioning of courts in Slovenia are planned as a bi-annual activity. The surveys target the General public, Court users (non professionals – parties and other people present at

	with dissemination of information, evaluations of hearings and judges performance during the proceedings (incl how comprehensible the proceedings had been), satisfaction with and trustworthiness of the justice system, satisfaction of prosecutors and other professional actors, recommendations for improvement of the judicial proceedings. All 1st and 2nd instance courts participated. Questions were posed to people who had on-going or past proceedings in the relevant court. The results were communicated back to the judiciary and they were taken into account by the working-group that elaborated the principles of the judicial quality management.		(88%) with less than 99 workers and 28 (12%) with more than 100. The sample that has emerged is broadly in line with reference population. 148 companies (63% of the sample) said they had had dealings with the Tribunale over the past five years, 80 (34%) had no relations, and 6 (3%) have not answered the question. Of the 148 companies, 135 (91%), they have had dealings with judicial offices in Lombardia; of the 135 companies that have had relations with the Lombard system, 86 (64%) were users of judicial offices in Milan. Of the above said 135 companies, 47 (34.8%) had a negative legal outcome, 54 (40%) positive and 34 gave no answer (25.2%). The survey should be made each three years. In annexe we send the Bilancio di Responsabilità Sociale 2014 containing the survey result.	implemented.	courts), Legal professionals (lawyers, public prosecutors and state attorneys) and Employees (judges and court staff) and they take place in every court. The first survey was conducted in 2013 and the second in 2015. The extensive analysis and complete results of all surveys were published (in 2014 and respectively 2016) on the website of the Slovenian judiciary (available in Slovenian only): http://www.sodisce.si/sodna_uprava/statistika_in_letna_porocila/zadovoljstvo_javnosti/ Detailed data is available upon request (e.g. charts and comments can be explained or translated).

			ISTAT (National Institute of Statistics) periodically carries out researches also concerning these matters, especially for civil justice, as part of the general survey AVQ (Aspetti della Vita Quotidiana, Aspects of dayly life), a multiscope survey. The results are published on Istat's website (http://www.istat.it/it/opinioni-dei-cittadini and http://www.istat.it/it/archivio/190586). The survey is on a yearly basis since 1993. The survey is carried out, in the first quarter of each year, on a sample of about 24 thousand families (for a total of about 54 thousand people), distributed in 850 Italian municipalities of different demographic size. A municipal detector goes to the homes of the extracted families (who have been previously informed) and makes some questions to all family's members, collecting their answers through two questionnaires (one of them filled by the detector, and		

			the second one filled by each interviewed person).		
Q12	Is the policy concerning litigants' information part of a national public plan dedicated to access to Justice? If positive, could you describe the evolution of this policy?				
	E	F	I	P	S
	The Ministry of Justice in cooperation with the Lawyers´ Association has established a legal information portal called "A lawyer helps" (http://www.juristaitab.ee), which is publicly available for the purpose of getting answers to simple and standard legal questions and document forms. They give an overview of NGO-s who provide free legal assistance. More concrete answers are given by legal experts in the forum of the platform.	Developing litigants' information is definitely part of a national plan. Local courts are part of this national plan. They both try to implement national guidelines and find new ways in developing litigants 'information, on what is locally needed.	No.	Yes. At first, general information regarding the judicial system could only be found in the High Judicial Council website and on the institutional websites of the Ministry of Justice. More recently, following the 2014 reform of the judicial map and of the courts' organisation, individual courts' websites (in which general information, structure, organisation, and statistics of each court can be found) were created through the cooperation between the Ministry of Justice, High Judicial Council and the General Prosecutor's Office, the information being afterwards inserted and updated by each court. Information regarding individual cases can only be accessed, in general, by the	Some regulation concerning litigant's information is set in the procedural laws and the Court rules (by-law by the Minister of Justice). There the minimal standards on access to information are set (business hours of court, when a party can request to see the case-file etc.). The Supreme Court is initiating a project on procedural fairness, where making information available to the public, as well as parties, will play an important role.

				litigants in the specific case. If the litigant is assisted by a lawyer, that information can be accessed directly by consulting the digital file, available to lawyers through a specific software created to manage judicial files.	
Q13	Are the orientations of this policy enshrined in the Constitution, the law or a public policy governmental document (national strategy, action plan, budgetary document or any other)?				
	E	F	I	P	S
	The portal is managed by the Lawyers´ Association. The development strategy of the MoJ states that the portal should be handed over to the Bar Association, which would enable to integrate the platform with the activities of the Bar in the field of free legal aid and public representation. The aim is to develop the portal as a primary source of public legal information for citizens.	The orientation is enshrined in the law and public policy : for example : action plan for SAUJ ; annual budgetary documents	The Constitution has no specific rule concerning this information. The General Directorate of Statistics and organizational analysis at the Ministry of Justice (DG-STAT) was established by the Decree 55/2001 of Presidente della Repubblica. Located at the DOG (Judicial Department of the organization, the staff and services) the DG-STAT makes part of the National Statistical System.	The access to Justice is enshrined in the Constitution. The right of access to the law and to effective judicial protection is a fundamental right foreseen in article 20 of the Constitution of the Portuguese Republic. The Law of Access to the Law and to the Courts enshrines the access to the law and to the courts, to legal information and to legal protection; this latter comprises the legal consultation and legal aid. Also in this regard we have the bill 34/2004, July, 29th, which concretize the article 20 of the Constitution of the	The importance of procedural fairness is reflected in several Supreme Court documents (the priorities at the opening of the Judicial Year, working documents on the quality of judiciary). Nevertheless, they do not form part of any law or general public policy document prepared by the government (to our knowledge).

				Portuguese Republic.	
Q14	Is this policy backed by quantitative indicators (national or specific to the court) in order to assess the quality of the service given to the litigants? If positive, what are these indicators, what is the frequency of the evaluation, the recipient and the purpose of the assessment?				
	E	F	I	P	S
	The number of visits to the portal is monitored. The development strategy of the MoJ states that 380 000 visits a year are the target (the population of Estonia is 1,3 million).	Not really , at least at a local level	https://webstat.giustizia.it is the public website where the Ministry of Justice publishes quantitative indicators and studies on customer satisfaction (https://webstat.giustizia.it/SitePages/Studi%20analisi%20e%20ricerche.aspx). Only a few Tribunali participated to this survey (Roma, Torino, Catania, Rovereto), carried out only once, on initiative of CEPEJ in order to improve the efficiency of judicial services	Following legal commands and guidelines provided by the Portuguese High Judicial Council (CSM), every three months each court sends the CSM information regarding the cases opened and finished during that period, as well as information regarding backlogs and acts waiting to be performed for an excessive period of time. Every semester, each court sends the CSM a report, analysing those statistics and describing the measures taken to reduce backlogs and resolution time, as well as the plan of activities for the subsequent period. These reports are then sent to the Ministry of Justice, and published in the CSM's and courts' websites. Some of the indicators taken into account are the clearance rate and the backlog rate.	The results of the survey on satisfaction with the functioning of courts (see Q11) will also be used to assess the quality of the service given to court users (see Q12).

				Currently, the Portuguese CSM is studying if it's possible, and how, to determine the ideal caseload for each court and judge, taking into consideration the type of jurisdiction, among other factors. These measures have already had a positive impact on the reduction of backlogs and resolution time. The Ministry of Justice also publishes statistic data every year regarding the judicial system performance.	
2.2 Communication policy of the courts with the media					
Q15	Has your country developed a national policy concerning communication of the courts with the media (press, broadcast, and internet)? If positive, what are the main orientations of this policy?				
	E	F	I	P	S
	The Supreme Court is cooperation with lower instance courts has adopted the courts communication strategy that was approved by the Council of Courts Management on 20.05.2011. The aim of the strategy was to focus on	Heads of court are now trained to communicate with the local media. Communication, which used to be mostly related to specific cases and their judicial dealing, is now developing towards	The Decreto Legislativo 106/2006 regulates only the relationships with the press of the Procura della Repubblica, and imposes that only the Head of this office (Procuratore), or a authorized representative, can handle relations with	We're still taking the first steps on developing of a national policy concerning Courts' communication with the media. At a first level by the Portuguese CSM, which has a website where press releases are published and	No

	solving 4 major communication problems: The public image of the courts does not correspond to their mission of the protector of rights. In public perception the courts are associated with the words “punisher”, “corruption”, “expensive”, “complex” and “slow”. Direct communication between the public and the courts is not regular and too passive, which makes the courts too distant and “closed” for the public. Court staff do not recognize their role in communication. Communication is usually restricted to some criminal cases, not civil and administrative cases. No efficient cooperation with the journalists. The courts information materials and strategies are not uniform which makes it difficult to the media to understand the court system. Under the uniform strategy each court adopted a policy	information given about general explanations of the national or local justice system, of local difficulties or achievements.	the press. There is not such a rule for Tribunale.	contacts are provided. The CSM has also approved a communication plan. At a second level by the Courts, which also have web pages communication plans. As determined by the CSM, information for the media, regarding specific and sensitive cases, should be articulated between the Court and CSM.	

	of communication.				
Q16	Has the selected court developed a specific policy of communication with the media? If positive, what is the subject of this policy? (General explanation of the Justice system, communication concerning cases, or concerning certain types of cases)?				
	E	F	I	P	S
	In spring 2016 a public relations office of Tallinn Court of Appeal was established that organizes and coordinates public relations of all 1st and 2nd instance courts. It comprises of the head of the office and 3 regional press officers. The public relations office is responsible for implementation of the communication strategy and manages also internal communication of relevant courts. There was a need to establish a uniform service to all courts in order to improve quality. Regional press officers work in and for different Estonian courts, but are subject to the head of office who works in Tallinn Court of Appeal. They cooperate closely with the presidents of the courts.	The court mostly communicate about organisation, general orientations, specific difficulties or achievements. It generally happens during official hearings that are held, once or twice a year, when new judges or prosecutors join the court.	No	The Court of Vila Real is developing a communication plan, which aims: - To share/exchange knowledge between different internal and external public; - Institutional cohesion; - The image of the institution; - Relationship with the citizen; - Relationship with the media; - Relationship with the community; - Professionalism; The experience has been positive. In fact, the communication plan allows knowing who is the Court's point of contact for the media, because journalists can contact/communicate directly with the judge	The District court in Koper has not developed a specific policy of communication with the media. This is in the domain of Supreme court of Republic of the Slovenia. The purpose of the communication with the media is to create a positive image of the court and the judiciary system.

				president and, thus, obtain information concerning general issues, in particular concerning certain types of cases.	
Q17	Has the selected court appointed a press officer or a person in charge of dealing with the media (judge, prosecutor, communication officer…)?				
	E	F	I	P	S
	In addition to the press officers the courts must select a media judge, who is responsible of giving interviews to the press etc. In Tallinn Court of Appeal the president acts as a media judge.	No The prosecutor is in charge of communicating as far as specific cases are concerned, mostly in criminal field. The court president can communicate if necessary, when judges are criticised. At the level of the court of appeal, one judge and one prosecutor are in charge of communication.	No. Anyway, since 2011 the Tribunale publishes yearly the Bilancio di Responsabilità Sociale (Social Responsibility Budget), providing many information on its activities, projects and numbers. As an annexe to this questionnaire we send the BRS for 2013, 2014 and 2015.	The person in charge of dealing with the media is the judge president.	Yes, the selected court has a Public Relation officer.
3. Information of the citizen before case registration (policies and practices) This part concerns the information provided or anyway, accessible, to the litigants or to citizens in general, before the registration of a case.					
3.1. General information accessible to the public					
Q18	What type of information is available online targeted to the litigants and the public concerning for example the justice system's organisation, courts organisation or a referral orientation system of the litigants according to their legal issue (multiple choice questionnaires, FAQ…), general legal information or any other?				

	E	F	I	P	S
	Please see Q10 and Q12.	General information is available on line through national, state or private local web sites – MCQ and FAQ tend to develop.	The Tribunale di Milano website gives many information on "how to": https://www.tribunale.milano.it/index.phtml?Id_VMenu=234 Also the Ministry website offers practical information sheets on various procedures on this page: https://www.giustizia.it/giustizia/it/mg_3.page Case law is not included in this information from institutional websites. Beside of institutional website, many associations too provide free advice on legal matters (trade unions, associations of consumer / businesses / property owners …) also online.	Online it's available general information about the Court, such as the structure of the Court, rules and regulations about the Court, annual report.	Every court has a web page with its organization structure and contact information, along with the data on the work of court (workload, number of resolved cases, disposition time, etc. and annual reports). At the Supreme Court, there is also a frequently asked questions section, where most importation questions regarding the work of courts are published. There are also some materials, covering particular issues (e.g. brochures for children as participants in court procedures). Currently, there is no referral orientation according to the legal issues.
Q19	Are these information and orientation systems available on dedicated web sites, the ministry of Justice's website or courts', a global website offering general information about public services,...?				
	E	F	I	P	S
	Please see Q10 and Q12.	The ministry of justice is developing a general web site, offering information about local justice services.	See Answer to Q18.	These information and orientation systems are available on dedicate web sites, in particular from the Ministry of Justice, CSM, Courts and other	The aforementioned information (Q18) is available at the web page of all courts (e.g. http://www.sodisce.si/okrolj/), as well as at the more

		The link “justice en région” ables a litigant to find the local justice services : courts, prisons, legal permanences, public child protection services, lawyers, clerks...		organizations linked to the Ministry of Justice.	general judiciary web page (http://www.sodisce.si/).
Q20	Is specific information concerning the selected court, available on line (specific court’s web site or other website) or through paper documents (brochures, leaflets…)?				
	E	F	I	P	S
	Please see Q10.	The on line available information about local courts mostly concerns their address, phone numbers, hours of opening.	Yes, as already mentioned https://www.tribunale.milano.it/index.phtml?Id_VMenu=234 https://www.giustizia.it/giustizia/it/mg_3.page	There’s specific information concerning the Court of Vila Real on its webpage and can also be obtained directly in desks of front office at the Court.	The information can only be accessible online. There are some printed brochures (e.g. for children as participants in court procedures, the District court in Ljubljana has its own presentation booklet in printed form).
Q21	Where can the information mentioned in Q20 be collected, in public spaces or information desks (specify where: at the court itself, town hall, information centre, access to Justice centres/desks)? If legal information desks have been created, how many exist to this date?				
	E	F	I	P	S
	The information is available on-line.		The information is provided only on websites.		Generally, printed materials can be accessed at the courts (court buildings – waiting rooms, court rooms and offices accessible to public etc.).
3.2. Information concerning the registration of a case					

Q22	Are standard forms available to register a case? Can they be downloaded online and if not, where can they be recovered (court, town hall, information desk…)?				
	E	F	I	P	S
	On the courts webpage there are available standard forms (including for specific common procedures like alimony claims): http://www.kohus.ee/et/kohtumenetlus/dokumentide-vormistamisest. They are also available in the registrars office on paper. Small claims procedure is completely electronic and data can only submitted online.	A general website "service public" offers a wide range of forms. The new site "justice.fr" also offers the standard forms.	Forms to register cases are provided only for Justice of peace. The Tribunale, instead, makes available forms referring to voluntary procedures (such as mutual consent separation, issues related to inheritance…) in the forms section (Sezione modulistica) https://www.tribunale.milano.it/index.phtml?Id_VMenu=342	There are standard forms available to register some kind of cases, which can be downloaded online. For the cases more complex, there aren't standard forms to register a case.	No form is generally required to file a claim/request at the court. However, there are exceptions – in the following types of cases, forms are required and are generally available at the court web pages (http://www.sodisce.si/sodni_postopki/obrazci/): civil enforcement on the basis of the authentic document request for the free legal aid (at http://www.sodisce.si/sodni_postopki/obrazci/2009021217292200/) for registering a business company (the form must be filed at the notary, except for the one-person limited liability company) request for an European Payment Order (EPO) claim form at the European Small Claims Procedure (ESCP) for land register procedure,

					no form is provided to users in advance, because it is generated at the court at the request of the user (for the transfer of the ownership of the land only; info is provided at http://www.mp.gov.si/si/obrazci_evidence_mnenja_storitve/zemljiska_knjiga/pogosta_vprasanja/) for registering a one-person limited liability company, no form is provided to users in advance, because it is generated at the contact point (točka VEM) at the request of the user (info at http://evem.gov.si/info/vem-tocke/kaj-potrebujem-na-tocki-vem/) Some other forms are available as well: user's request to be registered at the IT system for providing information in bankruptcy proceedings request for the official confirmation that a person is not currently under criminal investigation/procedure request for a supervisory

					appeal (a legal remedy to use in case a party feels that his/her right to a trial without undue delay is endangered (a trial in reasonable time, art. 6/1 ECHR)) mandatory information on the applicant's assets (for request for the exception to paying court fees; at http://www.mp.gov.si/si/obrazci_evidence_mnenja_storitve/potrdila_in_obrazci/). Some forms and explanations can also be found at the Ministry of Justice web page (at http://www.mp.gov.si/si/obrazci_evidence_mnenja_storitve/potrdila_in_obrazci/).
Q23	Can these forms be completed and transferred electronically by the litigant in order to register his case?				
	E	F	I	P	S
	They can be completed electronically, signed digitally and uploaded via the courts on-line portal E-file.	Yes. It is possible with some civil cases and administrative cases.	No. User must print and fill paper form, and then file it at the Registry.	Yes.	Yes: □ the request for civil enforcement on the basis of the authentic document can be filed at the court web portal (on-line form at https://evlozisce.sodisce.si); □ the request for registering an one-person

					limited liability company can be filed at the government web portal eVEM (on-line form at http://evem.gov.si/evem/drzavljani/zacetna.evem; only for “simple” procedures). □ (for land register procedure, e-forms must be generally submitted by the notary (at the request of the party), except for the transfer of the ownership of the land – see Q22) □ (for business registry procedure, e-forms must be generally submitted by the notary (at the request of the party), except for the one-person limited liability company – see Q22)
Q24	Do the litigants have access online to information concerning their eligibility to legal aid? If positive, are interactive questionnaires available to determine the amount of the allowance they are entitled to?				
	E	F	I	P	S
	There are forms available on the courts webpage for claiming exemption from court fees and applying for state legal aid.	Il is possible on the web site “justice.fr”	Yes. In https://www.tribunale.milano.it/index.phtml?Id_VMenu=307**Erreur ! La référence de lien hypertexte est incorrecte.** . There are no interactive questionnaires, because to be eligible for legal aid is	Yes. There aren’t any interactive questionnaires available to determine the amount of the allowance they are entitled to.	Yes, additional information is available on the court’s web page, including the income/assets thresholds and types of legal aid (at http://www.sodisce.si/sodni_postopki/brezplacna_pravna_pomoc/).

			only necessary that the applicant holds an annual taxable income ot exceeding € 11,528.41 (if the applicant is living with other family members, income is the sum of the incomes earned in the same period by each member of the family, including the applicant).		
Q25	May the litigants benefit, before registering their case, from free legal consultations through legal help services or help lines, free and anonymous, involving lawyers, any other judicial professionals or social workers…?				
	E	F	I	P	S
	See Q 12 and Q13.	Yes - cf Q9	Many associations provide free legal consultation (trade unions, associations of consumer / businesses / property owners …).	The litigants may benefit from legal consultations through lawyers, if considered eligible to legal aid. Apart from that, some organizations/associations (consumers associations, victims protection associations, etc) provide free legal consultation before registering the case.	The free legal aid system is in place, with professional lawyers performing legal aid and being reimbursed by the state. The request for free legal aid is filed at the courts. There are several forms of legal aid available, including “legal advice” (before any court procedure is started). The “private” free legal aid is not illegal, however it is not institutionalised (outside the free legal aid system). There are some NGOs that can help with legal advice and lawyers occasionally provide pro-bono service.

3.3. Encouragement to extrajudicial mediation					
Q26	Are the litigants encouraged to lead, before the lower courts proceedings, an initial extrajudicial mediation? If so, is this mediation process a mandatory prerequisite before filing a case?				
	E	F	I	P	S
	Mediation is not mandatory nor widespread. However in several areas (labour disputes, rent disputes, insurance disputes, consumer disputes) there are bodies which have the competence to mediate and decide on the dispute. Decisions of some bodies become enforceable if a claim is not submitted to a proper court, while decisions of some bodies are merely recommendations.	Mediation is not a mandatory prerequisite in front of civil and criminal courts. New provisions are in discussion in Parliament to make it a prerequisite. Nevertheless, judges have the legal means to encourage possible litigants and litigants who already filed a case to try to go through a mediation process: litigants are invited by the judge to meet a mediation professional who will, freely deliver them information about mediation process. This information can be delivered before or during the judicial proceedings and litigants can always decide to go on with mediation, without any effect on	Yes. Since 2010 was introduced compulsory mediation (mediazione obbligatoria), declared unconstitutional in 2012 for legislative profiles. The Decreto legge 69/2013 then reintroduced this compulsory mediation, in various matters (property, hereditary, insurance contracts, banking contracts, financial contracts, damages from medical and health responsibilities …). Furthermore, since 2014 we have “assisted negotiation” (negoziazione assistita), based on the French model, introduced by decreto legge 132/2014, converted into the law 162/2014. It is mandatory for cases regarding compensation for loss of circulation of vehicles and boats, and for payment not exceeding EUR 50.000,00 (with some	The litigants are not encouraged to lead, before the lower courts proceedings, an initial extrajudicial mediation. The mediation process is not a mandatory prerequisite before filing a case.	There is active encouragement to judicial mediation: all courts of first and second instance have to adopt ADR programmes. On the basis of these programmes, mediation is offered in disputes arising from commercial, labour, family and other civil relationships, with regard to claims that are at parties' disposal and that parties can agree upon. The court may adopt and implement the programme as an activity organised directly in court (court-annexed programme) or on the basis of a contract with a suitable provider of ADR (court-connected programme).

		their proceedings.	exceptions).		
4. Information provided and accessible to the litigant during the proceedings					
4.1. Access to the case					
Q27	Has the litigant (and/or his lawyer) access, online, to the case material? If so, has he/she access to all the material or only some of it?				
	E	F	I	P	S
	Yes, the parties and their representatives have on-line access to all documents of their cases. In fact, a majority of documents are sent to the court and from court to the parties via the E-file portal.	The material is available to attorneys only on-line	Yes. http://pst.giustizia.it/PST/it/pst_2_6.wp gives free anonymous access to record information of a single procedure, on the status of the proceedings. On the page http://pst.giustizia.it/PST/it/pst_2.wp?request_locale=it user can also have free online access to information on active telematic services at the judicial offices, public list of access points, Supreme Court registers, and bankruptcy proceedings. Civil lawyers can have full access at the case material of proceedings of their clients, by the mean of PCT (Processo civile telematico).	Yes. The lawyer has access online to the case material, if already available (mandatory for civil files for some years, but still not mandatory for criminal files). The lawyer has access to all the material case.	Parties generally do not have access to the case material online. There are some exceptions where some information or court decisions are published online (land registry, business registry, insolvency cases). In the civil enforcement procedures, parties can access the information on every procedural act in the case (e.g. date of serving to parties, type of decision, etc) and to their own writings (but not the court or other party writings, though they are digitalised).

4.2. Information concerning foreseeable delays of the case					
Q28	Is the litigant informed of a provisional timetable of the case? If positive, what information is provided (predictable date of hearing, predictable date of ruling)?				
	E	F	I	P	S
	In criminal cases yes. In civil and administrative cases generally no. However the General Assembly of Estonian Judges adopted in 2015 a document on the "best practices" in court proceedings, which provide that: parties and their representatives are usually heard before deciding the timetable of the case. The schedule of hearings of lawyers and prosecutors are respected as much as possible.; the length of proceedings must be predictable. in determining deadlines the judge should take into account the complexity of the case; The dates of rulings are always notified	If representation is not mandatory, the litigants will be provided with the information about the time table of his case: date of hearing and ruling. The defendant will also be warned by the court about consequences attached to his absence in court. If representation is mandatory, the lawyers will be given the information. When deadlines have not been met by lawyers, the judge can decide to unfile the case ; the litigants are then given the information.	No.	One of the main aims/objectives of the Court of Vila Real is trying to implement one functionality that informs the litigant of the provisional timetable of the case, in particular predictable date of hearing and predictable date of ruling. Considering we still don't have the appropriate informatics tool, we're using a sheet of paper to monitor the various stages of the case.	Currently no. A new amendment to the Civil Procedure Act provides for such information (before the first hearing, a judge would be obliged to prepare a plan of procedure in accordance with the parties (expected procedural acts, dates of hearings etc.), however the amendment is yet to be adopted by the Parliament.
Q29	Is the court bound by the schedule communicated to the litigant? If so, what are the judicial consequences of unmet stated deadlines?				

	E	F	I	P	S
	As the schedule is flexible and only indicative, the court is not strictly bound by it. Parties can request the acceleration of the proceedings after 9 months of inaction.	The court is not bound by the schedule and can decide changes in order to adapt it to the case. The court can, for example, postpone the date of the hearing. But, if the court thinks the communicated schedule needs to be maintained, the court can object to late writings and refuse to take them into consideration. The court can also unfile the case until the litigants have met with what they were asked to do.	Law 89 / 2001 (known also as the Pinto Act after its author) is a law that provides the right to demand fair compensation for the damage, economic or other, due to the unreasonable length of a process. This law introduces an introduces a new internal appeal, that the applicants must start before turning to the Strasbourg Court, if legal proceedings exceeded the reasonable period of time of a process, according to the European Court of Human Rights under Article 13 of the Convention.	The court is not bound by the schedule communicated to the litigant, which is merely indicative, but is important to give information the approximate length of the case. Excessive duration of a case can, in some cases, lead to disciplinary responsibility of judges and/or clerks, as well as compensation of the litigants for damages and losses (to be paid by the State).	NAP
Q32	Is a message sent to the litigant to warn him/her of the delay and to inform him/her of a new provisional timetable?				
	E	F	I	P	S
	In most cases yes.	The message is delivered at dedicated proceedings hearings. It can also be delivered by mail sent to lawyers/attorney in civil proceedings where representation is mandatory.	No.	No and yes. When the judge hold a preliminary hearing the judge indicates the day of trial and, in this stage, the parties know the probability of the end of the case. In any case, if a hearing is adjourned, the court informs the litigants of the	NAP

				fact as soon as possible, by any means available (mail, phone, e-mail, etc.).	
Q30	Along which methodology and under which criteria are the foreseeable delays determined? Does this methodology differ considering the nature of the case?				
	E	F	I	P	S
	It depends on the complexity of case, delays caused by waiting for evidence (expert opinion etc).	The delays are determined considering : - criteria depending on the case and the litigants: the possible number of litigants, the aim of the case, its urgency, its difficulty considering both the law and the facts, the need for forensic, the possibility to await from a higher court or another court to rule part of this case or a similar case ... - criteria depending on the court and its work flow : number of judges and clerk available on the next months,		The cases are of different types and the judge must to consider the different stages the case to predict/foresee each stage and consequently the length the case.	In sense of Q30 - NAP. In more general sense: some predictable delays are accounted for at setting dates for the future main hearing session, usually according to the experience of judges (e.g. if the expert opinion should be acquired, the next hearing will be scheduled to give an expert enough time).
Q31	Did your country or the selected court develop an early alert mechanism in order to inform the court or service in charge of the case of the risk of missing a deadline? If positive, what are the follow-ups of this alert given by the judge in charge of the case and/or by the head of jurisdiction?				
	E	F	I	P	S

	Yes. The court information system is available to the judge to keep track of the pending cases. There are analysts working under the presidents of courts who give monthly overviews of pending cases, length of proceedings, periods of inaction. The judges are expected to follow the reports and take necessary measures to accelerate the proceedings.	Paper and electronic alerts are developed to avoid missing a deadline, mostly in fields where ruling involves freedom issues.	No.	The unit dealing with the dispute can alarm electronically the case and inform the judge in order to solve the delay.	The case registers are informatised and they contain calendars, so a deadline can be entered into the calendar. In some specialised procedures (e.g. land registry), automated alerts are set in place. This tools are mainly used as reminders, and no special follow-up is required, if the alert mechanism is triggered. In the BI tools, advanced search can be made and different information can be acquired, such as cases with the longest duration from the last procedural act, backlogs, age of pending cases, etc. According to the Court Rules, a judge must inform the court president about backlogs (when the case is not resolved within time limit, set by the Court Rules), who can demand a report about the reasons for the backlog.
5. Information provided and accessible to litigants after the decision This part concerns the information provided and accessible to the litigants or any interested third party after a legal decision is ruled, meaning also the information concerning the enforcement of this decision.					
Q34	Has the selected court developed a specific plan concerning legibility of judicial decisions? If so, does this plan enter or serve a national policy?				

	E	F	I	P	S
	There is no specific plan in our court. In national level new judges get specific training in legibility of judicial decisions.	Beginner judges are invited to attend special training courses on legibility of judicial decision. In family matters, tools are available to standardise decisions. The court of appeal web site offers standardised decision in civil matters.	No.	By law, each decision must be legible, reasoned and intelligible. In civil cases, written decisions with a word processor are mandatory (since they will be inserted in the digital file). Even in other jurisdictions, almost all decisions are written with a word processor. When not, and the litigant can't read the decision, she/he may ask for a transcript.	No
Q35	Has your country developed case law concerning legal reasoning and legibility of judicial decisions? If so, may the lack of legibility of a decision be ground for appeal or cassation/annulment?				
	E	F	I	P	S
	There are no uniform rules. Lack of clarity may be ground for quashing a decision.	Both basic and continuous training of judges include work on the legibility of the decisions. The high court web site delivers various teaching and documentary tools. Lack of motivation, contradictory motivation, and illegibility of a decision can be ground	In the recent judgment n° 1914 of February 2nd, 2016, the Corte di cassazione confirmed that reportable violations of law reportable to the Supreme Court under Article 111 of the Constitution include non-compliance with the obligation to render obvious the grounds of decisions. Failure to state clearly the reason of a decision occurs	Yes. The lack of legibility or reasoning is a ground for appeal.	The standards for the legal reasoning and legibility are (traditionally) provided by the procedural law and there is plenty of case-law on the issue. Both the Civil Procedure Act and the Criminal Procedure Act provide reasons for which an appeal may be filed, including the following (quite similar for

		for annulment, either in appeal or in judicial review.	not only in cases of absolute lack of motivation, but also when the exposure of the statement of reasons is not suitable to disclose the reason for the decision. Such situations occur also in cases of apparent motivation, or of a deadlock between irreconcilable statements, or even in cases of motivation puzzled and objectively incomprehensible.		both procedures): if the judicial decision (i.e judgement) is affected by shortcomings for which it cannot be reviewed, in particular □ if the disposition is incomprehensible, inconsistent, or in contradiction with he reasoning for the decision, or □ if it fails to contain reasons (at all), or fails to contain reasons in respect of crucial facts, or if the reasons are vague or self-contradictory.
Q36	In what for is the decision communicated to the litigant?				
	E	F	I	P	S
	All decisions are delivered to the parties or their representatives personally – usually via on-line E-file portal.	Decisions are paper based, as electronic signature is not implemented. Nevertheless, the decisions can be made electronically available to lawyers, in cases where represention is mandatory.		In what for is the decision communicated to the litigant? The decision is communicated to the lawyer of the litigant, when appointed, or to the litigant directly, by providing a copy of the ruling.	The decision should be orally communicated to the parties at the conclusion of the main hearing. However, in practice, most judges choose to issue a written decision (an option, provided by procedural laws for more complicated cases). For the cases without a main hearing the decision is issued in writing. The written decision is usually sent via

					mail and should be served to parties personally (with the proof of receipt). In civil enforcement cases, the court decision can be served to partie's "safe" e-mail inbox, with the partie's consent ex-ante.
Q37	Are all judicial decisions published and available online, and backed by a brief?				
	E	F	I	P	S
	All decisions are published (except in cases of business/state/adoption etc secrets, in criminal cases taking into account the interests of the victims) in the National Gazette alongside laws (https://www.riigiteataja.ee/kohtulahendid/koik_menetlused.html) .	Not all decisions are published and available on line; Publishing and availability mainly concern high court and court of appeals decisions.	All decisions of Corte di cassazione are published online. Actually, from public website http://www.cortedicassazione.it/corte-di-cassazione/it/per_il_cittadino.page;jsessionid=853.jvm1 user can reach http://www.italgiure.giustizia.it/sncass and make free research between civil and criminal judgments (of the last five years) of the Court of Cassazione, through a search engine easy to use. Judgments of the lower courts are no longer officially published.	Only judicial decisions of the Court of Appeal and Supreme Court are published and available online.	All the 2nd and 3rd instance court's decisions are anonymised and published online. The search is possible using several criteria such as keywords, legal field, legal institute, relevant law provisions etc. and ECLI (at http://sodnapraksa.si/). The published decisions include data on the court, judge/chamber, disposition, reasoning, and the "base" of the decision (the most important facts and reasoning).
Q38	Is the litigant informed of the enforcement terms for the ruling (delays, costs for example)?				
	E	F	I	P	S
	No.	They can be informed by their attorney or through	No.	The delays for appeal are provided by law.	No. The decision contains the information for lodging

		legal information permanences.		The same for the requisites to enforce the ruling. As for the costs, after the ruling is definitive, the will be calculated following the law, and communicated to the litigants, along with the delay and means of payment. In any case, the litigants can ask the court's front-office desk to be informed of all this.	an appeal. If no appeal had been lodged, the decision becomes final and the party may start the civil enforcement procedure. However, this is a separate judicial procedure and no information on starting the civil enforcement procedure is given to the party during litigation. See Q40.
Q39	Are simplified procedures available, faster procedures or on-line procedures, for debt-collecting for example?				
	E	F	I	P	S
	Yes, they are completely electronical and handled by a computer.	There is a simplified procedure of court orders for payments for small claims. It has been recently extended to all claims but it is still not much used.	Yes. Special procedures are available in certain conditions: - an injunction (decreto ingiuntivo ex art. 633 e ss. cpc) is possible for the payment of sums of money when the creditor gives written evidence; - the procedimento sommario di cognizione ex art. 702 bis cpc can be used when the evidentiary phase seems simple.	Yes. Injunctions rules and pecuniary obligations from contracts under €5.000.01.	Yes, the Civil Procedure Act provides for simplified "small value claims" procedure as well as payment order procedure in civil and commercial cases. The on-line procedure is currently available (and widely used) for the civil enforcement on the basis of the authentic document. Those procedures are, simply put, request for payment order, registered and processed automatically, centralised at one specialised court only. If the request is uncontested, the civil

					enforcement is allowed automatically and a case is sent to the local court according to competence (by location). On the other hand, if the request is contested, a litigious procedure is initiated and a file is sent automatically as a litigious case to a local or district court. Civil enforcement on the basis of the authentic document cases represents approx. 20% of all incoming non-criminal cases (2015 data).
Q40	Does a monitoring mechanism of the implementation rate exist in the selected court? If so, could you describe briefly how it works?				
	E	F	I	P	S
	No	It doesn't exist and would not be very coherent with the French civil justice framework where civil cases are the litigants' responsibility. Nevertheless, discussions with judicial officers, enforcement agents encourage ideas to ease or improve the enforcement of decisions.	There is only a summary of the activities in the above mentioned Bilancio di Responsabilità Sociale.	Yes. We've a electronic system that give us all the information about the ongoing cases in Court, such as, the number of cases, the duration/length of cases, etc., including enforcement cases.	A party may start the civil enforcement procedure, which is a separate judicial procedure at a local court. (decisions are not enforced automatically). No data is available on the percentage of court decisions, for which the parties decided / have not decided to start an enforcement procedure. The local court is competent to allow the proposed enforcement procedure. General data on the number

					new cases, as well as of allowed/denied proposals is available upon request. The power to perform most of the enforcement acts is vested in bailiffs (private enforcement agents), however there are some exceptions (e.g. the sale of debtor real estates by the court or the notary). No data is collected whether the enforcement procedure was successful (the decision was actually enforced).

Annexe 3 – Minutes of the country visits

CQFD Project
PARIS, NOVEMBER 2. 3. 4 – 2016

MINUTES - KICK OFF MEETING November 2nd

On November 2nd, 2016, the first meeting of the CQFD Project was held in the French Ministry of Justice Premises located on Place Vendôme, Paris,. The meeting introduced the participants to:

- The general philosophy of the CQFD project;
- The existing International and European quality of Justice Standards, and;
- The recent developments of the French policy and legal framework regarding quality of justice.

The meeting was led in English with no interpretation, all participants being English speakers.

Ms Karine GILBERG, Head of Project, Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court, Ms Audrey NESPOUX, Project Officer and Mr Harold EPINEUSE, French MoJ expert, welcomed their foreign partners:

- Mr Villem LAPIMAA, Estonian representative, Judge at the Administrative Law Chamber of the Tallinn Court of Appeal,
- Mr Eduardo BUONVINO, Italian representative, Judge at the Minister of Justice's Cabinet,
- Mr Roberto PERTILE, Italian representative, President of Civil Section of the Tribunale Ordinario of Milan,
- Ms Patricia DA COSTA, Portuguese representative, Judge President of Leiria First Instance Court,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court,
- Mr Tine STEGOVEC, Slovenian representative, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia.

The second Estonian representative, and Mr Jaša VRABEC were excused,

Ms Stéphanie KRETOWICZ, second French representative, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate, was represented by her colleague Ms Caroline BRANLY COUSTILLAS, Head of the Office for Methodology and Expertise to present the "Justice of the 21rst century" programme.

Ms. Cvijeta JECIK from JCI, the French MoJ's mandated operator, was also present to introduce the partners to the European Commission administrative, budgetary and reporting rules. This dimension of project being crucial as each of them will be organising a visit in their country and travelling to others.

- **Welcome and Introduction, by Ms Julie ANDRE, acting Head of the International and European Departement**.

Ms Julie ANDRE first explained the context of the CQFD project and how it was born. Then she presented the methodology and approach of the CQFD project.

The context of the CQFD project:

The project emerged from a conjunction of factors:

- The major factor being the intensification of the work, at national, European and International level, on how to measure and enhance quality of justice. Tightly bound to one of the European core fundamental rights: the right to an effective remedy, enshrined in article 47 of the EU Charter of Fundamental Rights, and article 13 of the European Convention on Human Rights, quality of Justice has been considered as a top national priority in most Member States and has

lately been understood through the court users' point of view. Indeed, national policies take into consideration and aim at answering to the actual needs and expectations of citizens (what the CEPEJ has defined as "demand side"). In France, the project has been designed and will be implemented in a renewed context, with the development of a new legal framework and a comprehensive policy called "Justice for the 21rst century".

- Also, even though we all agree on the goal, not all Member States, nor even all courts within a single jurisdiction, rely on or use the same standards to define and assess the quality of the justice system. Even international institutions, CEPEJ, European Commission or more recently the OECD have adopted a very cautious approach to quality of justice and have chosen very broad criteria rather than very specific indicators. **The European Commission in its 2016 Justice Scoreboard** noted that "*there is no agreed way of measuring the quality of justice systems*". On the same note, the CEPEJ in its Checklist for Promoting the Quality of Justice and the Courts (2008) also pointed out that "*defining the concept of quality of justice is much trickier and few attempts are made*".

From an international perspective, new international actors have developed instruments and work, especially to enhance access to justice: for instance, access to justice has been identified as one of the UN's Sustainable Development Goals; and, the OECD is currently (at this very moment) holding a meeting on access to justice.

Surprisingly enough, these initiatives and hard work (at a national and international levels) on the quality of justice **have not led to the definition of a comprehensive set of indicators**.

The methodology and approach of the CQFD project:

If the few international indicators sets offer a general view and define a general target for policy makers, they appear to be too broad to serve as a day-to-day guidance or self-assessment tool for individual courts. Thus, the CQFD project was built around a **bottom-up approach to quality of justice**. The idea is to start from actual practices in our respective justice systems, especially in chosen pilot courts:

- In Estonia: administrative law chamber in the court of appeal of Tallinn,
- In France: first instance court, in Melun dealing with civil cases,
- In Italy: first instance court, in Milano dealing with civil cases,
- In Portugal: first instance court, in Vila Real dealing with civil cases,
- In Slovenia: the Supreme Court in Ljubljana.

The idea was to have diversity of courts, but justice systems with strong similarities in order to be able to compare and draw relevant conclusions from this comparison. Throughout the project, will be measured how similar and how different they may be, and if those similarities have influenced the definition of quality of justice policies.

The idea has also been to work on a specific dimension of quality of justice (one aspect of access to justice): information given to citizens and "court users", from the general information on Law and judicial procedures to specific information given throughout the procedure before the court. The project has started with clear and quite simple questions, which can be found in the questionnaire sent out.

Ms Julie ANDRE concluded that the tight agenda will most probably contribute to the dynamic of the CQFD project. Within one year, we will have to collect, analyse information, deliver a handbook on practices, and design indicators in order to provide a solid framework which will enable more courts, from various European countries to monitor their commitment to quality of justice in the future. She also hopes it will be a source of inspiration to streamline the methodology of the European Commission's Justice Scoreboard, especially in the definition of common and reliable quality of justice indicators. She then gave the floor to Ms Karine GILBERG.

- **Focus on the project, by Ms Karine GILBERG, Head of project: Activities, Objectives, Deliverables, Calendar, and implementation timeframe.**

Ms Karine GILBERG first added that one of the diagnoses which led to the drafting and submission of this project to the European Commission was that the courts, and the justice system as a whole, are more and more considered as a public service (a debate on that subject was held at OECD). Thus, a citizen-centred approach is necessary to ensure a better access to an effective justice system. Indicators will help to assess the level of access to justice services.

⇨ **Action: Partners should thoroughly discuss which type of indicators is relevant to perform such an assessment, whether quantitative or qualitative or both combined.** The CQFD project will identify such **indicators based on field experiences**.

The objectives of the project:

- To create a tool to support head of courts for a better quality management of their courts
- To provide a framework to inspire other EU Member States and to support policy-makers.
- To contribute to building a more user friendly Justice to enhance the citizens understanding and trust in their justice systems.

At an EU level: the project is under the scope of the EU Justice Scoreboard, which will benefit from a work on practices and evidence based indicators.

Concerning the activities, the questionnaire was launched on September 21rst and the answers sent back by the partners as of October 15th. A consolidate version of the questionnaire including all the answers was sent back to the partners with the programme of the French meeting on October 28th. Between each study visit, the team members will have to circulate documents so as to work in between meetings and elaborate the framework.

The project team (Karine GILBERG, Audrey NESPOUX and Harold EPINEUSE) has the duty to compile and organise the documents and inputs in order to submit them to all team members.

⇨ **Action: It is reminded to the project team members that it has been planned to associate researchers to the reflexion process of the project in order to maximise the inputs. For France, the IHEJ (Institut des Hautes Etudes sur la Justice) is an official associate partner but the team partners are also invited to include researchers of their countries to the visits in their countries.**

Access to information is the starting point of the CQFD project, as information is crucial to the quality of justice.

- **Practical issues (organisational, administrative, financial), by Ms Cvijeta JECIK from Justice Cooperation International (JCI).**

After presenting the JCI institution, status and activities, Ms Cvijeta JECIK presented the task breakdown for the CQFD project in particular. For the CQFD project, as well as for the others intra-EU projects, JCI is in charge of logistics and financial matters, while the contents and organisational matters are managed by the head of project and project officer.

Concerning the financial management of the project, a 60% advance on the budget is paid by the EC and part of the advance is transferred to the partners for specific costs to be engaged by each partner for the visit in each country. Indeed, for the group meetings outside Paris, the events are to be organised by JCI and the relevant host country.

The costs to be engaged for each of these group meetings are:

- Travel costs & per diem **by JCI,**

- coffee breaks, interpreters & interpreting material **by hosting country.**

For these costs to be engaged by the host country, she insisted on the strict necessity to stick to the budget as closely as possible and on the necessity to gather, preserve and then communicate to JCI the supporting documentary evidence.

⇨ **However, should the host country identify difficulties to receive or disperse money, JCI is ready to deal with the relevant budget.** In that case, the host country needs however to commit to help JCI identify local service providers (ideally 3 providers per activity) and hotels.

Portugal and Italy representatives mentioned they will most probably encounter these difficulties. If confirmed, a detailed and argued mail to JCI should be sufficient.

- **State of the International and European background on quality of Justice indicators, by Ms Karine GILBERG:**

Ms Karine GILBERG presented the International and European background on which the CQFD project stands out. She shared her study of the work of several institutions, OECD, CEPEJ, the UN and the EU Commission.

OECD (50 member States)

OECD has developed its approach through equal access to Justice, a citizen-centred approach based on the existing ways and means, in different jurisdictions, to identify legal needs of citizens and court users. OECD is working on how to **improve the identification of legal needs in civil matters**, and interaction between Justice and other public services (social benefits for example).

Through the *Open society Justice initiative*: OECD studies the common obstacles to access to Justice experienced by natural persons and businesses. These obstacles generally occur in the civil law field but, in this field, it has been observed that the legal problems are generally resolved outside the Justice system.

From this work, OECD concluded that the Justice system is poorly understood and perceived as inaccessible and complex to most citizens and litigants.

⇨ OECD's approach is interesting for the CQFD project, as CQFD project is exploring the connexion **between legal assistance and justice services**: court users should be given a continuum of legal assistance and justice services.

CEPEJ (47 member States)

CEPEJ work is focused on efficiency more than quality, even though CEPEJ established 2 working groups: one on quality (GT QUAL); one on efficiency (GT EVAL). Nevertheless, CEPEJ's *Checklist for promoting the quality of justice and the courts* issued in 2008 is still up to date.

⇨ The Checklist divides quality of justice in 2 sides: the "Supply side"; and the **"Demand side"**. The CQFD project could build its indicators on the latter. CEPEJ considers that these issues are strongly interlinked with public trust and that individual courts should have the necessary tools to make self-assessments on the delivery of justice services. **The checklist is quite a useful guidance tool for courts and national authorities on what should or could be standards for quality of Justice.**

The UN

UN Sustainable Development Goals are refined in targets and the targets in **indicators**.

In *Target 16-3 Promote the rule of law at the national and international levels and ensure equal access to justice for all,* UN has chosen only **2 indicators related mainly to criminal justice** (defined by UNODC and the High Commissioner for HR): proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms; un-sentenced detainees as a proportion of

overall prison population.

⇨ **Reminder**: as the EU Justice Scoreboard focuses on civil, commercial and administrative justice, CQFD remains on civil and administrative fields.

The EU Justice Scoreboard

The focus put by the 2016 EU Justice Scoreboard on "quality of Justice" is more interesting to our subject because the EU is trying to deal more with quality, not only broadly but also on specific claims.

The Scoreboard focuses on 4 categories of information:

- Accessibility of justice for citizens and businesses;
  - Giving information about the justice system;
  - Providing Legal Aid;
  - Submitting a claim online;
  - Communication between courts and lawyers;
  - Communicating with the media;
  - Accessing judgments;
  - Accessing ADR method.
- Adequate material and human resources;
- Putting in place assessment tools; and
- Using quality standards.

⇨ **The CQFD project proposes a bottom-up approach, which will allow quality of justice indicators to be based on evidence and innovative practices in court.**

As a conclusion, the CQFD project can benefit from the very extensive and interesting material produced at international and European levels concerning quality of justice. But it will try to close the gap between this European and International work, which is very general, and what has been developed by courts at a local level. The idea is to be specific and not to build on broad indicators. The limits of these broad standards have been demonstrated.

⇨ The Portuguese representative underlined that none of the standards - and neither in our questionnaire did we - include the **cooperation with schools and the information that is given to children** though education which is probably the best way to have future informed and alerted court-users.

- **Introduction to the French national policy on access to Justice and quality of Justice – The "Justice of the 21rst century" (J21) programme, by Ms Caroline BRANLY COUSTILLAS, Head of the Office for Methodology and Expertise, Judiciary Service Directorate (DSJ).**

After presenting the context of the national justice reform J21 (national survey 2012, national consultation and debate from January 2014), Ms Caroline BRANLY COUSTILLAS presented the 15 actions of the reform and the timeframe for their implementation. (Testing phase since Jan 2015: SAUJ, Council of jurisdiction…; Texts: decrees but most of all, legislative text of J21 adopted October 12, 2016; Internal portals.)

The actions fulfil 3 different aims:

- A more efficient justice: 6 actions
- A more protective Justice: 4 actions
- **A more understandable justice: aim relevant to the CQFD objectives divided in 5 actions:**
  - Development of a partnership with universities to study judicial decisions,
  - Taking full advantage of IT technology for judicial communication (transferring summons…). (French software not finalised, tests are suspended for the moment).

- Opening the court to civil society by the creation of **Jurisdiction Council's** in order to organise partnerships with local partners (mayors, professions: professions not always associated with the life of the jurisdiction).
- Improvement of the access to law by the geographical development of CDADs (Departmental Access to Justice Councils),
- Professionalization of the front desk of the courts by the transformation of the GUG (Guichet Unique du Greffe, registrar's one-stop shop) in SAUJ (Service d'Accueil Unique du Justiciable, new one-stop shop for access to justice). The idea of SAUJ is to manage the claims internally.

⇨ A discussion was held on the information which can be communicated to citizens and litigants by clerks/registrars. The clerk is supposed to suggest not to counsel. **This brings up the question on the difference between legal information and legal counsellin**g (solicitors having the monopole of legal counselling).

The last action of J21 and a big challenge is the development and finalisation of the PORTALIS portal. Today, PORTALIS is a civil software which currently only provides general information. The aim of this software is to propose complete dematerialisation of proceedings.

⇨ Portuguese representative shared the experience on IT tools stressing that such tools should not be imposed to professionals. She also reminded that technically, the back-up needs to be very strong. She believes that we put too much expectation in the IT systems and that when they crash, it creates major disorganisation.

⇨ A discussion between the head of project, project officer and Mr Villem LAPIMAA, Estonian representative was held in order to start organising the study visit in Tallinn in January.

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MINUTES – COURT VISIT TGI MELUN November 3rd

Ms Frédérique AGOSTINI, President of the TGI, welcomed the CQFD Project team members and representatives in the Premises of her Court for the first court visit of the CQFD Project.

French/English interpretation was available thanks to two interpreters, portable headphones and microphones.

- **Welcome address, by Ms Frédérique AGOSTINI, President of the TGI and French representative of the CQFD project:**

After a brief presentation of the programme of the day, Ms Frédérique AGOSTINI presented her court and its activities. Ms Frédérique AGOSTINI introduced her colleague, Ms Béatrice ANGELELLI, Prosecutor of the TGI.

Their presentations led to a common conclusion that the district under the jurisdiction of Melun TGI is human sized and quite easy to work in close cooperation with partners in order to set up common policies.

In the presence of Ms Béatrice ANGELELLI, Head Prosecutor of the TGI, the discussion drifted shortly on cases of malfunctioning of the French Cour d'assises.

⇨ **Length of procedure could also be an issue in civil matters**. Indeed, if each hearing is too time-consuming it pushes the court's calendar back and brings to lengthy procedures.

- **Presentation of the tools – IT, information experiences and training activities - concerning accessibility of Justice:**
  - **National tools: National websites accessible to citizens: justice.fr and the ambitions of the ministry of Justice PORTALIS project by Ms Stéphanie KRETOWICZ.**

Offering a website dedicated to the information of citizens and litigants is a priority of the French Government. The French Ministry of Justice's website was considered not to be informative enough for citizens/court-users. Moreover in many cities, the different judicial buildings are geographically separated. In line with the J21 programme objectives, it was decided to develop a website (http://justice.fr/), which delivers information on the Justice system and leads citizens and litigants through the judicial process.

The website **links directly and visibly on the welcome page, to different institutional partners**:

- The general Public services website,
- The bar association,
- The bailiffs,
- The notaries,
- Institutional Victims assistance associations, and
- To links and documents to understand the Justice system.

Court users and litigants are also offered **interactive simulators** to estimate:

- Legal assistance benefits,
- Alimony,
- Amounts on earnings.

The site offers a **dynamic questionnaire by theme** in order to lead the user to the information needed regarding his/her situation.

- If the procedure doesn't require a lawyer: the last page will lead to an extensive detailed information page, to a form/forms to download, lists of necessary documents in order to bring the case to the court and to the contact info of and map to the competent court.

⇨ Today, the claim forms cannot be completed online. They still need to be printed, completed and sent or brought to court. The future ambition is to enable the completion and filing of the forms online (hoped for in 2019-2020).

- If the procedure does require a lawyer: the page will lead to a brief explanation of the procedure and gives no further information but a link to the national Bar Council, http://www.avocat.fr/.

⇨ The hardest work to get justice.fr reliable was to harmonise the procedures (forms, requested documents…) required by each court in France. **It is a long term work of harmonisation to ensure reliability of the provided information.**

⇨ The future downloading and filing claim forms online will not be **compulsory, only voluntary**. **Indeed, making it compulsory would probably lessen access to Justice to those who don't have access to IT technology**, the majority being vulnerable citizens (elderly, disabled...).

⇨ Interesting to note that **the idea of the website is to simplify access to court and to information.**

- **Internal tools of the court:**
  - **The guardianship service for minors and adults (printed form/welcome sessions), by Ms DALEAU and Ms COUTANT GUERARD, guardianship judges.**

Both guardianship procedures do not require the assistance of a lawyer.

⇨ A national **Guide for families** has been drafted thanks to the partnership of the MoJ and civil society associations. These guidelines are redrafted regularly.

In Melun specifically, there are 4000 on-going adult guardianship measures dealt with by 3 judges. The families are in constant need for information, whether from the internet but preferably directly from people. Thus, there is a keen need of strict management of the court-user access to the judges.

⇨ 18 months ago, the adult guardianship service **set up a generic email address** through which court-users can easily take contact with their judge. The service decided to make the **mail exchanges much less formal** and to become much more accessible by e-mail. The service acknowledged very quickly a **heavy drop in the phone calls**.

⇨ Also, the adult guardianship judges hold **out of court sessions once a week**. For the people who cannot come to the court, the judge does on site visits with his registrar. Sometimes the judge is not expected, which can lead to misunderstandings and unusual situations that Ms DALEAU has recently shared with a journalist from the specialised magazine *Dalloz* for an article.

Concerning minor guardianship, in Melun, there are 1000 ongoing minor guardianship measures.

⇨ The **judges have decided to allow/give time during hearings for the necessary listening/communication with litigants**. They observed they need time to comfort the legal representatives on how they manage the administration measures. This helps to ease tensions which may arise concerning patrimonial interests which should not interfere with the education of the child.

- **Network on access to justice:**
  - **presentation of the local CDAD (Departmental Access to Justice Council) by Ms AGOSTINI and Mr NAOUI**

Concerning the local CDAD of the "Seine et Marne Departement". Put in place in 1999, it gathers the three TGIs of the department: Melun, Meaux and Fontainebleau. Mr Ali NAOUI, head registrar in Melun TGI, is the Secretary General of the Council.

Access to Justice is ensured through the scattering of the following offices in the whole department:

- Of Justice and Law houses (Maison de Justice et du Droit-MJD): 5 in the department that welcomed already up to 90000 people this year.
- Of Access to Law points (Point d'accès au droit-PAD): 6 in the "departement" and one in the Melun detention centre.

These facilities are not judicial structures and thus cannot be used for out of court hearings. They are only consultation and information points.

⇨ Portugal has set up **videoconference rooms to improve effective access to justice local offices and to bring the court closer to the litigants and court-users**. Melun's TGI is considering to equip CDAD facilities with videoconference equipment. However, Ms DALEAU and Ms COUTANT GUERARD, the guardianship judges, consider they wouldn't use the system as they need to meet face-to-face with vulnerable people.

The CDAD is also in charge of developing partnerships to enhance access to Justice: it participates to the financing of about 10 associations which contribute to the development of access to Justice in the 77th county.

- **Visit of the "Guichet Unique des greffes" (registrars one-stop shop), which are soon to become a SAUJ ("service d'accueil unique du justiciable"), by Ms LUKOWYZC, Ms PELCAT, Ms BRIS and Ms DUNASKY, registrars**

With the GUG and in the future the SAUJ, the idea is to progress from an only directional reception point to an "intelligent" one-stop office.

⇨ The main objective is to **reduce the movements of the public in the courts corridors and hallways** for security reasons as much as for the comfort of the public.

Today, the Melun GUG is composed of 3 registrars including 2 from the TGI, assisted periodically by registrars from the lower first instance court (TI) and the labour court.

⇨ Thanks to this **diverse composition, the registrars can share their experience and information and are able to give better and more relevant information to the litigants and court-users.**

The Melun GUG is already nearly a SAUJ. It only lacks:

- The access to a national portal regrouping judicial information: PORTALIS is eagerly expected. Thanks to the funding from the Ministry for the development of the SAUJ, the Melun TGI plans to install in the next few weeks an interactive terminal with PORTALIS access, both in the Melun Court and in a local PAD ("point d'accès au droit", access to Law point).
- The "SAUJ to be" GUG, also lacks of proper equipment, especially furniture and booths, in order to ensure a **better respect of confidentiality**. It would also **offer better working conditions for the registrars**.

- **Presentation of the legal aid desk (BAJ, "Bureau d'aide juridictionnelle") by Mr NAOUI, president of the Melun legal aid commission**

The Melun BAJ issues 8200 rulings a year concerning the granting of legal aid.

⇨ It leads an **effective partnership with the administrative and commercial courts** and issues the rulings concerning legal aid for their cases as well. 30% of decisions concerns administrative cases.

⇨ It has set up an **emergency procedure** in order to deal with urgent social situations.

- **Visit of the "Bureau d'aide aux victimes" (BAV): Victims' assistance office, by Ms FOUCHE**

The BAV, experimented since 2009 in the courts, are enshrined in the law since 2012. They work thanks to Assistance to Victims associations. The mission of the BAV is to welcome, listen, inform and help the victims of criminal offences through the judicial process. The consultations are free and confidential.

- **Visit of the Lawyers' reference desk by Ms Florence LAMPIN, Head of the Melun's Bar**

In the Melun Court, thanks to a partnership with the Melun's Bar Association, free legal consultations are organised. Due to its success, the number of consultations without appointments had to be limited to 12 a day.

⇨ **But thanks to an effective partnership with the GUG**, people can be directed to a "Maison de justice et du droit" or to a "point d'accès au droit" (Justice and Law house or Access to Law point).

- **Free information sessions concerning civil and family mediation, by Mr BERNINI, representative of a Local Mediation Association: AMIDIF.**

If a case is identified as appropriate for a mediation process, the judge may inform the parties about its opportuneness and send them to an information session concerning mediation. However, in this context, the mediator can only provide information about mediation and cannot start the process immediately. Indeed, no gainful activity may be led in the court's premises.

⇨ Interrupting this first intervention often leads the parties, whose motivation is often fragile and failing, to abandon the mediation process.

⇨ Shortly, the local CDADs will also be responsible for the development of ADR's in their districts through the **fine-tuning and enhancement of the initiatives developed locally**.

"*Salle des pas perdus" Court's public lobby*

- Visit of a courtroom: a major financial project has been launched to improve the courts' equipment, especially IT equipment. Procurement contracts were concluded for new tools (laptops/tablets) mainly for criminal cases for the moment. A major Internet cabling process has also been launched in older court buildings. The second project is to develop secured WiFi system in the courts. The modernisation process is going forward little by little.
- Examples of civil hearings with mandatory lawyer representation:
  - Sale of seized immovable property: proceedings initiating dematerialisation.

IT Room

"A dialogue between two courts"

- **Demonstration of IT interfaces: a comparative experience of the Administrative and First Instance Courts of Melun:**
  - **WINCITGI/COMM-CI/e barreau :**
    - Wincitgi/Comm-ci: these are internal software for members of the courts and commercial courts and especially for judges and registrars. They are used to record electronically the key elements of a case and to communicate them to the parties – **only through the lawyers for the time-being, but not directly with the litigants yet (PORTALIS ambition)**. **The rulings are not given electronically because the electronic signature system is not securely settled yet**.

⇨ WINCI is the principal statistics resource for the MoJ.

- E-barreau/RPVA (réseau privé virtuel des avocats/private virtual network for lawyers): the information recorded through WINCI is visible for the lawyers through their own professional software e-barreau. Through e-barreau, the lawyers can communicate their legal acts and supporting documents, even though the **downloading capacity is still too limited**. The lawyers have access to e-barreau through a personal USB key, produced by the National Bar Association, and that they need to purchase (a monthly 19€ subscription to finance the functioning of the interface).

⇨ The **major issue about RPVA is training**, all court districts and bar districts do not have the same level of information and the lawyers "learn by doing".

⇨ There is also a management problem: **these interactive tools should have been developed in common between the judicial system and the lawyers' national Bar Council. Today they need to try to progress jointly.**

- **Administrative Court, SKIPPER system, "télé-recours" system and SAGACE system, by Ms Sylvie FAVIER, president of the Administrative court of Melun and colleagues:**

The equivalent of WINCI system for administrative court is named SKIPPER. The communication interface with the parties is SAGACE, and the communication interface with the lawyers and public administrations is TELERECOURS.

Even though the administrative system is a bit ahead technologically, the software, its purposes and aims are equivalent to those of the judicial system.

- SKIPPER: The data recorded through SKIPPER is collected in order to produce follow up dashboards enabling Head of Courts to monitor their activity quantitatively and qualitatively.

Information from 2008 activity is available concerning each court. The dashboards concern: the coverage rate, the stock and especially the 2 years old stock, the average processing time and the number of cases dealt with by each judge.

The figures are verified and prepared by the Conseil d'Etat and sent to the Head of Courts every month.

The Conseil d'Etat has also been communicating, since 18 months, the confirmation rate in appeal (it is of 83% for Melun).

The recorded information in SKIPPER supports the information available in the two communication interfaces SAGACE and TELERECOURS.

- SAGACE: The interface SAGACE, set up before TELERECOURS, gives to any parties, litigants or professionals (lawyers), direct access to a global visualisation of the progress of the case, thanks to a personal code. But the interface only enables a visualisation, but not to communicate with the other party(ies) or the court, nor to register of file or to download of legal acts and supporting documents.
- TELERECOURS: This direct communication with the court is only possible for public administrations and lawyers through the interface TELERECOURS. It will be **compulsory for lawyers in January 2017**. But for the moment, TELERECOURS is experiencing a major storage of information issues.

In Portugal: a digitalised communication interface with lawyers (CITIUS) also exists. If a lawyer decides not to use the digital procedure, he/she will have to pay a fee, and if he/she produces too long-winded legal acts, he/she will also pay a fee.

In Italy, the dematerialisation process is quite ahead. Two systems co-exist, one from the lawyers and the other developed by the MoJ for the courts. **The digital signature system is strong and efficient and enables direct communication of all legal acts between the lawyers and the courts including decisions.** The system is also open to appointed experts in order to communicate their conclusions. Another interface is open to litigants and all court users in order to see the progress of the case. The access to the case information is secured by a personal file number.

⇨ **The system is also quite ahead concerning mobile access to these secured interfaces. Thanks to multiple security checks, the judges can have access and communicate information through their personal laptop, tablet and even smartphone.**

Library

Overview of the visit: managing and evaluating the Court's functioning processes

- **The local available indicators on the quality of justice:** Concerning Melun, the available tools for monitoring quality of Justice are considered to be still weak even though the on-going and effective partnerships with all professional actors already produce a good feedback. Two projects are on their way in order to potentiate the monitoring efficiency:

- The Court Council (Conseil de juridiction): an internal tool imagined in the J21 programme. Chaired by the Head of Jurisdiction, these Councils will gather judges and prosecutors,

registrars, civil servants (from penitentiary, youth protection administrations…), local members of Parliament, trade unions representatives, local state representatives, law professionals, local administration representatives and members of the civil society. They will discuss about « transverse issues » such as access to Justice, legal aid, enhancing of conciliation and mediation etc…

- the definition and drafting of a "court project" which would communicate about the work in progress in the court such as the closed-up partnerships, their goals and outcomes and also about the future objectives, the work plan and potential concerted actions. The jurisdiction already lacks the necessary staff to make the existing tools work out, **it lacks time to write out and disclose the information.**

Concerning indicators:

- **Confirmation rate in appeal: even though this rate isn't really a reliable quality indicator, it stays a useful tool for the court**.

In Italy, if an appeal decision is given on a case, it is automatically sent to the first instance judge.

In Portugal, the first instance judge is bound to know about the appeal as he registers it.

⇨ But the **issue is the exploitation of the information**. Does the judge go through an auto-analysis of the decision given in appeal on their first decision? Should the appeal decision be analysed by researchers?

See the project in France to close up partnerships with universities in order to study decisions.

In Italy, the MoJ has launched experimentations. One of its offices has been studying the kind of cases which come to court and the rate of success of different types of parties. Considering the results, they met with the parties who always loose in order to discuss about the objective reasons of their failing rate.

- **Predictability rate**: a high quality justice enables a litigant to have an idea on when he will be given a decision on his case.

In France, the **ratio between the admissible and non-admissible individual requests presented before the High Council of the Judiciary** could be an interesting indicator.

In Italy, there are no more evaluation commissions for legal aid and the State just pays the lawyers. The **ratio between founded and non-founded cases introduced through legal aid** could be interesting in order **to measure if the automatic legal aid process has improved effective access to Justice**.

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MINUTES – FOLLOW UP AND WORKING MEETING - November 4th

The meeting was organised in the Olympe de Gouges building of the FMoJ. French/English simultaneous interpretation was available thanks to a translation cabin.

Mr. Thomas LESUEUR, Deputy Director of the Judiciary Service Directorate (DSJ) welcomed the delegation and on behalf of the Director, Ms Marielle THUAU, thanked the foreign representatives for travelling to Paris. He also thanked them for accepting to commit to this project. The DSJ is strongly committed in modernising the Justice system to the benefit of citizens and litigants, but today, we need to go beyond words. The results and outcomes need to be tangible to them.

The courts already share the goals, but they need to spearhead the solutions.

He hopes the project will manage to issue concrete, meaningful indicators in order to create a strong emulation between courts, nationally and internationally.

- **Follow-up discussions on the court visit: exchange of views between the Project team members.**

To the question why France isn't mutualising civil and administrative platforms: too many differences exist between the two systems in France regarding their organisation and functioning. The question is keen however in the interest of the citizen's best understanding. The idea suggested to the French Conseil d'Etat, is to make the administrative court visible on the justice.fr website and have a direct link for the user to their website. Also, it is reminded that the CDAD of Melun for example has developed a double orientation to both judicial and administrative systems.

Concerning the institution of the SAUJ, even though the idea of improving the front desks of the courts is not new, it was a long way to find the resources to improve this service.

⇨ **To move forward, there needs to be a strong political will and a strong engagement from the head of courts. It is a full new political project to reconsider the whole judicial organisation through the front desks.**

Concerning the geographical organisation of the courts in the partner states:

In Italy, the courts are geographically united by themes but some cities as Florence, have recently united all departments in the same building. In Rome, civil, criminal and labour section tribunals are separated, so as the justice of the peace. A judicial map reform is in progress in Italy in order to foster the concentration of court houses. The idea is also to be more efficient with administrative staff.

⇨ When new buildings are built, they tend to concentrate but concentration is difficult and even impossible in ancient buildings.

In Portugal, in Vila Real, civil and criminal justice buildings are separated. Slovenia has a similar situation to Portugal. In some cases, the courts are very small and would face major human resources issues to set up a desk like the SAUJ. Estonia, with 15 small district courts and only 4 high courts, would face the same issue of human resources.

Concerning the development of IT tools to facilitate communication, access to judicial information and the technical issues it brings:

In France, for the time-being, the SAUJs only have a local district competence but PORTALIS, national support base, will soon generalise their competence nationally and allow better access to justice from any court in France. In Portugal, the single portal CITIUS produces information, gives access to individual cases information and allows direct communication with the courts (transmission of legal acts and supporting documents). Estonia has been condemned by the ECHR for not giving access to the justice e-service to prisoners. Indeed, electronic signature is valid through the ID card and the prisoners ID cards are removed in Estonia. In Slovenia, there is no mandatory representation of a lawyer and the procedures are still mostly in paper form. They believe that the option to file a claim in paper should be maintained because not everybody has access to IT technology. For some cases, electronic filing is possible and the fee is lowered. In Italy, electronic filing is mandatory only for lawyers before High Courts and Appeal Courts. Concerning storage and document archiving, there is a provision of law providing digital certificates. The signatures also have a strict validity period. After a certain period of time, the document is sent to a special service in charge of validating and archiving it.

⇨ Long-term storage of judicial documents raises the question of **the electronic format of documents. A format which should still be compatible in a few years' time.**

⇨ Slovenia is not keen on switching to dematerialisation because they believe a **long-term storage solution for electronic documents has still not been found which, to them, represents a judicial security issue.**

- **Presentation of the Performance Office of the Judiciary Service Directorate, by Ms Christine JEANNIN, Head of Office:**

The office is composed of 4 units:

- Unit in charge of measuring policies impact: mainly in terms of necessary resources for implementation.
- Management control unit: in charge of measuring performance, efficiency of the courts. In the future, improvement needs to be done to match the allocated means with those necessary for courts' activity and policies' implementation.
- Statistics unit: trying to work as much with quantitative figures than on qualitative aspects.
- PHAROS Unit: IT tool regrouping judicial data but also concerning courts' resources (human, material, financial…).

The recent objective of the office is to develop a tool in order to help courts to measure more than just their efficiency but also other parameters, and which can help courts to lead self-assessment tests and find self-developed solutions.

⇨ **There is a strong need to develop this self-assessment tool because quantitative figures are only a part of how the courts function.**

- **Presentation of the general framework for judicial services monitoring, by Mr Franck DELHOUSTAL:**

A 2006 Law imposed regular performance checks to all government offices. A three-year plan is implemented and annual reports drafted to measure the implementation of the plan. Aggregated figures of all courts are then presented to the Ministry of Finance.

The indicators are defined by objective but it is difficult to settle the targets. Indeed, the figures are collected by the judicial stakeholders with a constant tension between the Treasury Department, which pushes to performance, and reality.

⇨ **Quantitative indicators are perceived negatively and rejected by the judicial stakeholders. They are perceived as a race to productivity, pressure to do always more with less. But, they are nevertheless very useful to measure the activity of the courts. As a consequence, it is very difficult to find the good targets even though the office is constantly seeking for good quality indicators.**

The quantitative activity data is collected by the MoJ through an interface called PHAROS.

PHAROS is an IT data collector, accessible to any person in charge of performance rating at the MoJ or in the courts (Head of Courts), thanks to a personal access code. There are several ways of using PHAROS. The user may develop specific request, but it is a bit technical so, for the Heads of Courts, formalised requests are available. The source of the data in PHAROS is threesome: automatically through the professional interfaces (WINCI…), informed by the MoJ Statistics Service through other sources (INSEE (national institute of statistics) data…) or from direct fill-in by the Head of Courts.

Thanks to PHAROS, a direct flow of data is available and dealt with by the Statistics office. Today, there is a one to one and a half month delay to get reliable data. Only data concerning human resources are difficult to collect.

Concerning the reliability of reported data, of course any automatic way of collecting data is favoured because of the risk of distortion and misrepresentation of reported data. The Statistics office is in charge of exerting the control of this data and re-calibrate if necessary with the concerned court(s).

⇨ **With this data, the unit has been working on "modelling" the main objectives and has defined three categories of indicators:**

- **Activity,**
- **Quality,**
- **Efficiency: through the number of processed cases.**

The main goal being to make sure the available means are consistent and adequate to meet the set objectives.

PHAROS is an "Infocentre", information processer, designed for data collection and monitoring purposes. It is not a tool to sanction the performance of the courts but to assess their situation.

For example, the data processed through PHAROS allows for a fair allocation of these resources. And if a court encounters serious issues, a "contract" may be concluded with the court. In France, these supporting contracts are signed for 3 years between the courts and the MoJ, with an evaluation and possible evolutions every year.

Estonia implements the same type of contracts with struggling courts ("memorandum of mutual understanding").

The MoJ has also put in place a specific service **VIA Justice** with mission to help courts reorganising themselves. As a sort of audit office, it leads occasional assistance missions asked for by the courts or offered to the courts. In order to detect which courts are in a precarious state, the Office has developed a self-assessment tool.

- **Presentation of the self-assessment grid for the detection of courts encountering difficulties, by Mr Maxime GUILLEMANT.**

This grid is the outcome of a working group, which met in April 2016 concerning the situation of Bobigny High Court.

A reflexion was lead on how to detect precarious situations, on what is a weakness, how to detect it, prevent it or even anticipate it.

Two complementary tools were proposed and have been developed:

- A statistic detection tool relying on quantitative data, statistics. The objective is not to rank but to identify.

⇨ **6 indicators were chosen concerning human resources, distinguishing judges and court officers: the absenteeism rate, the difference between the official baseline and the effective staff, complemented by two indicators measuring the turnover and the attractiveness of court (number of applicants for a vacant position).**

⇨ **The activity indicators are: civil affairs processing time, a processing time for family affairs, a coverage rate, a stock flow theoretical time, a criminal response time observed relative to the expected standard, the clearance rates observed without result from the expected standard.**

Thanks to the selected data, the office produces a chart revealing the courts which need to be monitored and potentially assisted.

- A self-assessment tool: in the form of a questionnaire. Has a much more qualitative approach.

This grid is proposed to courts to make an assessment in order to highlight difficulties which have maybe not been identified by the court itself.

The questionnaire is built around 6 main themes and includes indicators which are not taken into account in management dialogues. Two examples of quality items included in the questionnaire and which cannot be given by the professional tools: number of training days followed by the judges, prosecutors and court officers and also the delays, not the general processing time but all the intermediate delays which impacts the court user.

It is important to find the exact nature of the problem in order to identify the right solutions (the allocation of human resources is not always the best solution).

Courts have expressed the wish to use the grid in a more systematic way. Therefore, the grid will have two levels of use: - it will be made available to all Head of Courts and may be used autonomously to assess the situation of the court at a given/chosen moment, - if necessary, the Judicial Service Directorate can impose the assessment grid to the courts identified by the detection stat detection tool as precarious.

⇨ Even though quantitative indicators are negatively perceived by the judicial stakeholders, it is interesting to note the link between precarious statistics revealed by quantitative data and qualitative issues met by the struggling courts.

- **Presentation of the "Marianne" baseline: inter-ministerial baseline defining 12 engagements for a better reception of public services users, by Ms Stéphanie**

KRETOWICZ, Deputy Director of the Judiciary Service Directorate on the organisation of the judiciary and innovation.

As from 2003, an inter-ministerial baseline was developed concerning reception in public services. The French MoJ has been committed since then.

In 2014, the Judicial Service Directorate imposed the baseline to all courts' front desks with an annual assessment.

After a reform, the baseline comprises 12 new engagements. Each year, the General Secretariat for the modernisation of public action leads an anonymous enquiry in courts; testing its services as usual court-users.

These assessments reveal that, even though courts are last in line of welcoming public services, there is a constant improvement of the front desks. The baseline is also a good tool for courts to improve their services. Two elements lower significantly the level of the courts, online filing and 5 days delay of answer to regular mail requests, both elements the MoJ will address thanks to the second version of PORTALIS.

Concerning satisfaction surveys: currently, France has decided not to measure court users' satisfaction regularly and is very interested about foreign experiences especially on how to obtain objective feedback from court users.

A general national survey concerning the Justice public service is led every 5 years. The survey is only external and not led with actual court-users (the results of this survey can be communicated as they are released).

CEPEJ issued guidelines concerning satisfaction surveys and on the ways to collect and obtain information. These guidelines are being currently revised.

(https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2428003&SecMode=1&DocId=2098990&Usage=2)

And, in the context of the EU Justice Scoreboard, the EU Commission also relies on Eurobarometer surveys.

Milan is currently setting up an evaluation.

WORKING MEETING of the CQFD Project team members

The working meeting is led between the CQFD Project team members, in English without interpretation.

The idea of the working meetings, which will take place at the end of each visit, is to take stock of what has been discussed during the presentations and visits in order to help foster the discussions for the next meeting.

- First, as proposed on Wednesday 2nd, Ms Karine GILBERG comes back to **the Questionnaire and the presentation of the preliminary results:**

From the answers to the questionnaire, it appears that:

- The pilot courts chosen by each State partner are First Instance and Appeal Courts and both civil and administrative courts. They are quite similar in terms of human resourced, except for Milan which is a slightly bigger court than the others.

- The questions about lawyer representation should be discussed at one point in the project, as it impacts the communication between courts and litigants.

- Also, the identification of the kind of litigants appearing in the selected courts is important because you do not communicate the same way with a company businessman than regular litigants.

Question 8: Thus, the answers given to question 8 must be re-written or elaborated on the different communication practices/policies with the different categories of litigants.

Question 9: the answers also need to be elaborated in view of each partner's situation and practices in order to identify the common elements which ensure quality of information services.

In France, Italy, Portugal, central desks welcome everybody and may deliver some documents. In Slovenia and Estonia, they don't have front desks. In Slovenia, there is no need because the information is available in specialised offices.

- **Is it already possible to identify indicators from the visit to Melun and after the presentations made throughout the meetings?**

First observation is how quality, efficiency and performance are inter-linked in all the presentations and the constant confusion between quality and efficiency.

- ⇨ **Judicial delay**: is it an efficiency or quality indicator? Probably both but there may be different approaches to the indicator such as: **providing a foreseeable timeframe for litigants**. Indeed, as an efficiency indicator, delays are seen as something which can be reduced. But today, there can be another approach to these delays and we can start thinking about them in a different way. **An interesting indicator could be: reliable information about delays.**
- ⇨ **Reliability of the decision is considered by ECHR as a parameter of the quality of its decisions**
- ⇨ **Communication of the courts with the public:** In Portugal, the only communication is through the web-pages of the courts. In France, the courts lack the liberty to communicate freely. For the moment it seems important to control the information at a national level. What training do the judges have concerning communication, with the media for example? In Italy, there is a disciplinary rule not to communicate with media. Only those who want to become Head of Office can be provided training.
- ⇨ **Training of the front desk officers concerning hospitality management, security issues:** for the SAUJ for example in France. There is, indeed, a need for a very valuable workforce capable of receiving the public.

Acknowledging how difficult it is still to identify indicators, Ms Karine GILBERG proposes to test another approach, a more progressive methodology where each partner identifies the existing instruments and all practices set up by the partners and the selected courts concerning services provided to the court users, management tools for the courts (micro-management, self-assessment…)... The idea is to create a sort of quality checklist to identify what would be the

fundamental elements of quality regarding management and then regarding services provided to the court-users. Not only a theoretical list but a list based on experience.

- ⇨ **The most important is to focus on the outcomes rather than on the outputs, which is much more difficult.**

A new document will list the practices of each partner country with the strengths and weaknesses of each practice. A list of the French practices could be proposed as a template around end of November, beginning of December.

Before suspending the meeting, the project team members agree upon a new date for the next meeting in Tallinn instead of January 15th, 16th. The week after is proposed but it is decided to let everybody consult their agenda and teams before fixing the final dates. ***Finally, February 2nd and 3rd have been agreed upon by all members.***

CQFD Project
TALLINN, FEBRUARY 2. 3 – 2017

MINUTES – MEETING MINISTRY OF JUSTICE of Estonia
February 2nd

The Estonian Ministry of Justice (MoJ), organised on February 2nd and 3rd, 2017, the second study visit of the CQFD project. On Thursday, February 2nd, a first meeting was held in the Estonian MoJ premises in Tallinn. The meeting introduced the participants to the national administration of Justice and the tools concerning access to Justice.

Estonian/English interpretation was available. No equipment was needed.

Ms Kaïdi LIPPUS, Director of the Courts Division at the Judicial Administration Policy Department of the MoJ and Mr Villem LAPIMAA, Judge at the Administrative Law Chamber of Tallinn Court of Appeal welcomed their foreign partners:

- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Ms Stéphanie KRETOWICZ, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate
- Mr Harold EPINEUSE, French MoJ expert,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Mr Roberto PERTILE, Italian representative, President of Civil Section of the Tribunale ordinario of Milan,
- Ms Patricia DA COSTA, Portuguese representative, Judge President of Leiria First Instance Court,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court,
- Mr Tine STEGOVEC, Slovenian representative, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

Mr Eduardo BUONVINO, Italian representative, Judge at the Minister of Justice's Cabinet was excused.

- **Welcome and opening words, by the Secretary General of the Ministry of Justice, Mr Norman AAS**

Mr Norman AAS explained that since 1991 and the break-up of the Soviet Union, Estonia changed rapidly thanks to a strong economic growth and the set-up of modern political and economic institutions. In 2004, Estonia joined the EU and developed a modern set of rules and laws in line with EU standards. **An effective implementation is essential to the rule of law.** 5 years ago, after implementing different management systems, Estonia led a global reform of the justice system and guidelines to court administration and procedure were drafted. During these last 5 years, the **better management of the courts has been a priority** and it is possible today to draw the first conclusions.

Mr AAS considered that the added value of the CQFD project is to compare the different systems. Indeed, even if the rules and systems are different, the core values and their legal understanding are similar and the people applying the rules finally behave quite similarly.

Ms Kaïdi LIPPUS, new representative for Estonia in the CQFD project, who also represents Estonia at CEPEJ, took the floor for a presentation concerning court administration in Estonia.

- **Contribution of the Estonian MoJ to the quality of legal proceedings through tools provided to the court directors and chairman. Budget procedure and efficiency rising projects by Ms Kaidi LIPPUS, Director of the Courts division of the Judicial Administration Policy Department**

After presenting the structure of the Estonian court system (see annex "The judicial system in Estonia"), Ms LIPPUS, went through the development of the quality management systems and tools provided to the courts managers by the Ministry to enhance quality of Justice.

The structure and management of the court system: The territorial organisation of the courts has gone through an extensive reform in force since January 2006 (see composition in CQFD note "The judicial system in Estonia)

⇨ All first and second instance courts benefit from a **two-head management**:

- **A Chairman**, who is the President of the judges of the court. He/She is a judge and deals with the administration of justice and functioning of the court. Appointed and released of office by the Minister of Justice after public competition organised by the MoJ and approval of the Council for Administration of Courts**.**
- **A Director**, who is not a judge. As the manager of the court, he/she is in charge of the administrative management. **Appointed and released of office by the Minister of Justice.**

The Council for Administration of Courts (the Council) is a non-permanent body which meets 4 times a year, and for extraordinary sessions whenever necessary, to discuss important matters concerning the development of the court system. It also discusses legislative initiatives and can inspire new legislation. The Council has no personal budget or staff (MoJ). **Chaired by the Chief Justice of the Supreme Court it is composed of**:

- 5 judges elected by the Courts (2 years mandate),
- 2 members of the Parliament,
- the Chief Public Prosecutor or representative,
- the Legal Chancellor or representative,
- a lawyer appointed by the Board of the Bar Association,
- the MoJ or his/her representative only participates in with the right to speak but without the right to vote.

The **Council grants approval for most of the important decisions made by the MoJ** (*territorial jurisdiction, structure and location of the courts and courthouses and the number of judges in the courts and courthouses, appointment to office and premature release of a chairman*) and **gives opinions on other matters** (*the principles ruling the determination of annual budgets of courts, candidates for SC, disciplinary release of a judge…*).

There are 242 judges in Estonia, 150 of which work in the 4 county courts. **A few years ago, the lack of judges and the difficulty to recruit new judges in the first instance courts affected the quality of justice.** A reform was led 4 years ago to introduce a new type of court official, **the court clerks**. The court clerks replace court consultants. Hired by a public competition, they are qualified lawyers with a master's degree. Their income is higher, at least half of one of a judge. After the latest judges' competition, also recently reformed, they are said to become the rising generation of judges.

⇨ Thanks to the **court clerks'** higher qualification and higher number, (the number of court clerks is about the same as the number of judges) **most of the judges can use the services of a court clerk**. The court clerks draft most of the decisions which **leaves time for the judge to study the file before the hearing(s), to plan the procedure and thus to promote the timeliness and quality of Justice in wider meaning**.

- **Administration of the courts:** The roles are divided between the MoJ, The Council, the Supreme Court and the managers of the first and second instances courts, chairmen and directors.

The Courts' Act provides that the administration of the courts consists in:
- guaranteeing access to justice,
- ensuring independence of the administration of justice,
- providing necessary working conditions,
- guaranteeing adequate training.

⇨ **In practice, the functions of administration of courts are much wider.** They have been laid down in **quality standards approved by the judiciary in 2016**. The **first part contains the quality standards for the management of the court** that describe activities related to the chairman of the court. **The second part contains the quality standards for the administration of courts** and it concentrates on the different roles of the parties involved in the administration: directors, MoJ, Council for the Administration of Courts.

The first and second instance courts are administered in co-operation between the MoJ and the Council for Administration of Courts. They are **financed through the budget of the MoJ** and **the administration on a daily basis falls within the competence of the MoJ**. But the Council discusses all the important issues concerning the administration of courts and has to give its consent to or its opinion on every such decision. The Supreme Court also guarantees the proper functioning of administration of justice in the court system, especially through organising the work of judges' self-government bodies.

The MoJ plays an extensive role in the administration of the courts. In 2012, the Council has entrusted the MoJ to improve the court system by developing a quality management system.

- **The quality management system:** In 2012, a working group was gathered by the MoJ including chairmen and experienced judges, representatives of the National Audit Office and of the Supreme Court, and officials of the MoJ who deal with administration of the courts.

The **goal of the working group was to agree on the quality management principles** for the courts of first and second instance. After 3 years, the working group concluded that **a reliable and effective court system needs well-planned and transparent management.** Quality management implies **three elements**:

1) Promoting **unified values** in the court system and acting on the basis of those values;
2) Helping judges and chairmen of courts, but also other court officials focus on what is important – it helps ensure **timeliness of administration of justice and satisfaction of procedural parties**;
3) Quality management and funding of courts are not directly related to each other, i.e. **the purpose of quality management is not to save costs but to enable more efficient administration of justice, using the existing resources**.

The agreed system finally consists in **three parts**:
- Good practice of court management (approved by the Council in 2012) focuses on best practices of management of courts.

⇨ The **key themes** are: **equal workload** (chairman monitors the working performance of the judges), **managing the courts resources** (staff, budget…), **ensuring proper data entry in the IT system** (E-file), **communication management** and **protecting procedural rights of the parties** (up to date information on court's website, timely information on personal cases, communication of appropriate information to the parties preserving the sense of fairness, unambiguous signs and an **information counter** in the courts, polite and appropriate communication by the court officials).

- Good practice of court administration (approved by the Council in 2013) focuses on the cooperation and information sharing by all parties of the court administration system in Estonia.

⇨ The **key elements** are: shape and fulfil a **budget**, deal with **courts' staff**, **work**

environment, **development of the courts**.

- Good practice of court procedure (approved by courts by all judges of Estonia in 2015). The need to develop good practice of court procedure became apparent with the study of satisfaction of participants in the procedure organised by the Supreme Court in 2013, as well as from the practice of the European Court of Human Rights in the recent years. Another goal was to try to generally reflect best court practices of Estonian judges.

⇨ The **key principles for ensuring quality of case hearings in courts** are:

- **Predictable, reasonable duration of court procedure**: the judge informs the chairman why otherwise, avoid inexpedient procedural acts in the respect of the right to a fair and impartial court procedure, priority cases in priority order established by the full court, necessity to observe correspondence with time schedule agreed with the participants,
- **Professional and respectful communication with participants in the procedure** (norms established in the "*Estonian Judges' code of ethics*"),
- **Debated, approved, predictable, decent and understandable conduct of court procedure**,
- **Good cooperation in the procedural group** (judge/court officials),
- **Communication with the media**.

These practices evolve and develop but projects like CQFD keep the importance of quality up to date.

- **Tools provided to the court managers, directors and chairmen, to promote quality of Justice:** Other than the quality management system described above, the MoJ provides different types of tools to stimulate quality of Justice:

- **A twofold budget system, an annual and a performance based budget:** the annual budgets of the courts are drafted by the MoJ in cooperation with the chairmen and directors. For the first time in 2016, the draft budgets were discussed with all first and second instance court managers together. The draft budget is then presented to the Council which has to give its opinion on the respect of the principles on elaboration of the budget. **Finally, the budgets are approved by the MoJ**. This annual budget for each court covers mainly the judges' salary fixed by law. **The reserve budget of the courts** (unused money from vacant judges' posts) may be used by the MoJ for the courts for IT development projects, training programs or for the Council's costs…

The performance-based budget system isn't new in Estonia, but until 2013, it was mainly used in punctual crisis situations for temporary support programs to specific courts. In 2013, the drastic under-financing of the justice system by the Government pushed the MoJ to find new solutions. An **Agreement for more efficient administration of justice** was approved by the Chairman of the Harju county court and the Council and implemented. In 2014, similar projects were approved to be conducted in Tartu Circuit Court (second instance), County Court (first instance) and Administrative Court.

⇨ **Among the targets that** were agreed upon:

- Staff changes: judicial clerks, update of job descriptions of officials, establish performance based funding system in the court, establish HR system of development interviews and performance assessment with all officials, appoint senior analyst.

- Shortening the time limits of proceedings for all type of proceedings (made more lenient after 2013)

- special attention to cases returned to the court for renewed hearing,

- ensure that proceedings do not last more than 365 days (with exceptions: suspensions,

fugitive, long expert assessments…)

- support implementation of information system. [49]

⇨ A quality management system was developed in order to **balance the performance-based budget with** time limits and number of resolved cases.

Discussions concerning performance-based budget: It is agreed between the CQFD team members that this type of budget promotes efficiency rather than quality of Justice. **In Portugal**, a similar system has been developed and **two main problems** emerged. First, if the non-efficient sanctioned courts have less money it is more likely that the problem will grow rather than improve the situation of the court, especially for the court-users. Second, the Justice system is a non-profit based institution and the Portuguese had issues to act the same as private companies. They thought that judicial independence can be hampered and decided to cancel this type of budget.

- **Training programmes** of court managers and court staff: The *Management training programme* for chairmen and directors was introduced 3 years ago. The managers are also encouraged to attend international programmes and trainings. Today, as most of the managers are experienced, instead of basic management training, international seminars are organised with foreign and/or domestic experts on specific matters.

- **A Satisfaction survey for court-users** was organised in cooperation between the Supreme Court and the MoJ. Conducted towards lawyers, prosecutors, and citizens (court users only) it led to a result of 60% of positive opinion on the court systems. This result was not considered satisfactory by the Estonian MoJ and was the main reason why the third part of the quality management system, the good practice in court procedure was developed.
A ***Study on the professional devotion of the courts personnel including judges*** was also organised within civil servants by the Ministry of Finance. The results of these satisfaction surveys are not made public.

- **IT tools:** IT is one of the principal interests of the MoJ regarding improvement of the administration of courts. **The aim is to create a user-friendly working environment for judges and court officials with the help of IT tools and raise the efficiency of the courts.** On the other hand, **IT tools should help the citizens as well**.

The MoJ implements a 3-year *Development plan of Information and Communication Technology*. The ***Centre of Registers and Information Systems*** develops all the systems used in judicial proceedings (Court information System, E-File…) under the jurisdiction of the MoJ. These IT systems help managing the court staff and support statistic gathering.

- **Strengths and weaknesses of the court system**

According to Ms LIPPUS, this administration system guarantees the strength of the Estonian Justice system concerning **lack of corruption and impartiality**, matters on which Estonia has good EU ratings. Estonia also has **good EU ratings concerning length of procedures**.

The trust among the Estonian people however stays relatively low according to Estonian MoJ. It could be caused mainly by **poor communication,** even though a court communication system has been built in coordination with the Supreme Court.

The system also suffers from insufficient funding. The budget for courts in euros per inhabitant is among the smallest in EU. Insufficient funding has made it i**mpossible for example to hire qualified and motivated support personnel for the entire court system**, although such personnel are needed for the proper functioning of the administration of justice. Also the lack of judges in small court houses **prevents their specialisation when European**

[49] idem

experience shows that there is strong correlation between the specialisation rate and quality of justice.

According to Ms LIPPUS, the balance of powers imposed by the law between the MoJ and the Council doesn't allow an efficient administration of the law and imposes a time-consuming obstacle to the administration of the first and second instance courts. The intervention of the Council often prevents from taking risks in developing and improving the system.

- **Access to justice tools: Legal aid**
  - **The State legal aid system by Ms Leen EENPALU, lawyer, member of the Estonian Bar association**

The Etonian Bar Association was established by law in 1919, and can only be dissolved by Parliament. The Association comprises 988 members among which **120 State legal aid providers**. The lawyers who provide legal aid are in private companies. A website in English is available www.advokatuur.ee.

- Who is entitled to receive State legal aid?

The criteria to grant legal aid are **financial but also on the merits**. It **is automatic in criminal proceedings**. The **decision to grant or not State legal aid is made by the courts** and the cases are randomly distributed among the judges.

Criteria to grant legal aid: Considering the average market price of legal services and the average monthly net salary, most people cannot afford legal counselling.

⇨ Not only does the court consider the last months income but also, and **more importantly, the chances of success of the legal request**. 75% of the requests are rejected mostly on merits. And even if a judge has stated on the legal aid request, he/she can chair on the substance of the case.

- Main principles of State legal aid: The legal service is provided only by a member of the Estonian Bar Association nominated by the Bar and **appointed, based upon an application of the court, the prosecutor's office or the investigation department**, **exclusively** via the ***State legal aid information system*** **(RIS)**.

- State legal aid can be granted:

1) **Fully**, without obligation to compensate for the state legal aid fee and costs,

2) **Partially**, with obligation to partially or fully compensate the fee and costs in a **single payment** or in **instalments**.

- Categories of State legal aid: State legal aid is granted in **criminal proceedings** (appointed defence, pre-trial proceedings and in court, extrajudicial proceedings in misdemeanour matter and in court), for **civil matters** (pre-trial proceedings and in court), **administrative matters** (proceedings and court proceedings), **enforcement proceedings**, **review procedures** and also in **other non-judicial acts** to prepare legal documents or provide other legal counselling or represent in another manner. **State legal aid should cover all legal aspects and all types of legal procedures**.

- Organisation and financing of State legal aid: Even if the Bar is responsible of the organisation of the State legal aid, it is **financed exclusively by the State budget** (no private funding is possible) (3,8 million euros in 2016, 10% of the Court budget).

The Bar must ensure **continuous organisation and reasonable availability**. It must guarantee a sufficient number of appointed attorneys for timely carrying out of the proceedings and timely attendance in proceedings. The Bar Association is responsible for managing the budget and paying the lawyers through a system, considered complicated, of ***Fees and expenses Procedure*****, established by the MoJ since August 2016**.

The bases for calculation are estimated yearly by the MoJ taking into account the amount of funds allocated and an estimate volume of state legal aid and after hearing the opinion of the board of the Bar Association. The bases may be altered during the budgetary year by the Minister of Justice.

- **The State legal aid information system (RIS) by Ms Kisti KIRSISTE, Operating manager of the State legal aid Information system (RIS)**

The RIS, launched in 2010, is an information system which **manages state legal aid granting**. The RIS **automatically distributes the State legal aid requests among the attorneys**. The goal is to achieve an equitable distribution between the attorneys.

The RIS is part of the central E-file system (E-toimik in Estonian) which forwards the orders to RIS and RIS also communicates with the other information client systems used by investigators (MIS) and prosecutors (KRMR) and judges (KIS).

All the communication is digital. The attorneys registered on RIS are informed of a new request by mail or SMS. The Bar Association may accept the case for an attorney or even enter a request in the system. Indeed, the system in still not 100% automatic and may, in some cases, need the intervention of a member of staff of the Bar Association. The next goal is to get the system more user-friendly on mobile phones.

⇨ Attorneys automatically identified for a request who refuse the case have to justify their refusal. The deadline to answer a request is 48 hours and **if no attorney has answered until then, the Bar Association can appoint an attorney.**

⇨ **A judge who approves the attribution of State legal aid to an attorney also needs to control and approve the attorneys request for compensation** which is a very time-consuming work for the judge and also for the other institutions. Indeed, the attorney needs to send his/her costs requests to the right institution.

- **Web portal www.juristaitab.ee "jurist aitab: lawyer helps" Online legal advice by Ms Kristel VOLTENBERG, Chancellor of Estonian Bar Association, and Ms Krista PAAL, MTÜ Juristide Liit director**

The website, **financed and owned by the MoJ**, has been launched in 2011. A page in Russian has also been launched in 2015. The **management and moderation is attributed by public contest** (less strict rules than public procurement) for different periods of contract. The last one has been granted to the Estonian Lawyers Union, an NGO of about 100 members (lawyers, barristers and anyway judicial experts…).

The Portal allows people to **find precise reliable judicial information** through **a forum where questions can be posted and an answer obtained**. Answers are drafted by a group of experts composed of about 10 specialists (legal professionals, researchers…) each in a specific field. The visitors can also refer to **previously asked questions and informative texts on about 500 different topics defined by the experts**. The web portal is visible and accessible from the RIS webpage and from the Estonian court system webpage. The experts are also responsible for keeping the information of their section up-to-date.

⇨ In order to post a question, an individual has to identify through his/her ID card.

But the **personal information is only accessible to the moderator and to restricted people from the MoJ** (IT consultants, supervisor of the programme…) and any communicated personal information by the individual in the question is anonymised by the moderator before validation.

Through this webpage, the Estonian Lawyers Union gives only legal advice and does not ensure legal representation nor provides free legal aid.

- **<u>Contribution of the Ministry of Justice to reporting on backlog cases by Ms Külli LUHA, Adviser of Courts Division of Judicial Administration Policy Department</u>**

About 10 years ago, the first steps were taken to improve the quality of the court system and to solve the management problems of the courts and especially the **main issue: duration of cases**. There was a notable difference of duration between the courts from 70 to 700 days. **The judicial map reform helped redistributing the workload and solved most of the problem**.

⇨ **The focus on an average length was reoriented on the reasons why some cases last longer than others.**

Since 2014, the MoJ in cooperation with the chairmen of the courts established:
- An informal one-year rule to deal with a case, which is non-binding,
- A two-year rule after which a case is **officially considered as an old case. The case will go through constant monitoring of the Court President, the Council and the MoJ.**

- <u>Reporting on old cases:</u>

From the chairman: twice a year before the Council to justify old cases. Once a year the Council also receives the courts statistics and may ask the chairman for justification.

From the judge: In an *"old case report"*, the judge has to report to his/her chairman **three times a year**. He/she needs to give the **reasons for delay**. In 2007, when the process started, the justification for delay was usually that the case was in a negotiating process. In 2016, the MoJ created an **<u>excel report tool</u>**, by which the judge has the opportunity to control his/her statistics.

The report tool has also been integrated to the IT court system. As a consequence:
- The court's chairman has access to the same information as the judge,
- The judges can have a general overview of the courts' performances and see the results of each colleague.

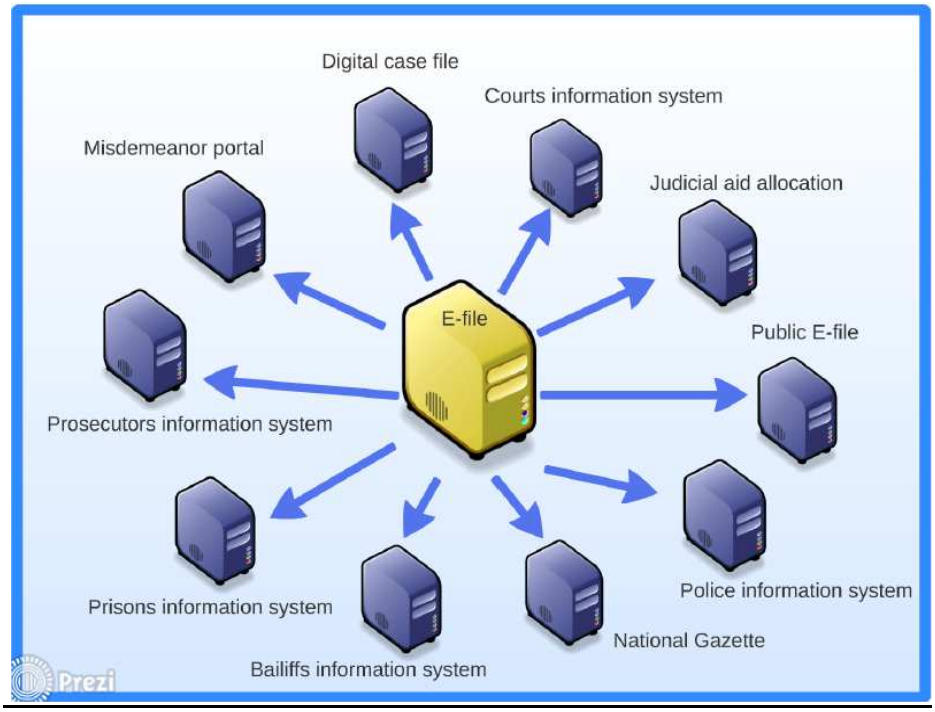
⇨ The aim is not to put pressure but **to establish with the judges a common set of procedural standards enabling to rule a case in a year time**.

The most common cause of delay is the failure to communicate with the parties and especially the defendant. Indeed, **<u>in Estonia</u>**, the case starts when it is filed, whereas **<u>in Italy</u>** for example, the case is considered as launched only when both parties are identified and notified.

- **<u>ICT systems supporting court proceedings- e-File, Public e-File, Court Information System, Digital Court File by Mr Evar SõMER, Head of Department for Law Enforcement Information Systems of the Centre of Registers and Information Systems of the MoJ</u>**

The E-File information system is the **backbone system which supports all the material and ensures interconnections between all the systems and files**. Before this **single system**, each institution had its own interface and web-services. Developed since 2006, it was launched in 2009 with the criminal and misdemeanour proceedings. The criminal records were included in 2012 and the civil and administrative proceedings in 2014.

E-file is **ramified in different, customised user interfaces**. As the needs for the users change all the time, heavy developments are going on daily and updating is constant.



- Through the Public E-file for the citizens, the individuals can file a case online and then follow and communicate with the court automatically through the system.

⇨ Citizens have the right but not the obligation to use E-file and the court will e-file the case anyway.

⇨ The lawyers however are compelled to use the electronic system.

- The court interface (KIS) has been designed for the judges. On their personal interface, each judge can follow his/her case load and the duration of a case is always visible in order to avoid delays.

Judges are assigned automatically by the system but a manual control needs to be done when for example higher court reassigns a case to the lower court. A clerk then needs to make sure manually that the first judge is not reassigned.

⇨ **A special trained clerk deals with the allocation**.

⇨ All courts use automatic assignment. Only in the **Supreme Court does the chairman of chamber allocate manually** to the judges.

- A new **digital case file** tool has recently been developed for the judges to work on documents. All judges were trained to use court information system but they do not use it very much yet. In criminal cases, the paper file needs to be printed. Some judicial documents still need to be printed in paper archives. **For example, even if all the judgements are digitally signed they are kept in paper archives**.

- The Official announcement system**:** Recently, the Centre of Registers and Information Systems of the MoJ has developed another new system. In order to **avoid excessive duration of a case when one of the parties and especially the defendant cannot be reached, an Official announcement system has been launched**. An announcement on this electronic system substitutes itself to the announcement on the newspapers. If a defendant cannot be reached, a **ruling in absentia** can be done by the judge.

⇨ The ruling is published on the website and after 15 days, it is a**ssumed that the person has taken notice of the ruling and the proceedings may go on**. This system in meant to avoid unnecessary duration of cases. Since it was launched, the judges do not use it very often.

- **National Gazette, database of court decisions and published information of court proceedings by Mr Jüri HEINLA, Director of National Gazette division of Judicial Administration Policy Department and Mr Riigi TEATAJA**

Created in 1918, the National Gazette was online in 1996 and became the **official information source** in 2002. In 2010 it also became 100% electronic. Since 2011, it is the **one stop shop for all important legal information in Estonia**. The Gazette publishes: acts, regulations and foreign agreement, statistics, procedural information and draft legislation, legal news, catalogues, references, judicial information and translated acts.

⇨ In order **to publish up to date and reliable information**, the Gazette's system is **linked to the global system E-file and automatically searches other publishing systems to compile the information**.

Each section of the Gazette is interlinked in order to give extensive information. Each act or regulation is linked to the corresponding national rulings, to the correspondent EU legislation and jurisprudence, to the national implementing bodies…

⇨ **All judicial rulings are available and all SC rulings are associated to the legal disposition it refers to**. If the Gazette doesn't publish the rulings, **they can be retrieved** by the Gazette's system from the Court Information System (KIS) through the general E-file system, **after having been anonymised manually by the court staff**.

It is possible for an individual to **subscribe to notifications** from the Gazette. Concerning judicial information, the project is to propose a notification when a new court ruling is available.

⇨ Information concerning **cases filed in courts and their timetables are available**. All the information concerning the parties is available to the public for the moment. In order to avoid automatic retrieving of this information by robots for example, **it has not yet been decided if a code will be introduced or if the Gazette will just stop publishing this type of information**.

CQFD Project
TALLINN, FEBRUARY 2. 3 – 2017

MINUTES – COURT VISIT COURT OF APPEALS OF TALLINN and WORKING MEETING - February 3rd

On Friday, February 3rd, the court visit was organised in the building of the Court of Appeal and Administrative Court of Tallinn. The court also hosted the working meeting of the project team members.

Estonian/English interpretation was available thanks to an interpreter. No equipment was needed.

Mr Urmas REINOLA, Chairman of the Court of Appeal of Tallinn and Mr Villem LAPIMAA, Judge at the Administrative Law Chamber of the Court of Appeal of Tallinn welcomed the project team members:

- Their colleague, Ms Kaïdi LIPPUS, Director of the Courts Division at the Judicial Administration Policy Department of the MoJ, Estonian CQFD representative,
- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Mr Harold EPINEUSE, French MoJ expert,

- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, Head of the organisation of the judiciary and innovation division of the Judiciary Services Directorate
- Mr Roberto PERTILE, Italian representative, President of civil section of the Tribunale Ordinario of Milan,
- Ms Patricia DA COSTA, Portuguese representative, Judge President of Leiria First Instance Court,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court,
- Mr Tine STEGOVEC, Slovenian representative, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

- **Welcoming words by Mr Urmas REINOLA, Chairman of Court of Appeals of Tallinn**

Mr REINOLA underlined that the Tallinn Administrative Court and Court of Appeal constantly look for the satisfaction of the court users, "the court has to stand for the rights of the ordinary man". Thanks to the quality management standards established through the last years, the justice system in Estonia is progressively improving.

- **ICT systems through the eyes of a judge, IT and leadership by Mr Villem LAPIMAA, Judge of Court of Appeals of Tallinn**

Estonia has set as an objective to become progressively an e-State which provides e-services in all areas. Therefore, IT has been developed in all State agencies (laws and case law only published online…), public life (e-voting, e-taxes, e-patient…) and urban life. The Estonian population is used to digital public services.

⇨ The system is based on a **compulsory personal ID-card identification for all the users** and on **digital signature imposed by Law to all professionals.**

The Court information system (KIS) is the basis for a 100% digital case file.

⇨ As mentioned by the Ministry of Justice, if an **individual chooses not to use the digital system, he/she can fill the documents on paper and send them to the courts** (prisoners for ex have no access to the KIS for the moment). **Thus paper files still exist** and even though an individual has started in one way, digital or paper, he can switch to the other throughout the process. In any case, the **court-staff is in charge of digitalising all the documents** in order to file them into the system.

⇨ **Thanks to KIS, the same information, without further filing and registering by each office, is communicated through e-file to all the parties and professionals**.

The ambition in the Administrative Chamber of Tallinn is also to progressively use only the digital tools and especially the digital case-file. For judges, KIS is available on any personal desktop.

- Extent of the access to the cases: **All judges can access all the court cases**, except officially declared confidential cases. The designated judge on a case can see who has looked the case up. After a judge has given a decision on a case, he/she can see if it has been appealed or is brought to the Supreme Court.

- Notification system: The judges benefit from a notification for urgent cases as soon as they are allocated to them and on delays which are about to expire. A notification is also sent for cases in which the judge is sitting in a panel.

⇨ **The priority is always to avoid unnecessary delays in pending cases**. The President of the court has the duty to check unreasonable delays and ask for their underlying reasons

(workload, lack of action…). He also receives regular alerts on pending cases, after 3 months, after a year.

- Statistics and benchmarking: KIS contains a statistics section which allows control and follow-up.

⇨ A general meeting is organised each year during which **all general and specific statistics for each judge's activity are communicated** except for the Supreme Court judges. The **benchmarking of judges is a sensitive and controversial issue** among judges.
⇨ General statistics are published on the MoJ website and the courts webpages.

- Evaluation of the complexity of a case: Currently, the complexity of a case is calculated by points. The number of points is discussed between the judges of a court.

⇨ But **the system is considered too complex**. **Mr Villem LAPIMAA** calls to the CQFD team members if ever they know a good working system, and mentions a **German system to assess complexity of a case**: PEPSI

- Audio-minutes of the court sessions in the administrative courts (first and second instance): For administrative courts hearings, the written minutes are very short. They mention each act of procedure performed during the hearing and **provide links to complementary information**, testimonies for example audio-recorded. In administrative cases, 75% of proceedings are in writing.

This system is not national yet. In civil first and second instance, the minutes are also very short. The hearings are audio-recorded and may be downloaded only in full. Criminal proceedings however are never recorded and fully transcript.

⇨ The **Court of Appeal is not compelled to listen to the full record**. For a complex case for which the recordings can have specific significance, the secretary of the court will do a **transcript**.

⇨ **Leadership is essential to develop IT systems:** it needs a hand-on approach from the managers of the courts, president and directors, to **explain and convince judges** who are usually reluctant to introduce new tools in their working habits.

⇨ The administrative court puts **high hopes in the digital file projec**t hoping it will enable soon to include hyperlinks to the court judgments.

- **Quality management in County Court by Ms Liivi LOIDE, Chairman of Tartu County Court**

The Tartu county court was established in January 2006 with the judicial map reform after 6 first instance courts were merged in one centralised county court.

⇨ However, **no courthouses were closed from the merger and all the local public services were maintained** in order to ensure access to justice.

Management must look at the general problems and not only specific mistakes (monthly meetings of head of offices within the county court jurisdiction). The Tartu Court House Office is the biggest with 9 officers, the **main task of the President is to coordinate their work, to motivate and create a good environment** (joint training of all court officials).

- Tasks of the court offices: The main task of the court offices is to file and register information in the KIS. The **MoJ checks and analyses how the courts fill in the system** and makes sure correct data is filed to **get statistics** of good quality.

⇨ Good **cooperation between the court offices and the legal services (court clerks) is essential**. In order to **ensure a strict division of task between them**, especially on the KIS, an agreement had to be signed in October 2016. Also, in order to help the court clerks to fill in the system properly, **3 everyday internal trainers** work for the 6 courthouses.

- Prerogatives of the court clerk: The **court clerks have procedural prerogatives**. They may sign pre-trial organisation decisions (administrative orders as date of hearings etc.…) allowing the judge to concentrate on the judgement. They are also entitled to sign court rulings of cases which cannot be submitted to appeal.

- **Implementation of the Agreement of Good Practices in Harju County Court by Mr Meelis EERIK, Chairman of Harju County Court, Tallinn First Instance Court and Mr Martin TAMME, Attorney at law, Chairman of Ethics and Methodology Committee of Estonian Bar Association**

A few years ago, a team of judges of the Harju County Court decided to lead the way **to cooperative guidelines of good practices between legal professionals** in order to **try solving the major problems responsible for delays in proceedings**. The challenge was to convince the attorneys to participate in this project.

The project is progressively spreading through courts and the judges are generally answering positively because they see the advantages they can get from it. Concerning the attorneys, the persuasion work is ongoing.

Agreed good practices in civil cases concern:
- Preliminary proceedings: maximum 2 hearings (but judge must be ready), maximum 4 procedural documents (lawyers have produced templates); judges ought to be stricter concerning misconduct of the attorneys…
- Hearings: vacation sacred, aim of the preliminary hearing, testimonies.
- Documents: short, concrete, complete.

In criminal cases, the problems are identified but the parties are not mature enough to deal with and talk about it. However, it has been agreed for the moment that the **main problem is the behaviour of the parties at the hearing and the media**. The judge should notice the conflict and try to calm the situation asap and the parties mustn't "solve the case" in the media.

⇨ In France: the problem is that these coordination projects are very person-based and when the person leaves, everything seems to have to be redone again. The question is how to build durable projects?
In Estonia, they have managed to push these guidelines in the trainings of the judges and attorneys.
In Italy, a similar experience is lead since 2015 trying to establish that the acts of parties for example should not exceed 30 pages.
In France, several practices have been set as a summary of the case, but there is also a more fundamental legal obligation to compile all means of law in the first claim.

- **Public relations of courts. Satisfactory survey. Administration of Justice Week activities by Ms Krista TAMM, Press officer, First and second instance courts Public Relations departments**

In May 2011, the first communication strategy of Estonian courts was adopted by the Council for Court Administration. Created in April 2016, the **main objective** of the public relation service of the first and second instance courts is to **support the activity of courts by defending people's rights and the rule of law**.

There is a **joint press office** for all first instance courts and courts of appeal with **3 press officers**.

The policy aims at the general information of the public on their rights, and also to **encourage people to use ADR.**

The three targeted groups were:

- The parties: The 2013 satisfactory survey was led more specifically with 4 subgroups (people who turned to the courts, people who had attended court hearings, attorneys and prosecutors). More than half of the people who had received a ruling considered it to be fair (up to 63% for legal professionals). A new survey will be led in 2017.

  In this survey, if the **court judgements** are considered **clear**, **judges** and **judicial staff** are **helpful and professional**, the parties consider that it is **difficult to find information**, that there is a **varying level of justice across the country** and that **justice is slow and expensive**.

- The general public
- The Media: courts more pro-active in communication, double coverage of activity in two years.

Examples of communication activities of the courts of Estonia in recent years: **The week of administration of justice** is organised each year since 2013. On that occasion, free legal advice is given by NGOs, Moc trials with students are organised by the Supreme Courts, documentaries on Justice are broadcasted by the media, **school pupils and university students** are invited to the court houses and debates are organised between members of the courts, members of the prosecutor's office, members of the Bar Association and journalists.

The **courts have their own Facebook page "The art of Justice"** created in 2013, sharing documents, pictures about events, job offers, and publications in the media. The courts' websites are directed to parties and Facebook to the general public. The Supreme Court has also produced a **video available online**. Courts have hosted **exhibitions on legal subjects but also art** to demonstrate that courts do not welcome people only for problems.

⇨ **Media coverage** is more balanced these last years. Before, the media communicated mostly on criminal cases.

⇨ **Journalists can get copies of courts decisions.** They must **sign an engagement by which they will not distribute and disseminate confidential information**.

The goal of the policy is also to **expand the number of judges as spokespersons for the courts.** The rule is that a judge does not communicate on his own cases and leaves the communication to the chairman or another judge.

WORKING MEETING of the CQFD Project team members

The working meeting is led between the CQFD Project team members, in English without interpretation.

- **This visit in Tallinn, quite ahead concerning IT tools allows to identify common practices concerning IT and especially concerning what is expected from it:**

Different type of actions can be dealt with thanks to IT:
- E-filing,
- Monitoring the progress of cases,
- Monitoring and enforcement of deadlines,
- Communication with parties,
- Management,
- Statistics,
- Information of the public…

Different crucial questions occur with the development of IT tools:
- The necessity of establishing an IT "requirements handbook"?
- Who is piloting, financing the IT system?
- Is the design centralised or decentralised?

- Who pilots the whole quality policy and streamlines the practices?

Many CQFD team members are very interested by the functionalities offered by the Estonian system, considering whom the tool is directed to, court users, court staff or judges, and also for which objective, management or evaluation. The Portuguese system is very similar to the Estonian one but they would like to include a direct access of citizens to *CITIUS*.

⇨ It is clear that **the development of IT tools is not only a quality criteria, it has become a pre-requisite**.

But according to some CQFD members, IT is not the solution but an instrument to accomplish other quality goals. It is important as well to identify the tools which will help the most **vulnerable users** to get to use IT systems.

- **the notion of real quality or perceived quality:**

Through the results of the satisfaction surveys, it seems clear that the opinion of parties and professionals is often better than the general public's who only sees it through the media.

- **Readiness to accept change** is also mentioned as guarantee of quality.

- **Concerning indicators:** There are two types of indicators, objective indicators (active management case flow…) and perception indicators. One could also make a distinction between dynamic and non-dynamic indicators, the latter are in fact "standards". Delay, for example, is a dynamic indicator as it evolves over time.

⇨ **Concerning quality, it may be difficult to identify dynamic indicators. However, we should not limit ourselves with standards.**

- **Concerning accessibility, which criteria should we focus on?** Legal aid is proposed.

When a criterion is established, a few questions have to be answered?

- Is it measured?
- Do we have a policy to address the problem? If it is a problem.
- What should we recommend as a tool to deal with it?
- If you have a quality policy, is the policy assessed?

Before suspending the meetings, the dates of the next visit in Milan, Italy are recalled. The CQFD team members will meet again March 13th and 14th. Before then, the quality check list planned at the end of the meeting in Paris will be reconsidered in order to be more inclusive and comprehensive of all different systems.
Also, a new document presenting the Italian justice system will be sent to the team members.

CQFD Project
MILAN, MARCH 13. 14 – 2017

MINUTES – VISIT PALAZZO DI JUSTICIA of Milan
March 13th

The Italian Ministry of Justice (MoJ) along with the Tribunale Ordinario of Milan, organised on March 13th and 14th 2017, the third study visit of the CQFD project. On Monday, March 13th, presentations of the organisation of the Court of Appeal of Milan and the Tribunale Ordinario were organised, illustrated by a visit of the Palazzo.

Italian/English simultaneous interpretation was available thanks to two interpreters and appropriate equipment.

The CQFD Italian representatives, Mr Roberto PERTILE, President of Civil Section of the Tribunale Ordinario of Milan and Mr Eduardo BUONVINO, Judge at the Minister of Justice's Cabinet welcomed their foreign partners:

- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Mr Harold EPINEUSE, French MoJ expert,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, French representative, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate,
- Ms Kaïdi LIPPUS, Estonian representative, Director of the Courts division at the Judicial Administration Policy Department of the MoJ,
- Mr Villem LAPIMAA, Estonian representative, Judge at the Administrative Law Chamber of Tallinn Court of Appeal,
- Ms Patricia DA COSTA, Portuguese representative, Judge President of Leiria First Instance Court,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court,
- Mr Tine STEGOVEC, Slovenian representative, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

- **Welcome and opening words, by Mrs. Marina TAVASSI, President of the Court of Appeal of Milan**

Ms TAVASSI introduced her presentation by saying that the Court and Tribunale in Milan have made very important efforts in the last few years to improve quality of Justice. However, with more than 40000 decisions per year just in civil matters, close to 200 decisions per judge, efficiency was a priority. Since 2014 in Italy, legislators have developed a "new deal" in the judicial system searching to improve quality of Justice. In order to improve the trust in the Justice system, **the priority was to shorten the duration of trials especially in civil matters**.

⇨ This objective was managed through the monitoring of the courts. Today, now that management of the quantity of work is globally handled, it is time to enhance quality of Justice. **The Superior Council of Magistrates is currently leading a programme to improve quality of Justice**.

She concluded by saying how important it is to improve the opinion and trust of the EU institutions and citizens in the Italian Justice system.

- **Presentation of the Tribunale and its activity in civil matters by Mr. Roberto PERTILE, CQFD Italian representative, Judge of the Tribunale di Milano**

With the reforms of the justice system, the judicial map has been modified and the number of courts has been cut. Since its implementation 18 months ago, the country is divided in 20 regions with 3 tribunals in each district. The Tribunal of Milan covers 29 municipalities, against 92 before the reform. In 2015, the Milan Tribunale counted 777 members of staff including 264 judges and 103 honorary judges. **Even though the number of staff has increased since the reforms, vacancies of administrative staff (about 30%) and judges (8% and more than 51% for honorary judges) remain important considering the workload**.

⇨ The refugees' issue has been overwhelming in Milan in the last few years. In July 2016 a new section has been set up in to take over the issue.

For about 20 years, no new administrative staff was hired creating a **human resources gap**. In the past 2 years, the MoJ has tried to overturn the trend.

- Even if the law doesn't allow hiring new staff in the administration, an exception has been made recently for the Justice system and **a competition organised for 2000 people who should bring novelty in the judiciary**.
- **Internal transfers from other administrations to judicial offices** were also organised, but the retraining of the staff appeared as an issue.

Concerning the budget: The national judicial system budget (≥4 billion euros) is the most important of the 5 partner countries. The Tribunale of Milan costs and expends about 70 million a year. Almost 20 million of its incomes come from taxes ("contributo unificato") and the Tribunale releases about 170 million euros of recovery in sanction costs. These incomes go to the State budget and are retransferred to courts. The Court of Milan has its own budget assigned on a yearly basis by the MoJ ventilated between each head of office.

⇨ All information concerning the budget of the Tribunale, origin, ventilation, use, is detailed in the **Social Responsibility Budget Report** published every year and **diffused to the public mainly through the Tribunale's website.** The report also communicates the main results of the Tribunale and the actions and projects to be implemented.

The Tribunale of Milan bases its activities on **6 different principles** including **1)** constant and high level of quality and reliability, **2)** through the constant improvement of the work process and services and continuous attention towards external actors, **3)** innovation in the organisation of Justice, **4)** best use of the available resources also through the implementation of audit and accountability actions. **5)** It looks to strengthen its role as a key partner for the legal protection and the respect of rights to sustain social and economic development of its reference territory **6)** and to ease its access to professional and non-professional users, consequently to the information and assistance services created in the last years.

⇨ **To put these principles into action, different measures and tools are applied**.

- The socially useful workers programme: An agreement with the Province of Lombardia enables unemployed people to help in judicial offices on "easy" works and compensate the vacancies in administrative staff.

- Experiment of the Judges offices - Traineeship programmes: From an agreement with the Bar Association of Milano, the Tribunale of Milan integrates since 2007, young graduates, new professionals, who are placed under the supervision of a judge. **This experiment has been expanded nationally by the law in 2013.**
In 2017, a **new model of "Trial office"** was developed. The trainees are not placed next to a judge anymore but in an office. The law doesn't specify the tasks of the trainees. They provide support to the office doing research or taking care of the minutes, allowing administrative staff to deal with other tasks and they fill in the gaps in offices with less administrative staff. Trial offices have not been fully established yet.

- ⇨ In Milan, there are 170 trainees for 140 judges. Thanks to the integration of these young professionals, **the judges of the Tribunale have increased their productivity** of more than 15%.

- Technical innovations – Telematic processes – PCT "processo civil telematico": The Tribunale started by improving the **database interconnections** with the Public Prosecutor's Office and the Registry Office of the Municipality. In 2007, the Tribunale initiated **e-proceedings in civil matter** which was then generalised in Italy. Milan proposed the first telematic process, **PCT "processo civil telematico"**.

- ⇨ In 2015, close to 100% civil injunctions were issued digitally,
- ⇨ 60% judgements are digitalised,
- ⇨ and the Tribunale has multiplied by three since 2012 (60 000) the number of computerised records.

- The "Judge's Consolle" is a support software to deal with **role management in hearings** and for **monitoring the progress of the proceedings** for each magistrate, single section and the entire civil section. The Consolle thus enables:

- ⇨ **automatic allocation of cases,**
- ⇨ **to control individual performances but also to monitor sections workload and provide for more precise organisational interventions for efficiency and effectiveness.**

According to the judges, the large and increasing number of cases mainly stems from the **prolific number of lawyers in the country** (more than 40000 lawyers just for the Lombardia region, 20000 only for Milan) who, according to them, sustain controversial disputes.

- ⇨ **Nevertheless, thanks to the combination of the above mentioned tools, the Milan Tribunale has managed to raise it clearance rate to 105,7% for civil proceedings** and more than 113% for criminal proceedings in 2014-2015.

- **The experience of the Public Relations Office (Ufficio per le relazioni con il pubblico – URP) of the Tribunale di Milano by Mr. Alberto NOSENZO, Judge of the Tribunale di Milano**

There are no legal provisions concerning this type of offices and small courts have not developed such offices.

The Milanese main idea was **to enhance the relationship between citizens and the Justice system by making it more accessible and transparent**. Also, as the Tribunale of Milan is not an easy structure to deal with for the 5000 visitors a day, as it is very large, the second objective was to **concentrate the information and services as much as possible**.

- ⇨ **6 desks have been installed in the main hall** where a whole series of activities are concentrated. Information as well as certification activities, which do not require the assistance of a lawyer, are concentrated in the main hall. In practice, the information given to citizens represents only 17% of the URP's activity and the office mainly (83%) gives other services as certification or support in legal aid proceedings.
- ⇨ Also, in 2014, a **support online website** has been launched dedicated to non-professional users. https://www.urp.milano.giustizia.it/index.phtml?Id_VMenu=1. The interface is simple and intuitive with a section dedicated to "how to" (adoption, public tenders etc.) with specific information on legislation and procedures to follow, including forms and necessary fees in order to introduce a case. An online service also releases judgements and allows e-filing. **However, e-filing requests online is reserved to professionals because they have secured connexions and certified mails**.

The Milanese URP is a s**eparate office of the Tribunale composed by members of all the judicial offices and officials** (municipalities of Milan, lawyers, office of the prosecutor etc.). All the offices are represented in a **Management Conference** and **represented by a Director** selected by the Conference.

The scientific organisation of the URP was trusted to scientists from Italian polytechnic school in order to define the layout and a harmonious concentration with the challenge to respect the historical building. About 2000 interviews were lead with the Palazzo daily and occasional users.

- ⇨ **4 different entrances** were created (1 for people, 2 for professionals and 1 for the witnesses). A **special desk was installed in the centre for orientation** and **6 dedicated desk**s distributed all around the entrance hall. **Automatic connecting terminals** delivering tickets distribute the users between the different desks.
- ⇨ The welcome orientation, information and support of users require specific professional skills. **As consequence, the URP staff is trained** on a wide scale of skills and topics in order to be able to cover most of the courts activities and give any type of information to the people.

Today, the Court is chronically understaffed so the project is a challenge. Nevertheless, a survey led in 2015 of the URP users gave good results and the feedback from the technical experts is satisfactory. **The organisation of the workflow has a good rating** but dealing with the queued up people is a daily challenge.

- **Visit to the Public Relations Office (Ufficio per le relazioni con il pubblico – URP) of the Tribunale di Milano**

- The **First Front office** is composed of two administrative staff from the city of Milan. This office gives general orientation and logistics information to up to 600 people a day.
- The automatic terminals also orientate the users to the dedicated desks and allow them to sit while waiting for their turn.
- Each 6 desks have back offices which allows the staff to give further support to a user if necessary and also receive users to go through and explain more complex situations or certifications for which court clerks can act like notaries for some voluntary proceedings.
- The URP is open from 8.45am till 1pm from Monday till Friday.

- **The role of Courts of Appeals in the changing the world by Mrs. Francesca FIECCONI, Judge of the Court of Appeal of Milano**

Mrs. Francesca FIECCONI introduced her presentation by saying that her initial title "The role of Courts of Appeals to tackle case backlog" finally appeared as to reductive to cover the task of the Court as "a milestone of a fair multilevel justice system". Reminding the idea of the EU to abolish the appeal system, she insisted on the fundamental role of the Courts of Appeal to ensure a reliable justice system.

The Court of Appeal is a main surveillance body: the Court of Appeal controls in its district the stressing points and also recognises good practices. The governance of a district also supposes to **control the data collected**. The court also guarantees "the virtuous, effective and proactive vigilance of internal strategic means". These concern:

- **Human resources and internal organisation**: the court controls that human resources are sufficient in quantity and quality. It controls the work and the internal organisation.

In Italy, the **demand of Justice grows constantly** and put huge pressure on the courts. But, despite the high vacancy rate of judges, the clearance rate raised between 2015 and 2016 in Milan.

⇨ Concerning the **reinforcement of HR capacities**:

- the Court benefited in 2013 from a the young law graduates/professionals **traineeship programme** generalised by the law
- and from the selection by an internal commission of **30 lay judges as temporary appellate judges**.
- For the **gap in the administrative staff**, the Court of Appeal of Milan benefited since the 2007 law from the **transfer of young workers** coming from other regions in economic

crisis. If the programme contributed to improve the quality of internal work and to increase the common trust on the Justice system, **the workers do not receive sufficient training in justice services**.

Also, the **rationalisation and digitalisation of the working space and procedures** eased the work of the judicial professionals.

⇨ The Court of Appeal **"integrated a constant multilevel surveillance on length and quality of work"** by different means and through various institutions (Presidents, Chief clerks, Official Lawyers Association, Superior Council of Magistrates, MoJ).

- The Presidents of Tribunals and of the Court establish a **3-year plan called the "Document Organisativo Generale"**.
- An itinerant surveillance over Tribunals of first instance is ensured by a **Consulting District Court Chamber of the Judiciary** composed of the President of the Court, appointed judges, prosecutors, academics and lawyers. This Council also studies and approves new methods of internal organisation. The Council weekly assemblies are open to European judges through the European Justice Network.
- The Ministry of Justice exercises **periodical auditing of the internal records and results** of the courts.

- **Procedural laws and reforms**: the Court of Appeal surveys how procedural laws and reforms are implemented and work in practice.

Since 2012, the appellate civil system has been conceived as a **"limited revision instance"** which implies various procedural consequences.

- The appellate has the burden to point out the misleading reasoning of the first decisions and propose the correct one. Since 2010, it is possible to write a short reasoning after the first hearing for cases which require only slight revision.
- **Judges always work in panels in the appellate courts**. There are no monocratic decisions in the second instance as the legislative decided **to guarantee internal judicial stability and unification of case law**.
- **The introduction of new evidence is forbidden** (restricted exceptions).
- **Time limits for the duration of proceedings** are established for all proceedings according to European standards. The responsibility of the State can be committed in case of breach.

⇨ **Concerning ADR system**: since 2010, a new system has been conceived. **ADR has become a mandatory first application for most civil trials at the first level**.

- The appellate court may consider promoting ADR to the parties when the appeal seems inconvenient.
- Lawyers also have the **deontological duty to negotiate** the case before filing new proceedings.

There is no official data for the moment but the **estimation is that there are 30% less cases introduced**.

⇨ A **preliminary filtering system** has also been introduced since 2012. The inadmissibility of the appeal is declared by a panel of judges and the appellate is condemned to pay a double fee which is considered as a strong deterrent to "strategic appeals".

- **Digital instruments in proceedings**: the Court of Appeal controls the daily implementation of digital proceedings. Indeed, since 2012 for the first instance and 2015 for the second, the **digital proceedings are compulsory** with the assistance of the "Consolle" programme fine-tuned by the MoJ.

- **<u>Role of the lawyers in enforcing the rule of law</u>**: Cooperation between judges and lawyers in enforcing the Rule of Law:

- The appellate court and the tribunals cooperate with the local Office Lawyers Association in order to find the best practices for creating a better system of civil justice.
- The traineeship programme is organised in cooperation between the "Scuola Superior de la Magistratura" and the Lawyers Association.
- The legislator has recently entrusted the lawyers in order to find new forms of ADR.

As a conclusion, Ms FIECCONI reminded that **one of the keys of quality of Justice-if the number of hearings is reduced-is the thorough study of the case by the judges** so that the judge doesn't lose the chance to govern the case.
The reversal rate of the appeals is less important in Milan than in the rest of Italy. There are no officially fixed reasons to that but Ms FIECCONI assumes that it comes from:

- ⇨ the **good organisation of the first instance courts and a better surveillance from the Court of Appeal** with a productive attitude from the judges.
- ⇨ and also a **productive cooperation with the lawyers**. This cooperative attitude cannot be found in other regions of Italy.

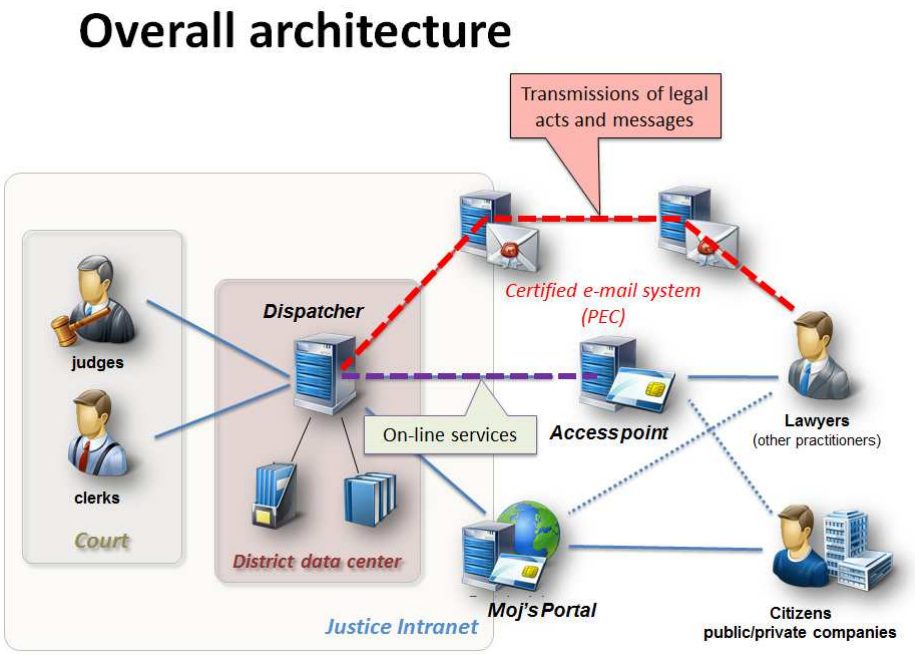
- **<u>ICT tools for the court proceedings in civil matters. The experience of the on-line civil trial "Processo Civile Telematico" - PCT - by Mr. Francesco COTTONE, Judge, Ministry of Justice – in charge of ICT judicial systems in civil matters</u>**

Launched first in 2005 in the Code of Digital Administration, by a law in 2009 and secondary legislation in 2011 and 2012 for technical rules, the digitalisation programme of the Justice system was executed in 2012 with the launching of PCT. The **overall architecture of PCT** is complex with a **district data centre** which is the intermediary of all transmission through the certified mails system (PEC).

The public portal offers telematics services and information (as the status of a proceeding). **<u>But the access to all information or services is not free</u>**: to access some level of information or service, the user needs to pay a contribution as **fees or stamp duties**.

- ⇨ the more fundamental the right involved is, the less fee must be paid. Charges will at the end be paid by the losing party.
- ⇨ Telematics payment is not mandatory for the moment.

The **<u>Certified e-mail system (PEC)</u>** is considered particularly reliable thanks to the **digital signature system**. **1)** The PEC server digitally signs the mails and sends an acceptance receipt to the sender which **ensures authenticity and integrity**. **2)** A message is then sent to the certified e-mail server of the recipient. **3)** The PEC of the recipient ensures non repudiation and an official timestamp when the mail is sent to the recipient. **4)** A delivery receipt means that the mail has been read.



E-filing of a legal act to the Court: The MoJ's certified e-mail system registers the lawyers e-mail addresses which are previously regrouped by the Bar Associations. The lawyers need to communicate an address to the Bar. Today the system regroups 250 000 mail addresses of lawyers and 800 000 for assessors.

E-filing for judges is a management system. The judges are authenticated by the system which verifies that the judge is appointed to deliver acts of injunctions and decision. Judges can connect from outside the office through the proxy portal.

- ⇨ Since 2014, e-filing is mandatory for injunctions and pleadings in new cases for lawyers and for judges.

As a result:

- ⇨ a **large decrease of time** has been observed to issue orders,
- ⇨ it is a **communication and notification tool for the courts**: documents with sensitive data benefit from a **strong security system**, reliable information is automatically transferred and retrieved from the official public registers,
- ⇨ the IT system has permitted important **budget savings**.

The challenge today however is the management of the overwhelming quantity of data.

- **The Legal Aid System: experiences and results by Avv. Antonella RATTI BOSCO, Lawyer, representative of the local Bar Association**

A presidential decree of 2002 modified the legal aid system in Italy. Before 2002, the legal aid for civil proceedings was free, an honorific service for which the lawyer was required to provide assistance. Since then, in criminal and in civil proceedings, **legal aid is at the expense of the State** and **the number of requests has considerably risen**.

Concerning admission criteria: The only condition is a limit of income (11.528,41 euros a-year) which does not comprise real estate. For civil trials, only physical people, associations or charities and foreigners may apply. The judge may grant legal aid for bankruptcy.

- ⇨ **Legal aid application can be presented online** with an attached ID document and fiscal documents proving the level of income.
- ⇨ **ADRs are not covered by legal aid**, and even though they are progressively becoming compulsory, the MoJ has not considered integrating them for the moment nor has it decided to impose legal fees for ADRs either.

The 2002 decree has also modified **the selection of applications in civil cases**: the pluri-disciplinary Commission, filtering the applications has been removed and a **pre-selection is now executed by the local Bar Association**. The board only examines the requests and the judge gives an order to pay. In civil matters, this order to pay can only be requested at the end of the process. As a consequence, **the decision of the board can be cancelled until the very end of the proceedings by the judge** (for two main reasons, if the threshold is exceeded or for gross negligence).

- ⇨ A Bar is attached to each tribunal and each Bar administers the local legal aid requests.
- ⇨ It isn't possible to determine the proportion of claimants finally receiving approval of their application. Today, even if the applications are examined carefully, in Milan, they are examined by a team of only three members of the Bar. They regret a 2 months backlog which prevents them from doing an in-depth analysis of the situation of the claimant.

As a conclusion, Ms RATTI deplored that the delay between the request and the payment is very long and that the average fee has been lowered by half. She regrets that, since 2002 and the new legal aid system, there seems to be an abuse of the system and that the money which could be saved by imposing stricter selection criteria could be better used to protect the people in real need and pay the professionals more for their work.

CQFD Project
MILAN, MARCH 13. 14 – 2017

MINUTES – VISIT PALAZZO DI JUSTICIA of Milan
March 14th

The Italian ministry of Justice (MoJ) along with the Tribunale Ordinario of Milan, organised on March 13th and 14th 2017, the third study visit of the CQFD project. On Tuesday, March 14th, more presentations of the organisation of the Tribunale Ordinario were organised before the third working meeting of the CQFD team members.

Italian/English simultaneous interpretation was available for the morning programme thanks to two interpreters and appropriate equipment until the working meeting in the afternoon led in English.

Presented by Mr Roberto PERTILE, Mr. Roberto BICHI, President of the Tribunale di Milano welcomed the CQFD team members:

- Their colleague, Mr Eduardo BUONVINO, Italian representative, Judge at the Minister of Justice's Cabinet,
- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Mr Harold EPINEUSE, French MoJ expert,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate,
- Ms Kaïdi LIPPUS, Estonian Director of the Courts division at the Judicial Administration Policy Department of the MoJ,
- Mr Villem LAPIMAA, Judge at the Administrative Law Chamber of the Court of Appeal of Tallinn,
- Ms Patricia DA COSTA, Portuguese representative, Judge President of Leiria First Instance Court,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court,
- Mr Tine STEGOVEC, Slovenian representative, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

- **Welcome address by Mr. Roberto BICHI, President of the Tribunale di Milan**

The Tribunale Ordinario of Milan committed in a modernisation process which is giving good results as its performance rate is above the national average. But the Justice system still faces many difficulties throughout Italy and Milan is an exception.

The Milan court's commitments to modernisation are:

- **The reorganisation of the front and back offices,**
- **The specialisation in sub-sections of all 27 civil and criminal sections of the court,**
- **Efforts to delivering services to citizens as users: information points, publication of a corporate social performance budget of the court (useful instrument to report on what has been done), help to users (video conferencing…).**

The court of Milan, however, still experiences some weaknesses such as a lack of resources, as in the rest of the Justice system in Italy, especially of administrative staff.

- **PCT – Story of an ordinary day (Practical demonstration of the *Consello del Magistrato*, e-filing and processing claims) by Mr. Roberto PERTILE, Judge of the Tribunale di Milano, CQFD Representative**

For the presentation of the PCT, the delegation moved to external premises of the Palazzo, the **Palazzina ANMIG in a computer room (Aula informatica).**

For the judges, the *Consolle* shows a list of role and for each case on the welcome page, the scheduled dates of the proceedings and the number of days left before having to submit the judgement. For each case, the judge has access to an extract from the case files with the exchanges of acts (lawyers and orders of the judge) and attachments with a summary of the content. The hearing role is also available as well as the minutes of the hearings.

In the future it should be possible to assign **a note of complexity to each case**. The column is already included but for the moment all cases are rated as 1, regardless of their complexity.

The *Consolle* is an online civil proceedings management tool: as such it includes a database, *Redatore* database. Thanks to this application, the judge has access to **templates of orders, pre-written forms. A library of most used terms** can be created for each case and imported in specific forms.

Automatically signed orders are directly submitted to the registrars who validate the file so that all the **information is filed and necessary notifications are sent to the parties** (lawyers as well as parties without lawyers). All the main acts are printed out for a paper copy but not the attachments. Through the *Consolle*, the judges have access to case law and to the *Normattiva* website for Italian legislation.

- **The lawyer's point of view: Presentation of the *Consolle avvocato* platform by Avv. Daniela MURADORE and Avv. Alberto MAZZA, Lawyers, representatives of the local bar association**

This online process to file cases is considered revolutionary for lawyers. Since the 2014 reform, two key competencies have been granted to lawyers:

- certifying the authenticity of legal acts,
- notifying acts or deeds which can be served without a bailiff.

These certifications and notifications can be done through the *Consolle avvocato* which access requires a double certification.

- **Measuring the Quality of Justice by Mr. Fabio BARTOLOMEO, General Director of Statistics and Organization Analysis of the Ministry of Justice**

Presentation of the **CEPEJ document and guidelines, Measuring Quality of Justice** and the CEPEJ approach on quality of Justice evaluation. See CEPEJ report and CQFD nov 2nd, 2016 presentation by Ms Karine GILBERG.

- **Quality and large users by Mr. Edoardo BUONVINO, CQFD Italian representative, Judge of the Cabinet of the Minister of Justice,**

Based on the consideration that a big part of the cases pending before the Italian Courts is originated by some categories of users (so called "grandi utenti"/"large users") the Ministry is starting the "Big Data" project, with the purpose of connecting structured and documentary data deriving from all data sources of the judiciary systems (civil, criminal and administrative ones) in order to make **real time multi-dimensional analyses and discovery, also of predictive type**, especially for the benefit of strategic choices in the organizational and legislative fields, both for in-site users (courts and ministerial offices) and for authorized outside users.
This is possible thanks to the availability of the database of the civil justice, and of the IT infrastructure of the *Processo Civile Telematico* (IT platform used in all the civil cases pending before the Courts of first and second instance).
Two complimentary courses of action are being pursued in order to achieve the best results in

lowering the number of cases that courts have to manage, and to speed up decisions, giving, at the same time, new services to the justice users, starting from the largest ones.

1) **The first is related to the work on qualitative analysis**, carried on by the public commission set up by the Minister of justice in order to elaborate a project of organic discipline and reform of the instruments of "out of Court" definition of civil cases, with s**pecial regard to the mediation, assisted negotiation and arbitration**.

2) The second course of action starts from the **observation that a large part of the cases brought before the courts is made by proceedings with common characters**. Studies carried out thanks to the civil justice database showed the existence of some categories of large users (INPS – national institute for social security- , Public Administrations, Banks, Insurance companies), occupying ¼ of the resources of the Courts. In this context, half of the cases generated by large users are made of social security cases, concentrated in some geographic areas (Lazio, Campania, Puglia, Calabria and Sicilia). **In order to lower the number of cases filed, and give better answers to the demand of justice, several services are being studied and progressively implemented**.

- The first one is the **Portale delle Vendite pubbliche (National Marketplace for public sales)**, a one stop shop for where all the goods (moveable or immoveable property) which are to be sold in a public auction (originated by enforcement or insolvency procedures) are advertised, making easier for people interested to participate to the auction or, in general, to buy the goods.
- Moreover, the **portal of creditors is being established**, an **electronic register of the insolvency procedures** and of the instruments to solve the financial crisis. This is an essential tool to develop the market of non-performing loans.
- Another important tool to remember is the **national archive of jurisprudence** of the first and second degree courts (Tribunali e Corti d'appello), necessary to **improve the foreseeability of the decisions**, with special regard to the cases concerning large users.
- In this context the results of the **working group on the conciseness of judicial acts** must be underlined, considering that from this WG originates the proposal of initiatives to **improve the structure of judicial acts** in a fashion coherent with the Processo civile telematico (with tools to index and research acts and documents etc). (…).

Five working groups are now being established, which will focus their attention, in a first moment, on the constitution of national archive of jurisprudence (first and second degree, considering that the Supreme Court has a well-known e-archive of jurisprudence), on widening of ADR tools, and on the creation of integrated IT Services for large users.

WORKING MEETING of the CQFD Project team members: Exchange of views on the visit regarding quality policy and potential quality of justice indicators

The drafting of the document listing national practices and the following visits has led Ms Karine GILBERG to elaborate a table allowing the representatives to work on their practices and draw further from these practices to indicators.

Presentation of the table:

First of all, a distinction needs to be made between:
- Instruments designed and implemented by local courts and national governments,
- Quality standards,
- And from these standards, **quality indicators can be set**.

As examples: of the difference between each of these elements, the question of reliable up to date information on websites is brought up. A standard could be: confidentiality of legal assistance. But, is it a common standard?

As the phases are already defined in the grant agreement, **we need to agree on the general topics/fields of the table**:

- Access to information

- Legal aid
- Access to ADR
- Organisation and functioning of the courts: appropriate judicial map (average caseload) access to justice or organisation/allocation of means?
- Governance of the quality, auto-diagnosis (on means and activity) tool or field? Inclusive governance when other stakeholders are included. Inclusive partnership.

Examples:

- **IT**: is a tool to provide information and information is a pre-requisite to take action, elaborate strategies. The "C" of ICT, is essential as it is most of all a communication tool. User friendliness of ICT can be considered as a common standard.

- **Legal aid:** instrument to access to access to Justice.

Organisation of the work until the meeting in Porto: the table will be sent with guidelines in order to be completed by the partners. The feedback from the partners will be expected before the meeting in Porto so that the information can be processed and the results discussed in Villa Real at our next meeting.

MINUTES – TRIBUNAL JUDICIAL DE COMARCA de Vila Real
May 15th

The Tribunal Judicial da Comarca of Vila Real, pilot court appointed by the Portuguese partner, the High Council of Judiciary, organised on May 15th and 16th 2017, the fourth study visit of the CQFD project. On Monday, May 15th, the judicial system in Portugal was described and presentations concerning court management and the existing supporting tools and innovative projects were made. The working day was concluded by a working meeting between the partners in order to prepare the next activities of the CQFD project.

Portuguese/English simultaneous interpretation was available thanks to an interpreter and appropriate equipment.

- **Welcome address and opening words**

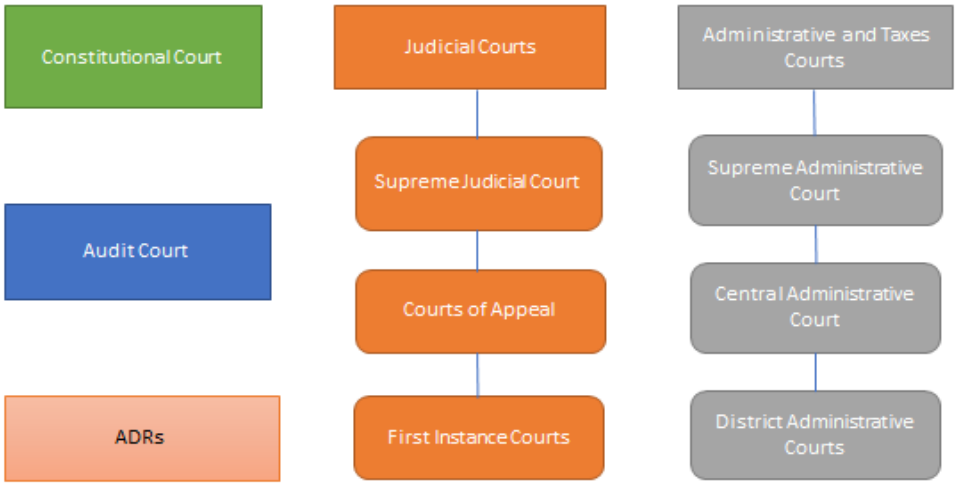
Mr. Álvaro MONTEIRO, Portuguese representative of the CQFD Project, Judge President of the Judicial Court of Vila Real welcomed his foreign partners to his court:

- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Mr Harold EPINEUSE, French MoJ expert,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, French representative, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate,
- Ms Kaïdi LIPPUS, Estonian representative, Director of the Courts Division at the Judicial Administration Policy Department of the MoJ,
- Mr Villem LAPIMAA, Estonian representative, President of the Tallinn Court of Appeal,
- Mr Eduardo BUONVINO, Italian representative, Judge at the Italian Minister of Justice's Cabinet,
- Mr Roberto PERTILE, Italian representative, President of a Civil Section of the Tribunale Ordinario of Milan,
- Mr Jasa VRABEC, Slovenian representative, Head of the Office for Court Management Development at the Supreme Court of the Republic of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

He then gave the floor to his colleague Ms Patricia DA COSTA, second Portuguese representative of the CQFD Project, Judge President of the Leiria First Instance Court.

- **Presentation of the judicial system in Portugal by Ms Patrícia DA COSTA – Judge President of the Leiria First Instance Court.**

Chart representing the judicial system in Portugal excerpted from Ms Da Costa's presentation.



- **Concerning the organisation and distribution of first instance courts:**
The 23 courts of first instance are called by the name of the district in which they are installed.
In 2014, the reform of the judicial map aimed at:
- **Concentration and specialization,**
- While including several solutions to ensure some **level of proximity to the population**.

Before the reform, nearly each municipality had a court, today there is **1 First Instance Court for each district** except Porto (2) and Lisbon (3). There are also **courts with a broader territorial competence** (*Intellectual property court, competition, regulations and supervision court, Maritime court, penitentiary court (execution of penalties) and central criminal instruction court*).

There are **different levels of specialisation within each First Instance Court**, taking into account **geographical and demographical factors** (population, public transports available, etc.).

Example: the Court of Leiria has a **high level of specialisation:**

The specialised courts are spread through the territory of the district.
- **1 Central Civil Section and 1 Criminal Section** in the city of Leiria with jurisdiction on the whole district of Leiria;
- **2 Labour Sections**, a 1st Labour Section in Leiria with jurisdiction over 11 northern municipalities and a 2nd Labour Section in Caldas da Rainha with jurisdiction over 5 southern municipalities;
- **2 Family and Minors Sections,** a 1st FM Section in Caldas da Rainha with jurisdiction on 6 southern municipalities **and a** 2nd FM Section in Pombal with jurisdiction on 10 municipalities northern municipalities;
- **2 Enforcement Sections**, a 1st Section in Alcobaça with jurisdiction on 8 northern municipalities and a 2nd Section in **Pombal (although installed in the village of Ansião)** with jurisdiction on 8 southern municipalities;
- **1 Criminal Instruction Section** in Leiria with jurisdiction on the whole district.
- **2 Commerce sections**: a 1st Section Leiria with jurisdiction on 8 northern municipalities and a 2nd section in Alcobaça with jurisdiction on 8 southern municipalities;
- **9 Generic Local Sections**
- **3 Proximity Sections:** no sitting judge but permanent clerks so that users can put forward locally (to every other section of the court) all documents. The sections are equipped with **videoconference equipment** allowing local residents to be heard in trials taking place in other court buildings.

Also, every proximity section has, at least, one courtroom. All criminal trials concerning local matters and when adjudicated by a single-judge take place there. Other **trials can also take place there by decision of the judge** to whom the case is allocated.

In the Leiria district, there are **many different justice buildings** (on lease or State buildings). Judges and clerks are in theory appointed to a specific section and not to a district.

- Concerning the management of the First Instance Courts: The President of the Court is appointed (for 3 years renewable) by the High Council for the Judiciary, and is selected among judges from the Appeals Courts or among first instance judges on merits and 15 years seniority.

The President of the Court only has **management and representation competences** (such as establishing annual goals, half year and annual monitoring reports to the CSM, the MoJ and the General Prosecutor's office). The President is also in charge of **proposing the allocation of cases** among the judges of the court in order to ensure that the caseload is shared among judges and to deal with backlog.

A **management council**, including the Judge President, the Prosecutor Coordinator and the Administrator, has deliberative powers over advice taken from a **consultation council** which is composed of, in addition of the Judge President, the Prosecutor Coordinator and the Administrator of the Court:

- A judge of the Court elected by his peers;
- A prosecutor of the Court elected by his peers;
- A clerk of the Court elected by his peers;
- A representative of the Bar Association;
- A representative of the Solicitors Association;
- Two mayors from the municipalities of the district;
- And also up to **three representatives of the court users, co-opted by the other members**.

The **High Council for the Judiciary** (*Conselho Superior da Magistratura* - CSM) is:
- The **evaluation body of judges**: a special body of judicial inspectors assesses first instance judges' work every 4 years, following an annual plan of the CSM; it may also carry out extraordinary inspections of any judge when justified (in cases of poor performance and/or breach of duty),
- **Exclusively carries out disciplinary procedures** against judges from the common jurisdiction,
- Responsible for the **appointment, transfer and promotion of judges**.

Assessment of the 1st instance courts' performances by the CSM:
- Every 3 months**,** the CSM **monitors the Courts' performance**, mainly based on statistics. It assesses judges as well as judicial offices' (clerks) performance.
- Every month, **the President of the Court reports to the CSM each case which exceeds 90 days on top of the legal delay**.
- Every six month, **each President of 1st instance courts must complete an activities report**, which is sent to the CSM and afterwards to the Ministry of Justice and to the High Council for Prosecutors.

⇨ **IT tools (CITIUS) provide updated statistics of the courts performance** (cases initiated, cases ended and cases pending over a selected period), as well as a comparative analysis with the previous instance courts' performance (internal benchmarking).

- **Concerning the courts' clerks**: the **Council for Courts' Clerks** carries out **evaluation of the courts' offices performance**, as well as of the individual clerks' performance. It is also in charge of their disciplinary proceedings. For judicial clerks, the CSM functions as a **superior hierarchic entity**. **Council for Courts Clerks decisions can be reviewed by the CSM**.

There are similar bodies for administrative judges (*Conselho Superior dos Tribunais Administrativos e Fiscais*) and for prosecutors (*Conselho Superior do Ministério Público*).

- **Concerning Alternative Dispute Resolution (ADRs): They are not mandatory**. There are 3 types of ADR mechanisms: justice of the peace courts, arbitration courts and mediators.

⇨ **Justice of the Peace Courts** are intended exclusively for trial which value does not exceed the jurisdiction of the Judicial Court of First Instance. There is no legal obligation to the parties to take an action before the justice of the peace before going to common courts. Its decisions have the binding force of a first instance court, and can be appealed to the local first instance court. Justices of the peace have their own supervising and disciplinary body (Council for the Supervision of Justice of the peace Courts).

- **The role of Courts of Appeals: quality in judicial systems and performance indicators by Mr. José IGREJA MATOS, judge, Court of Appeal of Porto.**

In appeal and especially in civil cases, there are no witnesses and the public, the courts users, are rarely physically present. In order to appreciate the role of the Court of Appeal in improving the quality of Justice, it is important to have an historical background.

- **Historical approach, historical background**: According to Mr. Benoit Frydman (law professor at the *Université libre de Belgique*), **5 quality controls** can be outlined:

→ Legal control: decision applying the law, Napoleon judges must be like a clock, decision must be as simple as checking the time;
→ Proportionality control: after WWII, when German judges said they only applied the law. Measure decision with the principles;
→ Motivation control: decision needs to be persuasive. Judges are talking also to an audience not to lawyers only;
→ Procedure control: dialogue which leads to a good decision, the importance of debate during the procedure;
→ Stakeholders' control: quality of justice is a lot about the quality of the people working in the courts.

- **Court of Appeal and Supreme Court**: presentation of the performance of the 5 Courts of Appeal of Portugal through charts and figures. The **fewer number of appeals in the recent years** is probably due to **new procedural rules**, as for example in cases where the decision of the Court of Appeal is the same as the 1st instance Court, there is no possible access to the Supreme Court.

Except in the Supreme Court where there are about 2 judicial officers for 3 judges, there is more or less 1 judicial officer for 2 judges in the Courts of Appeal.

⇨ **Legal officers** exclusively deliver judicial documents and **do not assist the judge in his/her judicial work**.

The time length of court cases is of 3 to 4 months (best numbers in Europe). In 2014, efficiency rates rank from 71, 68% to 85, 42% and the resolution rates from 96, 75% to 106, and 75% in Porto). **Judges' deal with around 70 to 80 cases a year in civil matters**. In Porto, the judges dealt in 2015 with 82 cases per judge in civil matters, 91 cases per judge in criminal matters and 108 cases per judge in labour law.

- **Conclusion, challenges for the superior courts:**

Length of reasoning and decisions: The efficiency rate is good and considered as one of the best in Europe:

⇨ **Especially considering the level of reasoning requested for the judgements: all Court of Appeal decisions represent at least 100 to 500 pages.**

Also, under the procedural law, the parties are not obliged to give precision on which part of the decision they want to appeal.

The Portuguese judge of appeal may review the facts if requested. The number of appeals on the facts has increased significantly (around 30% of the cases in 2009, around 70% today). There are no written transcriptions of the hearings and testimonies anymore, the judge responsible of the case must listen to all the material.

No judicial assistance to judges: Even if the number of cases per judge can be considered as low, the demanding reasoning and the fact that the judges are not assisted on the legal work induces that the number of cases is considered as relatively high.

Lack of specialisation: The court of appeal judges need to be specialised beyond their current specialization in civil/criminal/labour matters. Today appeal court judges are entrusted with all kind of cases and are not specialised as 1st instance judges neither on family nor commercial cases for example. As a consequence, judges deal in appeal with decisions given by first instance judges who are more specialised.

Lack of dialogue and collegial work: Judges work mainly from home, which situation causes a **lack of debate and an absence of court dynamic**. It is necessary to impose judicial dialogue in civil matters between judges of a panel (it is already obligatory in criminal cases).

- **Civil procedure in Portuguese Judicial System by Mr. Maximiano DO VALE – Judge of the Local Criminal Court of Vila Real.**

The actual civil procedure is in force since 2013 and has already been amended 4 times since then.

Main phases of an ordinary civil procedure:

→ Filing of the case by court's services: automatically through the CITIUS platform for 1st instance cases or electronically filed by the services when necessary.

→ Allocation of cases to single judge: in the New Civil Procedure Code, the legislator distinguishes:

- **Type of actions according to their complexity and technical characteristics** (*ordinary actions, pecuniary actions based on contracts…, special actions, litigious divorce, enforcement of court decisions, enforcement of judicial costs and fines, probate proceeding, insolvency…)*
- **Workload balance between judges**.

→ Summon of the defendant by the court's services: 30 days to respond by a counter claim.

⇨ **Up to 3 summons can be issued**

→ If the defendant presents a *counter-claim* – 30 days for the plaintiff to respond

⇨ **Up to 4 counter-claims can be filed**

→ In an ordinary action, the case is allocated to a **judge**: after analysing all statements on the facts, the judge has **two legal options**:

- To set a **preliminary hearing** (which takes place in a 30-day term);
- To issue a **written curative order without preliminary hearing** (usually an option in the less complex cases).

→ Preliminary hearing:

⇨ **The judge first helps the parties to reach an agreement and promotes a discussion on the facts and the applicable legislation**

At the end of this hearing the judge:

- Sends the case to trial: in a curative order the judge determines the litigation's subject, the value of the case (*in actions with a value above € 50.000 the jurisdiction power belongs to the Civil Central Court, in actions with a value under € 50.000 the jurisdiction power belongs to the Civil Local Courts)*; decides on exceptions or nullities; determines the questions disagreed upon, the relevant evidence material and finally sets a date.
- The judge may also decide the case.

→ Trial: judge analyses evidence. 30 days to render the decision.

→ Appellate phase:

⇨ **The right to appeal is limited by the criteria of value of a case**: must be above 5 000 € to access Court of Appeal, above 30 000 euros to access Supreme Court. Delay of 30 days to appeal if the appeal is restricted to legal grounds, 40 days if the facts are also challenged.

- **The online platform of the Portuguese Bar Association/Legal Aid/SINOA/relationship/interaction between the platform of lawyers/court by Mrs. Isabel VELLOZO FEREIRA - Lawyer in Oporto.**

As opposed to CITIUS or SITAF (portal of the administrative courts), the Bar Association website is not intended to allow the electronic execution of judicial proceedings.
The online platform of the Portuguese Bar Association allows the enforcement of specific acts lawyers must perform in different cases.
On affiliate pages accessible through credentials which allows and offers:

- Registration of acts: Can register notarial acts which lawyers can perform according to the law: authentications are done online, printed and signed, they are annexed to the document or act.
- Official communication service: for official notification between lawyers, with the courts and with the Bar Association.
- Follow up of legal aid procedures: The lawyer is appointed by the courts.

⇨ **Legal aid covers legal consultations before filing a case.**

⇨ **A legal consultation may be requested by a user through an online service.**

When appointed, the lawyer has access through the portal to all the information concerning the case. The lawyer can also ask for the payment of his/her fees and expenses through the portal and can control the balance of paid/unpaid fees.

- Bar Association services:
  - The portal allows to pay the association fees online,
  - Access to case law and relevant legislation database provided by a private supplier. There is a public database but the information provided is not as complete.
  - E learning portal for lawyers.

- **The enforcement in Portuguese judicial system- The interaction between the online platform of solicitors/enforcement officers (SISAAE) and the courts by Mr. Duarte PINTO, Solicitor/Enforcement Officer, Member of the Bar Solicitors and Enforcement Officers.**

The powers of enforcement agents in Portugal (recruited among solicitors and lawyers with a 2 years specific training) are summons and notices, debt collection, payments, evictions, liquidations… Since recently, they have the ability to execute administrative decisions. The **SISAAE** (Informatic Support System for the Enforcement Agents) application has been created in 2003 (one year after CITIUS) **allowing enforcement agents to process electronically all their acts of all their files**.

The documents or acts created within the application by the agents are stored automatically on the Internet in a "cloud" and are immediately available to other users of the application, or to third parties, such as Court Officers and, whenever registered in the judicial process, Solicitors or Lawyers, who may interact with it through the CITIUS.

⇨ The SISAAE allows **direct communication of courts with enforcement agents**.

⇨ The online platform allows **extensive research concerning debtors** thanks to automatic exchanges with:

- For patrimony research: tax and customs services, the national registration institution (car registration, civil registry, business registration, land registration,

national companies registration), the national bank, social security and national pension fund.

- For online electronic seizures through the platform: bank accounts through the national bank, individual and companies tax credits through the tax and customs services, vehicles through the national registration institution.
- For bank account management: Millennium bank and mail management: national mail service.

⇨ It finally allows **direct official notifications** to all these partners and also to employers/banks etc.… identified by the interlinked platforms of the institutions mentioned above.

⇨ When creditors do not have the money to pay an enforcement agent or when the administration is creditor: **the court enforcement agent is competent**.

- **The Legal Aid System – Procedure/results by Mr. Domingos COSTA – Lawyer in Social Welfare.**

According to the Constitution of the Portuguese Republic:

- Article 20 Nº1 and Nº2: everyone must be provided access to Law and the courts, to ensure the effective guarantee of his/her protected rights and interests; justice shall not be denied due to insufficient economic resources.
- The system of access to the law and the courts ensures that no one is denied or prevented, due to lack of knowledge, social, cultural or economic condition, from exercising or defending their rights.

⇨ **Access to the law includes legal information and legal protection**. As a consequence, as mentioned above, the scope of legal protection includes legal aid **and legal consultation**.

o Scope of legal protection: Legal protection is granted to those who demonstrate being in a **situation of economic difficulty**.

(*Portuguese citizens and of the European Union; foreigners and stateless people with valid residence permits in a Member State of the European Union; foreigners without a valid resident permit in a Member State of the European Union - if the law of their country of origin gives the same rights to the Portuguese (Reciprocity); people domiciled or who normally reside in a Member State of the European Union other than the Member State where the proceedings are to be held (cross-border disputes*); *foreign non-European citizens, who do not reside in a Member State of the European Union and who encounter economical difficulties, if there is a bilateral treaty signed between the Portuguese State and the country from where these foreign citizens are from (Brazil, Cabo Verde, Sao Tome and Principe, Guinea Bissau, Mozambique and Angola)).*

Non-profit organisations are only entitled to legal aid.

o Scope of application:

⇨ Legal aid is applied in all courts, in Justice of the Peace Courts and **in alternative dispute resolution structures, whatever the form of proceedings is**. The legal aid scheme also applies to administrative offenses and to divorce proceedings by mutual consent, the terms of which are set out in the civil registry offices.

o Legal Aid Requests:

-Legal aid must be requested **before the first procedural intervention**, unless the situation of insufficient resources is supervening, in which case it must be requested before the first procedural intervention that occurs after having knowledge of insufficient resources situation.

⇨ Legal aid is **available for appeal purposes**, **irrespective of the decision on the case**, and shall **extend to all proceedings which are appended to the proceedings** in which the case is granted, but also to the main proceedings, when granted in any attachments.

⇨ It is **upheld for enforcement**.

- Request form/application:

The request for legal protection is formulated in a **model**.
There are **2 different models** of application for natural or legal persons. It may be submitted in person, by fax, by post or **by electronic transmission.**

- Legal protection procedure: After **one or two interviews of the applicant** to analyse the application and annex documents the **final decision** of granting or not legal protection is taken by the **Director of the Social Welfare Services, located in the applicant's area of residence or place of business**. The competence is subject to delegation and sub delegation. The decision must be made in 30 days.
- Objection to the final decision: The decision can be challenged directly by the interested party, without a lawyer, and must be submitted to the Social Welfare Department that examined the application for legal protection, within 15 days after the decision is known.

Once the objection is received, the Social Welfare Department has 10 days to repeal the initial decision or confirm it.

- Autonomy of proceeding: In theory, the legal protection proceeding is **autonomous from the proceeding it is supposed to finance** and should have no impact on its progress, with some exceptions.

The counsellor appointed must initiate the action within 30 days of the date of notification of the appointment. The counsellor should provide justification to the Bar Association, if he fails to file the action within that period.

- **The Project "Tribunal +" by Mrs Carolina BERTO – Adviser of to the Cabinet of Secretary of State for Justice.**

"Justiça mais proxima" is a project launched by the Portuguese Ministry of Justice with the objective to adopt new approaches in the very conservative area which is the Justice system. It has been initiated in an "innovation room" installed in the Ministry's historical building in Lisbon to discuss, brainstorm about new approaches (innovative working spaces and methodologies).

This project, its objectives, initiatives, results and outputs are available online on a dedicated website https://justicamaisproxima.mj.pt/.

The general ambition of this project is to favour a closer justice plan based on **4 specific objectives** as to have a justice system:

- **More agile,**
- **More transparent,**
- **More human,**
- **Closer to citizens.**

More than 120 initiatives have been initiated launched on these grounds including the pilot project "Tribunal +" led in the Court of Sintra, one of the main courts in Portugal.

This project had **3 different dimensions**:

- The front office: assess and improve the citizens' relations with the courts for cases or for information.

⇨ Creation of a **one stop shop** in which all the services are aggregated in order for citizens not to walk around the building and a **change of signage** to simplify the circulation in the court.

- The back office: assess the work of the clerks and allow them to gain time and energy to be applied in more valuable tasks. Do better with the resources the court has.

The administrative and procedural simplifications were handled through the analysis of flows, volumes and teams and of the time dedicated per task. For each particular task, problems were defined and solutions proposed and implemented.

- The management tools: essentially to help the Court Management Board to manage the backlog.

If the project was launched in September 2016, between January and April 2016, site visits and diagnosis were led, international contacts were taken and benchmarks established. Between November 2016 and March 2017, a primary evaluation was led for future expansion of the project to other courts. In July 2017, the final report must be submitted. Today, a business case is being done to bring the project to the European Commission for future funding.

The "Tribunal +" project started with surveys, collection of data and **the new citizen journey in the courts** could be drawn according to statistics.

For the pilot court, protocols with private entities were established to lend the proper equipment and the components (*signage, digital kiosks, court session directory screens, Wi-Fi spots, queue management systems…*) during the time of the test, to make sure that it is well accepted. A first evaluation showed that the tools are not as intuitive and user friendly as expected and users still need help with the components.

As the Secretary of State has initiated the **"citizens' shops" to aggregate all public services in one spot**, a lot of experience is in-house and many of the components of the project were created in-house. For the extension out of the pilot court though, the Secretary of State wishes to externalise. And for the application to the Commission, the Ministry of Justice has hired a consultancy office, so it is ready if the tender opens.

In order to ensure the sustainability of the project and its "rolling-out", **the clerks in Sintra have been trained so that they can promote the project outside there court among their colleagues**.

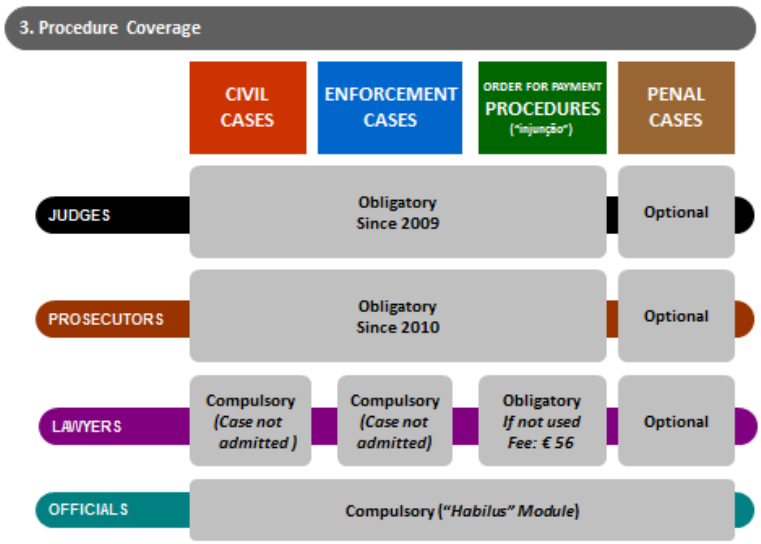
An agreement with OECD is to be signed in order to evaluate the project.

As a conclusion, Karine GILBERG, head of the project, invited Ms. Carolina BERTO to participate to the final conference of the project on August 31st 2017 as a key witness.

- **The online software platform, CITIUS, used by the judges by Mr. Joel TIMOTEO – Judge of the Central Civil Court of Stª Maria da Feira.**

According to Article 132 of the Civil Procedure Code, electronic proceedings must be led in a way that **must guarantee their integrity, authenticity and inviolability**.

Citius, created in 2001, was first developed and used by judicial officers. **Today, the District Courts, officers and judges are obliged to work from the platform**, Courts of Appeal are in an experimental phase and the Supreme Court is still not bound.



⇨ In civil matters: **CITIUS is an open website** where all information is available as a guarantee of transparency. All procedural acts are carried out daily and automatically via the computer system, twice a day, **directly accessible on the Internet by anyone interested**.

In Estonia, as observed during the visit, the same transparency applies. **But, the data protection issue with the *EU data protection package* has been confirmed**. Estonia confirms they will eventually have to anonymise, at least the names of the parties.

Paperwork is reduced only to the procedural documents **relevant** to the final decision of the case and defined by the judge.

- CITIUS also offers to judges a **workspace desktop** (but it is not web-based yet for judges, which means judges and prosecutors can only work on the internal network in the courts or on VPN).

- It also allows judges to **compile statistics** about his/her work and assess anytime his/her performance. **All judges have access to all statistics and Head of Courts can manage through comparative data and exceeded delays**.

The advantages of CITIUS are:

- Speed in registration, research and processing;
- Use of decisions templates;
- Control over performance and statistics;
- Reduction in the number of bureaucratic acts of officials.

The limitations of the system are:

- **Outdated computer equipment** and operating system (Windows7, out of technical support) attributed to magistrates;
- **Congestion in computer network** (slowness – entering the system, accessing the case files and in the submission of the decisions);
- **For each decision**, it is necessary to perform **several computer acts**, which together take more than one minute, compared to the other drown in physical case;
- The application is **web-based only for lawyers**. Judges and prosecutors can only work on the internal network (installed at the Courts) or by **VPN**.
- In some cases, it is necessary to consult together the digitalized information and documents and the physical ones (e.g. for understanding evidences, procedural irregularities, etc.).

- The application is fully managed by an **external entity** (not by the Judiciary).

WORKING MEETING of the CQFD Project team members: Exchange of views on the next activities and outputs of the project (final conference, handbook and Ljubljana study visit)

- *Exchange of views on the final Conference*
Groups of moderators set, exchange of ideas on key witnesses
- *Exchange of views on the Handbook*
Discussion of the calendar for contributions
- *Organisation of Ljubljana study visit*
The participants agreed that the study visit will take place from Wednesday, July 5th afternoon till Friday 7th, morning, to suit most of the partners' professional agendas.

CQFD Project
Vila Real, MAY 15. 16 – 2017

MINUTES – TRIBUNAL JUDICIAL DE COMARCA de Vila Real
May 16th

The Tribunal Judicial da Comarca of Vila Real, pilot court appointed by the Portuguese partner, the High Council of the Judiciary (CSM), organised on May 15th and 16th 2017, the fourth study visit of the CQFD project. On Tuesday, May 16th, decision and management support IT tools were presented and the Vice-President and the Head of the Cabinet of the CSM explained the central role of the Portuguese CSM. The working day was concluded by a working meeting in order to discuss and complete the Quality of Justice Scoreboard of the CQFD Project (objectives, instruments, standards and indicators).

Portuguese/English simultaneous interpretation was available thanks to an interpreter and appropriate equipment provided by the court.

Mr. Álvaro Monteiro, Portuguese representative, Judge President of the Judicial Court of Vila Real and Ms Patricia DA COSTA, Portuguese representative, Judge President of the Leiria First Instance Court welcomed their foreign partners:

- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Mr Harold EPINEUSE, French MoJ expert,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, French representative, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate,
- Ms Kaïdi LIPPUS, Estonian representative, Director of the Courts Division at the Judicial Administration Policy Department of the MoJ,
- Mr Villem LAPIMAA, Estonian representative, President of the Tallinn Court of appeal,
- Mr Eduardo BUONVINO, Italian representative, Judge at the Italian Minister of Justice's Cabinet,
- Mr Roberto PERTILE, Italian representative, President of Civil Section of the Tribunale Ordinario of Milan,
- Mr Jasa VRABEC, Slovenian representative, Head of the Office for Court Management Development at the Supreme Court of the Republic of Slovenia,
- Ms Kristina BOšNJAK, Slovenian representative, Head of the Legal Aid Office in Koper District Court.

The programme started with a visit to a court room in order to assist to **videoconferencing in hearings in a civil trial.** The hearing concerned an insurance fraud case and the representative of the insurance company was being heard through video conference from a Proximity Section somewhere in Portugal.

- **The project SIIP – Integrated System for Criminal/Civil Procedure Evidence by Mr. António COSTA GOMES – Investigative Judge, in Court of Aveiro, Mr. António SOARES DA COSTA – Police Officer, Mr. Ernesto SOUSA – Police Officer**

The SIIP is an **evidence management system** which ambition is to deal with "more, better in less time".

The system has been developed mainly for criminal procedures by police officers in order to help manage a very large number of evidences.

The system has **recently been experimented in civil cases**.

⇨ Thanks to this tool, the judge can manage the evidence brought by the parties and **organise the proceedings, the hearings and the decision around the relevant material**.

In order to ensure technical and safety aspects, the system in an off-line web browser only accessible on professional material.

- **The platform CITIUS in Portuguese Judicial System – Process monitoring/The use of the platform by the Section by Mr. Tiago RODRIGUES, Court Clerk.**

CITIUS is the IT solution for the Portuguese Judicial Courts. Technically, the development of the system is outsourced but the information is managed in-house. The servers are public. There are helpdesks and local IT teams assigned to courts to assist its users.

The system: It is the management system of judicial proceedings:
- For the electronic delivery of documents by the different judicial actors (prosecutors, lawyers, solicitors, etc.);
- For the electronic allocation of cases;
- For electronic handling of the cases by judges, prosecutors and court officials;
- For electronic communication with other systems in the field of justice (relating to statistics, enforcement, court costs, etc.)

The system is built in service oriented logic and has several interfaces for different users:
- A Portal, **public web page** for the citizens: access to judicial information, acts and documents related to court cases.
- The **web application intended for external users** such as lawyers, insolvency administrators, etc.
- A **desktop application for internal users** such as judges, prosecutors and court officials.
- **Extraction, transformation and loading services** that work with the databases and **web services** for the integration with other information systems (ex: criminal registration record).

Workflow: Filing a judicial case electronically is not only possible, it is also mandatory by law in some legislative areas. **All court cases regulated by civil law that require a lawyer must be filled electronically**. The Web Application assists the lawyer when filing electronically a judicial case. There are several stages, ending with the **digital signature and submission of the form**, with the annexed documents.

⇨ After a case is filed, **the desktop module of the court manages automatically a random allocation of court cases** (this random allocation is a strong principle under Portuguese law which explains the transparency of the information concerning allocation of civil cases).

The court clerks handle allocated cases from the desktop and submit it to assigned judges. The judge manages his workflow from his personal desktop, delivers his decision and signs it electronically.

- ⇨ CITIUS offers a **built in feature used to create and edit all documents regarding court proceedings**.
- ⇨ For the electronic signature, the **insertion of a PIN** code is necessary for the placement of the digital signature. This signature is based on a **digital certification, contained within a smartcard**, attesting for the identification and the capacity of the user.

The judge returns the decision to the court secretary **for enforcement**. The document can only be notified electronically in its final version after which it is not possible to come back to a working version of the document.

Management tools: In 2013, the reform of the Portuguese judiciary organisation also granted court's administration a **wider autonomy in managing human resources**. The IT solution offers court's administration a tool to allow for an effective management of court cases, and assigning human resources to handle these cases.

- ⇨ This functionality is called "**Managing Workgroups**": Staff can be reoriented to where they are most or more efficient. If a group of workers is so efficient that it can manage to spare one hour a day of their time, with this tool you can **redirect their skills during that time to help in other areas that aren't as efficient** and create a workgroup around that activity (e.g.: a backlog in the enforcement of judicial decisions).

The module includes an administration working area through which it is possible to create, edit or delete workgroups, assign users to a workgroup, monitor the completion of tasks. Only members of a workgroup can have access to the working area of their group.

The system allows management to build search criteria, monitor, visualise and print the result in a data grid result and/or in a graphic way. Then through an analysis working area, it is possible for management to visualise and record the groups' achievements by analysing the data retrieved from the search, and to graphically present that data or change the type of graphic and finally print or export the results.

- ⇨ The court's administration module also includes **management indicators**, intended as a **monitoring tool**. The data presented in this functionality come from CITIUS.

The Directorate General for Justice Politics is responsible for statistics. The data retrieved with this tool are not meant as official statistics. Indeed, the data presented by CITIUS is not supposed to replace official statistics but to give daily information about the workflow. **In the near future, the plan is to offer real time indicators regarding organisational units**. This will help to improve efficiency.

Next steps: The implementation of the **electronic judicial certificate** is being developed. It would allow putting online request through and release of judicial certificates.

In order to maximise efficiency and avoid time-consuming tasks, **print and finishing solutions** are being prepared.

Portugal is working on the **integration of the information of three public (tax, judiciary and social security)** in order to enable exchange of information between **registration and notaries** in the commercial area, or between the judiciary and **social security services** for family and minors cases.

- **Court management in Portugal by Mr. Álvaro MONTEIRO, Judge President of the Court of Vila Real**

The August 2013 reform of the judicial organisation in Portugal created the function of Judge President of the Court, as well as his/her respective functions and reporting responsibilities to the CSM. As mentioned above, **the Presidents do not perform judicial functions; they only have a managerial role**.

The 23 Presidents of the First instance courts are selected by a judicial council after a competition process. All judges of 1rst and 2nd instance with excellent assessment records may apply. They are appointed for 3 years renewable once.

- ⇨ The **Presidents are trained** by the Training Centre of Judges (along with Coordinator Prosecutors and Judicial Administrators), in different areas such as **organization, administrative activity, management of human and budget resources, judicial statistics, quality and innovation, court management and procedural management, evaluation and planning, hygiene and safety at work**.

The Judge President represents and heads the court.

- ⇨ As such, **the judge president is the spokesperson of the court having the responsibility to communicate with the Media and to deal with the communication issue** in accordance to the CSM, providing information, especially, about sensitive cases. The President is not trained for that.

The President monitors the achievement of objectives.

- ⇨ **Every year**, the president has to prepare a **working plan to fix goals**. Then, during the year, he/she must monitor and evaluate, if the forecasted objectives/goals are being achieved.

To this end, the President may, in cooperation with the judges of the court:

- Organise meetings for planning and evaluation of the achievements,
- Adopt or propose management measures taking into account simplification of procedures, use of information technology and transparency of judicial system,
- Implement working methods and measurable objectives for each unit of the Court,
- Set timeframes as a goal to pursue a better quality of justice in the court,
- Set priorities of cases to be dealt with, in particular, complete the pending oldest cases (even if it is considered an individual responsibility of each judge),
- Set interpretation of the bills and jurisdictional rules while encouraging and promoting the discussion between judges in order to adopt the same procedures in similar cases.

Concerning the monitoring of the procedural delays of the court, the President follows legal commands and guidelines provided by the Portuguese High Judicial Council (CSM). The president monitors **the backlog of the court** and the cases not solved in reasonable time.

- ⇨ **Every three months,** each court sends information to the CSM regarding the cases opened and closed during that period, as well as information regarding backlogs.
- ⇨ Concerning backlogs, the president communicates **monthly to the CSM all the cases with a 90 days delay**.
- ⇨ **Every semester**, each court sends a report to the CSM, analysing those statistics and **describing the measures taken to reduce backlogs and resolution time, as well as the plan of activities for the subsequent period**.

Concerning the quality of Justice provided to citizens, the President ensures the follow up and evaluation of the activities of the Court in that matter**, taking into account complaints and replies to satisfaction questionnaires**.

Concerning the organisation of the court, the President elaborates the judges' shifts and holidays and can appoint a replacement judge, in case the main judge is unable. He/She also plans the needs for human resources of the court. The President also elaborates the internal rules of the court. He/She participates in designing and implementing measures for the organisation and modernisation of the court.

Concerning the relations with other key actors:

The Court of Vila Real has a very good cooperation with the relevant Departments of the Ministry of Justice (DGAJ and IGFEJ). **In Portugal, the Ministry of Justice (IGFEJ, DGAJ**):

- Centralises the planning and management of the budget. The courts handle a very limited budget for minor office expenses (managed by the judicial administrator under control of the judge president).
- The court locations and buildings maintenance,
- The selection and recruitment of court personnel,
- ICT in the courts.

The cooperation with the State Police as well as the Portuguese Bar Association is also good and it is excellent with the Municipal Associations and City Councils, which, sometimes, help the Court for some tasks, such as minor repairs.

⇨ The President must report about his management by elaborating **semester reports** to the CSM.

According to Mr. Alvaro Monteiro, **the change for a strict management** has improved the efficiency and efficacy of Portuguese courts **thanks to better accountability and greater transparency**. In the last two years, in first instance, the number of pending cases decreased substantially and the clearance rate (i.e. the number of cases completed versus number of cases lodged) was 131,3%, versus 122,1% in 2015. In the Court of Vila Real, the number of the pending cases decreased 3.690, -21% (17.557/13.867) and the clearance rate was 117, 04%.

- **The communication plan of the CSM by Mrs Ana AZEREDO COELHO – Appeal Court, Head of the Cabinet of CSM.**

The Law on the Organisation of the High Judicial Council (LOCSM) of 2007 provides for the **setting up in the High Judicial Council (CSM) of a communication office** consisting of "two members with training and experience in the field of media" **but** the regulation was never implemented and the **communication office of the CSM has not been established yet**.

Meanwhile the **relationship with the media has been taken on a case-by-case basis** according to external requests.

⇨ The Vice-President of the High Council was nominated as coordinator of the High Council Communications.

The Communication plan approved by the CSM on March 29th, 2015, follows the constitutional principles of:

- Right to information,
- Duty to inform,
- Transparency of the institutions,
- Accountability to citizens.

and respects the criteria of rigor, truth, seriousness, clarity, actuality.

By this plan, the CSM intends to:

- Establish internal information of the courts as relevant elements to communicate concerning the performance of its members, the members of its cabinets, its officers and employees
- Establish efficient communication with the various media, both on a daily basis and as the result of a crisis
- Provide support in communications between the courts and the media.

Indeed, the courts do not have a dedicated team to deal with the media so the Judge Presidents often require the CSM for help.

⇨ **The idea is to avoid and protect judges from giving direct statements to the media. In practice for contacts with the media, the CSM has a specific e-mail address and telephone number that the media can contact.** The CSM usually deals with around 4 requests a week from the media and if there is a special event, it is usually dealt with by a global statement.

⇨ **The judges however can communicate freely with previous information of the CSM but no previous authorisation.**

According to this plan, the missions of the office should be:

- Liaison with the media and the citizens
- Advise on communication matters
- Ensure proper reception of citizens and media that come to the High Judicial Council
- Provide the requested information to the High Judicial Council regarding the functioning of the courts
- Receive complaints, and suggestions from citizens regarding the functioning of the courts and, in general terms, the procedural formalities
- Ensure the diffusion of the deliberations of the High Judicial Council
- Study and develop ways of systematically disseminating information about the activity of the judicial courts and of the High Judicial Council, in compliance with the law and higher directives
- Collect and analyse information and trends in opinion regarding the actions of the High Judicial Council, the courts and the administration of justice in general.

- **The role of the CSM in defining and monitoring of objectives and indicators of achievement by Mr. Mário BELO MORGADO, Vice-President of the CSM.**

There is no management without defined objectives and without mediation methodology and performance management associated to them and supported by IT. The focus on results rather than proceedings dates back to the 1950s.

This trend was already tangible in 1994 in the first important judicial reform in Portugal and is fully reflected in the last reform of 2014.

⇨ The new system of court organisation **allows better specialisation of the courts**, centred on the court users (citizens and businesses) and on the improvement of the judicial system and the quality of justice.

This model is based on **two fundamental pillars**: 1) management proceedings by objectives; 2) effective leadership of the management process.

1) Management proceedings by objectives

The High Judicial Council was the first entity to approve and publically propose, in March 2015, procedural and strategic objectives. **Two major guidelines were identified**:

- The strategic objectives are binding for all the justice system, from the Ministry of Justice and its services to the magistrates management body;
- They include not only the judicial activity but also the administrative support activity.

Six major strategic objectives were proposed (which were upheld by the Attorney General of the Republic and by the Ministry of Justice):

. The effective implementation of the new model;
. The adequate allocation of resources;
. Time improvement in process resolution;
. Proximity to citizens, promoting access to the Law and to Justice;
. Justice transparency;
. Streamlining and simplifying proceedings.

Considering these objectives, it was decided by the CSM, that the immediate priority for 2016-2017 should be in reducing, or at least not increasing, backlog. As such it is **essential to give particular attention to the following aspects**:

- Fulfilment of procedural deadlines, either by the judges as well as by the secretariats;
- Adequate scheduling and control of unjustified rescheduling;
- Simplification and streamlining of proceedings, avoiding decision fragmentation;
- Definition of priorities and sorting out relevant interests or the level of complexity.

⇨ **Management by objectives implies the evaluation of the results and of the procedures implemented to reach them**. In order to ascertain that the IT system (CITIUS) provided the relevant data, the CSM developed **management indicators, which also allows a local control and follow-up of the procedure in real time and from different perspectives**.

⇨ Also, since this system still does not provide all necessary data in a structured way, the CSM has developed a **monitoring system through regular reports from the Presidents of Courts. This system** enables to collect more **qualitative data, which expresses the dynamics of the courts. It includes a special focus on quality factors and readiness of the service provided to the users.**

2) Effective leadership of the management process

Good management is based on a **specific attitude** (i.e. optimisation/organisation of resources which, by definition, are scarce).

The main successful critical factors would be:

- "Positive organisation" and ethical behaviour: stimulate people's capacity to mobilise all their capacities, competencies and potentialities.

- Set up a culture/an attitude of service and self-responsibility: talking from experience, to stimulate the sense of self-responsibility in managerial positions it is important to separate the meetings (or moments of the meetings) where it is discussed what each can do better, from those where shortage of resources is discussed as well as the problematic issues.

- Rationalisation: de-bureaucratisation, simplification and elimination of useless acts.

- Necessity to discuss the interpretation of legal texts which must essentially take into account: on one hand the procedural level, the functioning and efficiency of the judiciary system and on the other hand, on a material level, the consideration of fundamental interests, values and legal principles. "*Even with bad laws, it is often possible to extract good practices and good interpretations; and also of the best laws it is possible to extract bad practices and bad interpretations*."

WORKING MEETING of the CQFD Project team members: ***Results and Exchange of views on The Quality of Justice Scoreboard of the CQFD Project (objectives, instruments, standards and indicators***

Study of the table from up to bottom with explanations from each partner of the complements and modifications made.

Discussion on the difference between quality standards and quality indicators:

Standard: what is the ideal situation/what are the necessary elements for the existing instruments?

Indicator: the way you assess that the standard is met.

The CEPEJ questionnaire on quality often considers the existence of tool or not, the CQFD project intends to define quality indicators

Ex: Modelling tools are IT simulators. Their existence as such can be a quality indicator but also their design, their scope, their access. How to assess the quality of the design and of the other elements?

Notes and comments were taken directly in the table.

CQFD Project
Ljubljana, JULY 5-6-7, 2017

MINUTES – SUPREME COURT of the Republic of Slovenia

July 5th

The Supreme Court of the Republic of Slovenia organised, on July 5th, 6th and 7th 2017, the fifth and last study visit of the CQFD project. Wednesday 5th afternoon was dedicated to the presentation of the national system and tools set up by the Slovenian Supreme Court.

All speakers having a sufficient level of English, no interpretation was necessary.

The Slovenian representatives of the CQFD Project, Mr Jaša VRABEC, Head of the Office for Court Management Development at the Supreme Court of the Republic of Slovenia and Mr Tine STEGOVEC, senior Judicial Advisor at the Office for Court Management Development at the Supreme Court of Slovenia,supported by Ms Kristina BOšNJAK, Head of the Legal Aid Office in Koper District Court welcomed their foreign partners:

- Ms Karine GILBERG, Head of Project,
- Ms Audrey NESPOUX, Project Officer,
- Ms Frédérique AGOSTINI, French representative, President of the Melun First Instance Court,
- Ms Stéphanie KRETOWICZ, Head of the Organisation of the Judiciary and Innovation Division of the Judiciary Services Directorate
- Ms Kaïdi LIPPUS, Estonian representative, Director of the Courts Division at the Judicial Administration Policy Department of the MoJ,
- Mr Villem LAPIMAA, Estonian representative, President of the Tallinn Court of Appeal,
- Mr Edoardo BUONVINO, Judge at the Italian Minister of Justice's Cabinet
- Mr Roberto PERTILE, Italian representative, President of Civil Section in the Tribunale Ordinario of Milan,
- Mr Alvaro MONTEIRO, Portuguese representative, Judge President of Vila Real First Instance Court.

Mr Harold EPINEUSE, French MoJ expert, was unfortunately not able to attend and Ms Patricia DA COSTA, Portuguese representative, was excused as unable to attend for having taken up new functions incompatible with the last activities of the CQFD Project.

- **Welcoming and opening words by Mr Damijan Florjančič, Supreme Court Judge, President of the Supreme Court**

These last years, the Slovenian justice system has been able to **shift focus from sole productivity/efficiency to quality**. The balance has been found between efficiency and quality thanks to strategic court management and leadership.

This shift was also **favoured by a strong Supreme Court entrusted with strategic functions**: development of computerisation of case management (e-serving, e-filing developed in-house and tailor made), management of human resources (determination of number of staff and judges for each court considering specific needs), and its role in budget planning.

Concerning backlog, the focus has been moved from quantity to quality thanks to a better cooperation with the judicial authorities in the courts.

⇨ In order to carry on improving the quality of Slovenian justice, **project groups**, composed of judges, court staff and external officers have been created to allow further

reflection on specific subjects.
3 project groups have recently been created concerning training of new judges, training of court staff and procedure fairness along with performance of satisfaction surveys.

In order to disseminate the good practices, found in individual court, the Supreme Court organises **annual conferences for court management and MoJ representatives**.

- **The role of the Supreme Court of the Republic of Slovenia and strategic management**

Mr Janko Marinko, Higher Court judge, Secretary General of the Supreme Court, was unfortunately unable to attend the meeting. The information of his presentation is included in other presentations.

- **Presentation of the Slovenian court system by Mr Tine Stegovec, Judicial Adviser, Office for Court Management Development at the Supreme Court**

General information concerning Slovenia, its contemporary history and justice system can be found in the note concerning the Slovenian justice system.

The reform of the judicial map in Slovenia is a very sensitive question with several differences between the courts and the Ministry of Justice in charge of the reform. The MoJ is currently preparing a new law which should determine a revised number of courts and their geographical distribution. A technical reorganisation of the district courts has already been attempted successfully by Court Presidents.

The Ljubljana District Court is the biggest court with 109 judges and 390 court staff and the Local court comprises 94 judges and 408 court staff. The smallest District Court (Krško) has far less judges and court staff than Ljubljana Local Court and there are **about 20 Local Courts with 5 judges or less**.

The number of judges has been decreasing these last years, creating an age gap which will be difficult to overcome in the future. If the recruitment of court staff should have been increasing steadily in the last years, actually, the recruitment was reduced due to austerity measures. There are two types of court staff, entrusted with the typical tasks of *Rechstpflegers*, at two different levels: judicial assistants and higher judicial advisers although their assignments depend on the organisation of each court.

Concerning court and case management: The Slovenian Court system is a **two-head management with a Court President and a Court Director**. All Court Presidents (except for the President of the Supreme Court, appointed by the Parliament) are appointed by the judicial council for a 6-year mandate.

⇨ In order to ensure the management of cases, a distinction (enforced by the MoJ) **is made between important cases and other cases**.

Important cases will require a decision on the merits of the case (full attention and study by the judge) whereas the other cases will only be dealt with through a formalised procedure.

Also, when the law provides for it, judicial orders for non-important cases can be signed by judicial assistants.

About 15% of cases lodged are considered important cases (the others cases also include land registry and civil enforcement cases).

Starting a procedure **generally requires no specific forms** but the necessary content of a claim is set in the law (the competent court, the name and post address of parties, proxies and lawyers, the claim: issue/subject in question, the content (circumstances, facts, reasoning etc.) and a **minimum standard of comprehensibility**).

The exceptions requiring paper forms (civil enforcement on the base of authentic document

procedure and land registry procedure), request through the web portal (civil enforcement, land registry, insolvency cases) or through a notary (land registry, business registry) **represent the majority of cases in practice**. Paper forms are generally always accepted even if an electronic form exists.

- ⇨ Anyway, the procedure does not start until the court fee is paid. **This solution has been introduced as a remedy to the continuous increase of new cases.**

Trial without undue delay: Slovenia has been declared in violation of article 6 and 13 of the ECHR several times by the European Court of Human Rights for lengthy procedures (CASE OF LUKENDA v. SLOVENIA (Application no. 23032/02): (2006). These violations originated in the malfunctioning of domestic legislation and practice and Slovenia was compelled to take appropriate legal measures and administrative practices to secure the right to a trial within a reasonable time.

The Protection of Right to Trial without Undue Delay Act of 2007 introduced legal remedies:

- ⇨ During the procedure: the parties may **introduce a motion to expedite the hearing of the case or a motion to a deadline**. This ***supervisory appeal*** can be made to the President of the Court or to the President of the higher court.

  The President of the court may order **different types of actions** such as **a report** from the judge in charge (reasons for the duration + opinion on the time to resolve the case), **a notification** (all relevant procedural acts that could effectively accelerate the resolution of the case will be performed or a decision issued within four months), the President can **set a deadline for performing individual procedural acts** that could effectively accelerate the resolution of the case. The President may also decide that the case is to be **resolved as a priority** or needs to be **reassigned**. He/She can also propose that an additional judge be assigned to the court…

  The President of the higher court may **set a deadline for performing individual procedural acts** that could effectively accelerate the resolution of the case and decide that the case is to be **resolved as a priority.**

- ⇨ After the procedure: The party can claim for a just satisfaction. The Constitutional Court is the court of appeal for any requests concerning violation of human rights and liberties.

There has been no new case brought to the ECHR since then.

- **Computerisation projects: management of It by Mr Bojan Muršec, Head of the Centre for Informatics at the Supreme Court**

The Centre for Informatics (CIF) of the Supreme Court was established as a department of the Supreme Court in 1996 to ensure a more stable environment and allow the definition of a long-term strategic planning (6-year strategic action plan set by the President of the SC). This also ensures responsibility to the users as the computer engineers work within the court environment for the courts.

The CIF provides:

- IT support to all Slovenian courts,
- Centralised procurement,
- Centralised logistics services (mail dispatch and delivery, centralised document generation, "postal highway", digitalisation).

The CIF is composed of 26 central staff but also 33 IT technicians in the courts.

The **Key components – the *4Ks* - of the IT projects of the CIF and the 4 pillars of court IT** are:

1) The legislative component: to ensure relevance, accuracy, compliance with the regulations and also propose changes.
2) The technical component: to provide appropriate technology, architecture and also

development and maintenance of IT solutions.

3) The organisational component: to assist the directors in the courts (administrators) to facilitate the deployment to the targeted environment and provide performance measurements and optimisation.
4) The business component: every project must bring measurable benefits so the CIF provides business cases, studies the feasibility of projects and defines business goals.

The organisation of the CIF is built around the *4Ks* and a **Strategic Project Council** has been introduced in 2014 representing stakeholders from these key components.

The CIF also gathers a **Beneficiaries' Council** with about 25 members including local judges in charge of IT, local IT technicians but also **external actors as lawyers, enforcement agents**… This Council meets annually or occasionally to analyse the strategies, plans and equipment….

- **Information for the public and court users – web page of the judicial system by Mr. Gregor Strojin, LL.M. - Head of the Public Relations Office at the Supreme Court of the Republic of Slovenia**

There are 66 different courts in Slovenia. Since 2009, the Supreme Court is engaged in a more proactive communication with the public with the creation of a public affairs office and of a platform for all courts.

A case law platform has been available since the 80's for the harmonisation of judicial decisions. In 2006, it was combined to the European case law platform ECLI.

⇨ All Slovenian case law (second instance and the Supreme Court decisions) is available on this platform but all decisions are anonymised which leads to a month delay for publishing the decisions.

⇨ An abstract of each decision and the relevant key words are completed by the judge. When a decision is finalised, the judge or judicial assistants fill in a form which contains the necessary data to register the decision in the platform. Even if it requires a lot of manual work, it authorises valuable links.

⇨ There is a specialised search engine for non-material damages case law. This platform offers a **specific tool for the public to negotiate effectively with the insurance companies** in order to lower the number of litigious cases with insurances coming to courts. The case law for non-pecuniary corporal damages is published with a special pedagogical distribution (by human body parts).

Concerning communication with the media: The Supreme Court wishes to train judges on communication with the media. Currently, the public relations office is establishing a network of correspondents in each court.

A new law has recently allowed cameras in court premises and hearings and also during the hearing itself. Direct transmission of hearings is still forbidden and the introduction of a camera in a court building is still submitted to a necessary prior authorisation.

The Supreme Court believes that too much media involvement during the hearings can hinder the organisation of the courts and above all slander and humiliation techniques can be used by more organised or wealthy parties.

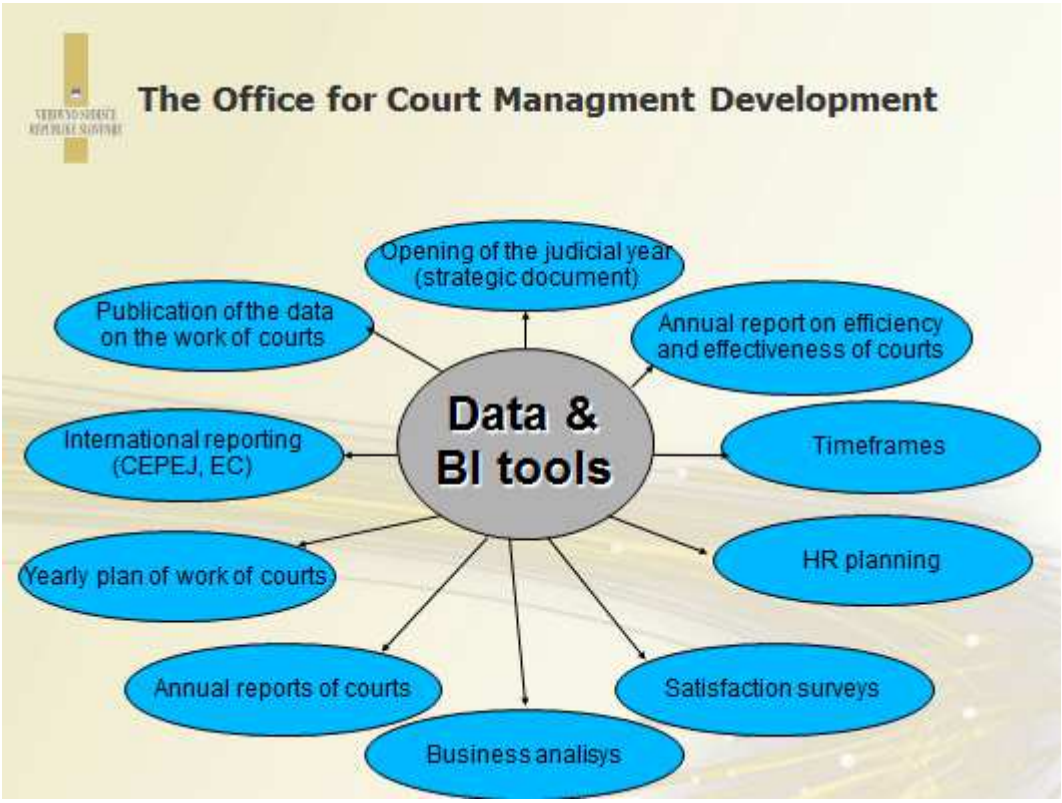
- **Court statistics and data analysis by Mr Tine Stegovec, Judicial Adviser, Office for Court Management Development at the Supreme Court**

In Slovenia, the term "court statistics" is officially used for the MoJ's data. It is used in this presentation as data on the activities on the court collected by the Supreme Court. Nevertheless, the MoJ works with the data collected by the SC.

The Office for Court Management Development of the Supreme Court was established in 2005 aiming at improving the management of the courts and the efficiency and effectiveness of business processes. Its **main tasks** are to encourage good practices, analyse the work of the

courts and prepare reports to support management decisions, deal with international reporting (CEPEJ – EU) and assist at preparing HR plans.

With the changing of the tasks of the court management, and supported by the **data warehouse project launched in 2008** and the digitalisation of case registers, the tasks of the Office have evolved significantly.



The data warehouse project: since 2008, thanks to this project the data is collected:

- electronically (extracted from informatised case register systems)
- centrally (central data warehouse at the Supreme Court)
- automatically
- the information is updated weekly.

Thanks to the data warehouse, there is more data available of better quality and reliability (Clearance rate, Disposition time, Age of pending cases, Efficiency rate, Judge performance, Personnel productivity, etc.). There is a variety of possible inquiries allowing producing reports on demand. IT tools allow a better visualisation of the activity of the courts.

⇨ **Thanks to this data warehouse new management tools have been developed: President's dashboards**. These dashboards represent a new, integrated approach to court management by combining business-intelligence technology and managerial know-how.

In 2011, **five dashboards named President's Performance Dashboards** were developed as data visualisation tools. Each dashboard is a visual display of the most important information on the work of the court, day to day management:

1) HR,
2) Solved cases,
3) Backlogs,
4) Efficiency,
5) Types of case solution (whether the procedure was stopped, administrative decision or decision on the merits…).

Concerning the monitoring of the work of the courts, the content of the opening of the court

year reports of 2014 and 2017 and of the priority areas, show a clear shift from productivity to quality standards.

The data warehouse allows customised reports throughout the procedure. The president can know how long it takes for each phase of the procedure and may see exactly where the problem lies. It is also possible to select the information to a precise case and judge.

⇨ **The Court Presidents receive monthly report about each area of work concerning each court from the IT system, including reports about appeals and their results.**

The Office also provides data on the work of the courts which is published on the Supreme Court website. For the Supreme Court, "the increase in transparency allows more accurate information to the general public and helps improving the public confidence in the judicial system".

- **Priorities and activities of the Supreme Court by Mr Jaša Vrabec, Head of the Office for Court Management Development at the Supreme Court**

The Supreme Court produces multiple publications and reports such as:

- The *Opening of the judicial year*. This publication gives a brief overview of the work of the courts, the priorities of the past year and the priorities of the coming year.

If in 2014, only 1 out of 5 priorities concerned quality, in 2015 and 2016, quality standards are predominant. In 2017, the **5 priorities areas are quality of judges, quality of procedure and timeliness, quality for the justice users, strengthening the trust in courts and criminal justice**.

  - Quality of judges: a **Guidebook for new judges** was written by court officers so as to assist them with the practical work so as to improve their judicial skills and the quality of judicial decisions.
  - Quality of procedures and timeliness: Judicial staff needs to be better trained, case law needs to be settled and harmonised and published even though case law is not formally binding to the lower courts.
  - Quality for justice users: the focus is put on **procedural justice** and on the perception of the user that he/she was treated with dignity and respect, that the procedure was fair and impartial, that he/she had the opportunity to express his/her side of the story. For that purpose, **transparency on the work of the courts** has been improved by publishing more information on the Supreme Court's website - **entering court buildings and court rooms/searching for information from the court staff is eased** thanks to computerisation (screens in the lobbies of the court houses with the distribution of the hearings of the day and court rooms) and publishing of specific information for specific users (hearing impaired, children…). The next goal is to learn and to draw from the Anglo-Saxon experiences concerning assistance to witnesses.
  - Strengthening trust in courts among judges and employees, among the general public and legal professionals. Indeed, Slovenians go to court for civil disputes more than any other Europeans. They also have the worst opinion of their Justice system.

- The *Yearly report on the efficiency and effectiveness of all courts*: This report publishes court statistics, human resources, IT issues, financial issues, information and data from the legal environment, from institutions that influence the Justice system.
- The Supreme Court also produces a *Yearly report* containing court statistics, yearly plans, efficiency and cost per case.

- *Satisfaction surveys* were led twice in Slovenia in 2013 and 2015 among the general public, the court users, the legal professionals and the court staff. The survey reveals that the general public opinion of their justice system is the lowest, followed by legal professionals and that the court users have the best opinion.

As a conclusion, the Supreme Court is focused on proposing a service designed system with user-centric developments.

MINUTES – DISTRICT COURT of KOPER and LOCAL COURT of Piran

July 6th

The Slovenian representatives of the CQFD Project Mr Jaša VRABEC and Mr Tine STEGOVEC accompanied their foreign partners to the District court of Koper and were welcomed by Ms Kristina BOšNJAK, Head of the Legal Aid Office in Koper District Court.

All speakers having a sufficient level of English, no interpretation was necessary.

- **Introduction of the court district, court management (timeframes) by Ms Darja Srabotič, Higher judge, President of the District Court in Koper**

The District Court of Koper has jurisdiction over the whole region and over 5 Local Courts (Koper, Piran, Postojna, Sežana, Ilirska Bistrica).

The President of the District Court has a hierarchical power over the Presidents of the Local Courts as these are local organisational units of the district court. The President of the District Court also appoints the Director of the District Court for 5 years to deal independently with administrative (technical, material and financial) operations.

District and Local Courts are both first instance courts and their jurisdiction is divided according to the subject of the trial:

Local courts organisation:

- Civil Division dealing with property- law related disputes when the value of dispute does not exceed 20.000 EUR, disputes on trespassing, easement, real estate encumbrance, disputes on lease or tenancy relations, non-litigious disputes, inheritance related matters;
- Enforcement of civil judgements Division;
- Land register Department;
- Criminal Division.

Cases are heard by a single judge.

District Courts organisation:

- Civil Division dealing with property-law related disputes when the value of dispute exeeds 20.000 EUR, disputes araising from family relations, non litigious disputes;
- Commercial Division dealing with commercial/ business disputes, disputes arising from bankrupcy proceeding (compulsory settlement, bankrupcy, termination), companies registry, maritime Law disputes- exclusive jurisdiction;
- Criminal and investigating Division;
- Division for organised crime.

And also Departments:

- Mediation (alternative dispute resolution);
- Legal Aid;
- Human resources;
- IT;
- Accounting and Finance.

Cases are heard by a single judge or two types of panels (panel (1 judge + 2 lay judges), panel (2 judges + 3 lay judges for criminal offences punishable by 15 years or more of imprisonment)).

Court management, monitoring of the courts: all Court Presidents (local and district) must **adopt a programme for resolving the backlog** if the criteria, set by law (concerning incoming and unresolved cases) is met. The Supreme Court checks the criteria and asks court for the corresponding plan or explanation.

This report is different from the **annual programme** that the courts must produce each year on the activity of the court.

The **monitoring of the activity of the Local Courts by the District Court President is usually done every six months**.

- ⇨ Koper is an example of **how effective leadership can be to redress the critical situation** of a district and **improve the effectiveness and quality of the judicial activity**. A **strict monitoring led to targeted solutions** as the employment of more judicial assistants, the externalisation of files (some files were sent to other courts) and modification of work habits. The region was also reorganised with better cooperation between Local and District Courts and the establishment of divisions to unify judges on certain types of cases to exchange good practices.

Also, to further improve the time-management of cases, in 2016 the Slovenian Supreme Court in accordance with the MoJ has adopted:

- ⇨ **Timeframes**: According to article **60.c of Courts Act:** The Supreme Court adopts criteria for the quality of work each year for the next and determines:

- **expected lenght for typical procedural acts, and**
- **expected lenght for solving all types of cases and for all types of courts.**

It is also a **useful managerial tool** helping court leaders in assessing and managing caseflow.

These timeframes help to provide for, especially for the lawyers and the public, an expected lenght for solving cases or different stages of proceedings in courts and also a right to start and finish cases in a reasonable time. They should not, however, be considered as a rule governing individual cases or creating rights for individual litigants.

The criteria to set time standards took into account the case law of the European Court of HR: for **normal cases**, the total duration of up to 24 months is generally regarded as reasonable; for **priority cases** it is less than 24 months and for **complex cases**, the total duration could be longer than 24 months and rarely more than 5 years, **anyway the total duration must never exceed 8 years (in all instances)**.

To determine time standards, the courts of first instance have been classified according to the average duration of proceedings in **3 standards (A, B and C)**. The standards have been calcuted based on data of duration of proceedings for each group of courts for the last 12 months for 50% of cases, 75% of cases and 90% of cases. The fastest courts are determined "A", the slower "B" and the slowest courts "C". Higher courts have 2 time standards (A and B) and the Supreme Court has only one time standard.

The standards can be used for the total duration of proceedings or for stages of proceedings. The time standards allow **classifying courts according to their performance**.

- **Free legal aid and court fees exemptions by Kristina Bošnjak, Head of Free Legal Aid Office at the District Court in Koper**

District Court Departments are legal aid authorities. All judicial officials of the legal aid offices are lawyers. Each district departments have jurisdiction over legal aid requests of the applicants who have residence in the district region for cases in the relevant District Court, Labour and Social Courts, the relevant Administrative Court, constitutional actions, petitions for

assessment of constitutionality and lawfulness, disputes before International Courts, and out-of-court settlement of disputes.

Conditions to grant legal aid:

- **Financial condition (subjective)**: study of the financial position of the applicants and the financial position of their families. Position deemed at risk, if the **monthly personal income or personal family income does not exceed a monthly minimum value or property value**.

In certain cases a person may **receive legal aid regardless of his/her financial situation** (for health reasons of the applicant or family member, when a family member suffers from physical or mental disorders, due to extraordinary financial obligations (e.g. earthquake, floods…).

- **2 objective conditions**: article 24 of the Legal Aid Act imposes that the case should not be clearly unreasonable, should be likely to succeed. The matter is important for the applicant's personal and socioeconomic status or the expected outcome of the matter is of vital importance for the applicant or applicant's family.

Procedure: the applicant must use a prescribed form, which can be obtained free of charge in **courts** (legal aid departments), **bookshops or internet**. The application must be supported by documents proving that the applicant meets the grant criteria; the legal aid department can also control or obtain supplementary information for which public records are not kept.

⇨ The application can **be filed only in writing,** in person, in courts or by post.

⇨ Employees in courts can help fill out the form and point out the deficiencies and complete it if necessary. **A partnership has been signed, in March 2017, with the European Law Faculty at Nova Gorica. Students work with the legal aid services to assist clients**.

⇨ All necessary information and instructions can also be found on a specific website.

Granting of legal aid: The decision on granting legal aid is taken by the **President of the District Court** or the **President of the specialised court in the first instance** after the technical and administrative tasks relating to the approval of legal aid have been carried out by the Legal Aid Professional Service, organised by each of the 11 District Courts.

Providers of legal aid are lawyers, legal aid providers from the Bar Association. Regional assemblies of the Bar keep lists of legal aid providers among their members.

Providers of legal aid are paid from funds allocated from the State budget. According to the Bar Act, the lawyer receives half of the payment that he would otherwise have received if he had been chosen freely by the party.

⇨ Also, the Bar Association organises once in a year a **"pro bono legal aid day"**. People who did not fulfill the financial and substantial conditions set by the legal aid act, can get free legal advice or legal opinions.

Repayment of funds arising from legal aid: The applicant can be obliged to return received legal aid and cover all or part of the costs from which he/she has been exempted:

- if the applicant was successful in the proceeding and awarded income or property by the court. The difference between this sum and the legal aid costs will be pay back by the applicant.
- If the applicant was not awarded any income or property but his/her material position, within a year after the decision changes to the extent that he or she is capable of paying back, entirely or partially legal aid costs.

Concerning court fees:

In civil proceedings, as already mentioned, court fees are usually paid at the beginning of the proceeding when the application has been filed. In some cases, the fees are paid when the court hands down a decision (e.g. social matter disputes before first instance courts, land register

proceedings, proceedings concerning first instance decisions on indemnities). Also, the party who suggests an examination of the evidence (e.g. by an expert or witness), or the use of the service of a translator or interpreter must pay these costs in advance.

In criminal proceedings, court fees and other costs are usually paid after the court has made a final decision which is not subject to appeal or after the court has subsequently issued a special order on the costs of the proceedings which is not subject to appeal.

Exemption, decision or provisional payment condition: The decision to exempt from paying fees is adopted by the judge in the proceeding or court clerks. The applicant who fulfils the financial and substantial conditions to obtain Free Legal Aid shall be exempted from paying fees.

- **Mediation by Petra Leskovic Potočnik, District judge, Head of the Civil department, Head of the Alternative Dispute Resolution Office at the District Court in Koper**

Slovenian District Courts have ADR Departments. These Departments were established by the Mediation in Civil and Commercial matters Act of 2008 transposing the European Directive 2008/ 52/ EC. It was clarified by the Act on Alternative Dispute Resolution in Judicial matters in 2009 and 2010.

In the District Court of Koper, a mediation programme is annexed to the yearly programme of the court. The District Court has established a list of 33 liberal mediators selected through a call for tender. They are given initial and further training by the Judicial training centre of the ministry of Justice. The President and Director of the District Court monitor the execution of the programme, grant legal aid and reimbursement of costs.

The mediation programme is funded by the courts and by the EU. For the parties, family mediation is free of charge, for civil disputes, the three first hours are free of charge and mediation in commercial disputes is financed by the parties.

Cases are referred to mediation by the parties' proposal or by the court's decision.

If the mediation is decided by a court's decision, the parties have the right to oppose the decision

⇨ Except if the Republic of Slovenia is a party or **if the parties have received legal aid**.

If a mediation process is launched, the **case is suspended for 3 months** and can be suspended longer for justified reasons.

A successful mediation leads to an enforceable court settlement immediately after the mediation. Otherwise, the parties must go to a main hearing.

Concerning statistics, each ADR department is given relevant data concerning the mediation activity in the district.

- **Functioning of the District Court in Koper: offices and case registers**

Visit of the court lead by Darja Srabotič, case registers staff

Visit of the largest court room of the Koper District Court: technical equipment has been installed as videoconference equipment for out of court testimonies. Also, the hearings are recorded for transcriptions.

Visit of the Bankruptcy Office: Bankruptcy is the most electronically developed procedure, for companies as well as for personal bankruptcies. The whole process is computerised. The website is accessible by the public and accessible in English version. Certain personal bankruptcies are not published and others may be anonymised. Bankruptcy decisions are taken by the judicial assistants of the Office.

The Office is also responsible for keeping the National Business Registry. Thus everyone has access to the application.

Visit of the land registry: land registry is the responsibility of the judiciary. Recently, all the appeals concerning land registry have been centralised at the Koper Higher Court which ensures specialisation of judges and court staff and uniformity of case-law.

- **Functioning of the Local Court in Piran and the specificity of bilingualism by Nataša Tomazini Tonejc, Local judge, President of the Local Court in Piran**

Article 11 of the Slovenian Constitution gives special rights to members of minority governing communities. As such every public administration including the justice system must ensure bilingual proceedings. In Piran Local Court, legal staff has to be able to work in Italian and pass specific language exams and the proceedings have to be led in Italian if the parties ask for it.

There are 3 possibilities, an only Slovenian proceeding/only Italian/both languages.

In practice, there has been no request to lead the proceedings in English for several years, because even the Italian speaking parties usually engage lawyers (speaking Slovenian).

WORKING MEETING of the CQFD Project team members: Exchange of views on the Quality of Justice Scoreboard (objectives, instruments, standards and indicators on quality of Justice)

Notes and comments were taken directly in the table.

CQFD Project
Ljubljana, JULY 5-6-7, 2017

MINUTES – WORKING MEETING - SUPREME COURT of the Republic of Slovenia

July 7th

- Presentation of the draft presentations of the final conference by the moderators of each session:
Work in groups of moderators of the final conference sessions and restitution (see the Conference's programme).

Deadline for inputs to the presentations: **31st of July**.

- Presentation of the draft contributions to the handbook
Intention papers (national and local perspectives, implementation of CQFD tools and conclusions at a national and local level), and contributions to the handbook: **deadline, 21st of July**.

- Exchange of views on the Quality of Justice Scoreboard (objectives, instruments, standards and indicators on quality of Justice) (part 2)

Notes and comments were taken directly in the table.

Annexe 4. Questionnaire to partner countries: national, local and international prospects upon completion of the CQFD project

Disseminating CQFD tools and the conclusions at a national and local level

How tools and conclusions of the CQFD project will be used and disseminate at a national level?

- Do you plan to develop national strategies on quality of justice? Or to include quality of justice in existing strategies on performance and quality of justice, or in the general framework on quality of public services?
- How will you include the quality standards and indicators identified during the project to your national framework on evaluation of justice?
- How do you plan to develop the assessment of quality of justice at a national level? Will you develop perception surveys? Will you include objective indicators in annual reports, in reporting before the Parliament, other? Will you include those indicators and standards to your national Justice Scoreboard?
- How will you disseminate the results of the CQFD project at a national level? Will you have a specific communication on the results of the CQFD project at a national level (for ex.: press release, concept paper to officials in the ministry of justice, or at a local level, others…)? Who will be the target of such a communication (general public, head of courts, governmental officials etc.)?
- Will you include modules on quality justice in existing training sessions at a national level?
- Will you put in place any specific experience from partner countries?

How CQFD tools and conclusions will be used at a local level, in individual courts?

- Will you disseminate the results of the CQFD project to individual courts (head of courts, judges, and court's staff in charge of collecting data on the activity of the courts)?
- Will you have a specific communication towards the judges from your court and/or other courts?
- Will you put in place specific trainings and awareness raising workshops on quality of justice in your court?
- Will you implement any specific experience from partner countries? Which practice?
- Will heads of courts be supported and encouraged to implement quality management standards and tools? What kind of support would most useful?
- Do you plan to have focus groups with court-users and stakeholders at a local level to have their feedback on the quality of justice? If so, what could be the composition of those focus groups?

How the CQFD tools and conclusions would be used in international cooperation (bilateral, cooperation with CEPEJ, European Commission)?