



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

# Independence, Accountability and Quality of the Judiciary

Performance Indicators 2017

## ENCJ Report 2016-2017

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## Executive Summary and Recommendations

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In recent years the ENCJ has developed a framework and vision of independence and accountability of the Judiciary and a set of indicators to assess the state of independence and accountability of EU judicial systems. As part of this undertaking a survey among the judges of Europe was held about their independence in 2014/2015. Last year the indicators were reviewed and revised. Those revised indicators were put into practice this year and a revised survey was performed. This report presents the outcomes. In addition, a first version of a framework and set of indicators for the quality of justice is presented.

### Independence and Accountability of the Judiciary

#### Performance Indicators

Almost all members and observers - in total 23 entities - applied the indicators to their judicial systems. The outcomes are primarily meant to be used by each Judiciary to reflect on its strengths and weaknesses and to address the latter. Whilst improved, the data must be used with care, because it remains difficult to capture very diverse legal systems in indicators.

It can be concluded – largely consistent with the 2014/2015 results – that:

- (1) There is still much room for improvement with respect to independence as well as accountability.
- (2) The outcomes for subjective (perceived) independence are ambivalent. The perspective of court users is largely lacking, leading to low scores, whilst corruption is also an issue. On the other hand, citizens in general and judges are generally positive about judicial independence and in nearly all countries the trust in the Judiciary is higher than the trust in the other state powers.
- (3) With regard to objective independence, funding of the Judiciary is generally not well arranged, and judiciaries are dependent on discretionary decisions by governments. Court management is still often in the hands - directly or indirectly - of ministries of Justice.
- (4) With respect to accountability, outcomes vary considerably among countries. Generally, external review of the Judiciary and (disclosure of) external functions of judges get low scores. External review is a complicated issue, because, if it is not commissioned by the Judiciary itself, it opens the door for outside interference with the Judiciary and thus detracts from independence.

#### Survey among professional judges about their perceptions of independence

One of the indicators with respect to subjective independence concerns the perceptions of judges themselves of their independence. To gather this data, for the second time a survey among the judges of Europe was conducted. This time in total 11,712 judges from 26 countries participated. The first time in 2014/2015 5,878 judges from 20 countries took part. The survey



was conducted at the end of 2016. Some information was asked about the personal characteristics of the respondents: gender and experience. Gender has no impact on the score about the independence of the judges in the country. The impact of gender on the opinions about specific aspects of independence is also limited, although differences exist among countries and some countries jump out. The impact of experience is overall small, but in some countries substantial. There is a general tendency that very experienced judges score their independence higher than less experienced judges.

The main findings are the following.

- (1) As to the overall perception of independence, on a 10-point scale the respondents rate the independence of the judges in their country between 6.5 and 10 on average per country. Five countries have scores between 6.5 and 7.
- (2) When judges experience inappropriate pressure, the three most given answers as to whom exerts this pressure are: court management including the court president (25%), closely followed by parties (24%) and their lawyers and at wider distance by the media (16%).
- (3) As to the prevalence of bribes, three categories of judiciaries can be distinguished: (i) judiciaries in which nearly all judges believe that no bribes are accepted; (ii) judiciaries in which a small percentage (less than 4%) of judges believe that bribes are accepted, and 10 - 20% are not sure whether or not bribes are accepted; and (iii) judiciaries in which a higher percentage of judges believe that bribery occurs and many more than 20% (up to 55%) are uncertain whether or not bribes are accepted.
- (4) The appointment and promotion decisions about judges are major issues, with 22% of judges (average across countries) believing that appointment decisions are not based on merit and experience and 38% believing this to be the case for promotion decisions.
- (5) The impact of the media on the decisions of judges is large in most countries and is increasing. The influence of social media is much smaller than that of the traditional media, but it is increasing in nearly all countries.
- (6) 22% of all participating judges feel that the Judiciary is not respected by government and parliament, with 34% thinking the same about the traditional media. The differences among judiciaries are very large. The (lack of) respect shown in the social media is generally seen as less problematic.
- (7) On average 33% of the judges do not believe that Councils for the Judiciary have the appropriate mechanisms and procedures in order to defend judicial independence effectively.
- (8) Judges were asked what would contribute most to the independence of the Judiciary in their country. The responses were very consistent: better working conditions regarding work load was mentioned most often, with working conditions regarding pay including pensions and retirement age in second place, and appointment and promotion based on ability and experience in third place.

## Quality of the Judiciary

Starting from a broad perspective on quality of justice, four areas of quality were selected for elaboration in this first phase. These areas are linked with the following essential tasks of the Judiciary:

- Providing public access to the law to guide society
- Guaranteeing due process from the perspective of accessibility
- Adjudicating cases in a timely and effective manner
- Delivering judicial decisions

For these four areas, a concise framework and a set of performance indicators have been developed. The indicators focus on what might be described as ‘output quality’, rather than on ‘quality systems’ (with the exception of the assessment of the quality of decisions).

A distinction is made between the description of objective characteristics and the subjective assessment of performance. Quality is in part determined directly by the arrangements stipulated by law. In addition, some aspects of quality such as the duration of cases are objectively measurable. However, there are also many aspects that can only be assessed subjectively. Subjective assessments can be given by the Judiciary itself (councils/courts/judges) and by court users (parties/lawyers/observers). At this stage, very little is known about the views of court users. Subjective assessment is therefore necessarily limited to the views from within.

The set of indicators was piloted by three judiciaries, and the outcomes are presented in this report. It proved possible to measure the indicators. On the basis of the pilot, it is concluded that the approach to develop performance indicators for quality is useful and interesting. The outcomes can give impetus and priorities for change. The set of indicators is definitely not final. It needs further development, especially in the area of the quality of judicial decisions. Also, it would be important to standardize to some degree the process by which the questionnaire is answered, and in particular how the judges are involved.

As was the case for independence and accountability, it would be of great value to have all members and, if possible, observers of the ENCJ, participate in the measurement of the indicators as a starting point for jointly taking responsibility for quality of justice.

## Recommendations to the ENCJ

### Independence and Accountability of the Judiciary

A distinction is made between the use of the substantive findings to improve the functioning of the Judiciary and the further development of the system of the indicators including the survey among judges.

## **Use of the outcomes:**

1. It is recommended that all councils and other governing bodies study the outcomes for their judiciaries and set concrete priorities for change, where needed, and to inform the ENCJ about their plans in the end of 2017 or the beginning of 2018.
2. Within the scope of the ENCJ 4-year plan 2018-2021, the ENCJ will discuss and work on the challenges that are presented in the Independence & Accountability Reports. The challenges of 2016-2017 are: (1) the lack of confidence of judges in appointment and promotion procedures; (2) the relationship between the political system and the media, on the one hand, and the Judiciary, on the other hand, as characterised by the perceived lack of respect of the former for the latter; and (3) the lack of insight as to the experiences of court users. Apart from assisting individual councils, this may lead to new ENCJ initiatives.
3. In addition, dialogue groups will be organised around specific themes, when councils face similar problems.

## **Further development of the system of indicators on independence and accountability including the survey:**

4. The periodicity of the measurement of the indicators and the conduct of the survey on independence and accountability among judges is two years. This is regarded as sensible from a timing point of view: not too frequent to risk judicial apathy and not too infrequent to risk irrelevance. The next round will, accordingly, take place in 2018/2019.
5. Now the indicators have gone through extensive internal scrutiny, the next step is to subject them to external review by the scientific community and by partners of the ENCJ (both within and outside the Judiciary). This should be done in the first part of 2018, as it could lead to the further revision of indicators and survey. A revision could then be implemented in 2018/2019.
6. In 2014/2015, a pilot survey about independence was held among lay judges in Scandinavia. As the survey proved to be feasible and the outcomes interesting, it is recommended to hold a survey among the lay judges of Europe in 2017/2018.
7. The need and possibilities for additional surveys - by the ENCJ alone or in cooperation with other bodies - should be explored in 2017/2018 on the basis of the activities described in the above recommendations.

## **Quality of justice**

### **Further development of indicators on quality of justice**

8. The set of indicators on quality of justice, as was shown by the pilot, provides a good basis for a system for all members and observers.

9. The next step is to refine the indicators by critically reviewing the indicators and the way that these are measured and scored. Also, this should lead to more precise concepts, definitions and explanations to improve the uniformity of the interpretation of the indicators. In addition, it has to be discussed how the questionnaire should preferably be answered, allowing for input from the judges. This should all take place in the second half of 2017.
10. Once this has been done, the indicators can be implemented by all members and observers of the ENCJ. This should take place in the first half of 2018.
11. Further steps would include taking up the areas of quality that have not yet been addressed. Also, it could be considered then to extend the survey among judges to quality.
12. Councils for the Judiciary should express their responsibility for standards of quality of justice - their definition and evaluation - for the sake of quality but also because of the links and sometimes trade-off between quality, independence and accountability. This responsibility can only be put into practice in close co-operation with the judges.

# 1. Introduction

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In 2013 the ENCJ started the first independence and accountability project. The project focused on the development of indicators for the independence and accountability of EU judiciaries and the development of an ENCJ vision on independence and accountability.

Since then, the ENCJ has successfully developed a normative vision on the independence and accountability of the Judiciary and an analytical framework identifying the essential constituents of the (i) independence and (ii) accountability of the Judiciary.

A set of quantifiable indicators covering the essential constituents identified under the framework was developed, tested and applied in all judiciaries that participated in the project.

At the General Assembly in Rome in 2014, it was noted that judges had never been asked how they perceive their own independence. This led to a blank spot in the indicators about subjective independence, and it was decided to develop and conduct a survey among European judges.

This survey was conducted in 2015, and results for indicators and survey were reported to the General Assembly in 2015. Data from the survey have been incorporated in the 2016 EU Justice Scoreboard (Figure 57).<sup>1</sup> In addition a pilot dialogue group was conducted in which representatives of four judiciaries discussed the outcomes for their countries and developed ideas how to build on strengths and remedy weaknesses.

In the next year (2015/2016), the set of indicators and the survey were improved, making them ready for application in the following year. Also, four dialogue groups were held. In addition, the scope of the independence and accountability project was broadened by making a start with the development of indicators for the quality of justice.

Parallel indicators have been developed about the independence and accountability of the prosecutors in member states where the Councils for the Judiciary were responsible for prosecutors as well as judges.

In this period (2016/2017), two broad topics have been addressed:

(1) First, the improved set of indicators has been applied by 18 members and 9 observers of the ENCJ, and also improved survey among judges was administered again. It was the second time that judges in Europe have been asked by the ENCJ about their own independence. France, Germany and the Czech Republic joined the survey for the first time, leading to a total of 11,712 judges participating in the survey.

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<sup>1</sup> The ENCJ and the European Commission collaborate on some parts of the Justice Scoreboard. The data used in paragraph 3.3.2 of the scoreboard on structural independence were collected through an updated questionnaire drawn up by the European Commission in close association with the ENCJ.

(2) The second topic which has been worked on is the development of quality indicators, with a start being made to develop standards, guidelines and best practices based on these indicators. The project team has also considered how Councils for the Judiciary and equivalent bodies might evaluate the quality of decision-making. It should be noted that the work on quality is still in an explorative phase and results must be used with caution.

The members of the project team comprised representatives of 18 member Councils of the Judiciary and 9 observers. The project group was co-chaired by France and the Netherlands by Kees Sterk, Vice-chair of the Dutch Council for the Judiciary and Frans van Dijk, director of the Dutch Council for the Judiciary, Alain Lacabarats, and Guillaume Tusseau members of the French Superior Council of the Magistracy. The secretaries of the project group were Ymkje Lugten from the Netherlands Council for the Judiciary, and Lisa Gamgani from the French Superior Council for the Magistracy.

As before, an expert group was selected from the members of the project team to evaluate the filled-in questionnaires for the independence and accountability indicators to see to the consistency and plausibility of the answers. The members of the expert group were: Colin Tyre (Judicial Council Scotland), Sven Johannisson (Domstolsverket Sweden), José Miguel Garcia (CGPJ Spain), and Slawomir Palka (KRS Poland), with Monique van der Goes (ENCJ Office) acting as the Secretary.

The project group met on the following occasions:

26 – 27 September 2016 in Rome, Italy.

8-9 December 2016 in The Hague, the Netherlands.

13-14 February 2017 in Brussels, Belgium.

16-17 March 2017 in Vienna, Austria

8 May 2017 in Brussels, Belgium (coordinators meeting).

The report is organised as follows. Chapter 2 summarizes the methodology on which the performance indicators about independence and accountability and their measurement are based and extends the approach to quality of the Judiciary, while chapter 3 provides an overview of the indicators and their constituent parts. Chapter 4 gives the outcomes of the indicators for all countries together and for each country separately. Paragraph 5 discusses the survey among professional judges about their perceptions of their actual independence and the outcomes of the survey and chapter 6 concludes about independence and accountability. Chapter 7 describes the development of quality indicators. Chapter 8 concludes the report with some observations.

## 2. Methodology of performance indicators Independence & Accountability

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The previous ENCJ reports on Independence and Accountability of the Judiciary set out the conceptual framework of independence and accountability that underlies the indicators and it describes the indicators in detail. The essential aspects are recapitulated here briefly.

Independence and accountability are interrelated and multi-dimensional concepts. To come to grips with this complexity a general framework is required. This framework can be summarised by five basic notions:

1. Independence and accountability go together: accountability is a prerequisite for independence. Independence is granted by society. A Judiciary that does not want to be accountable to society and has no eye for societal needs will not gain the trust of society and will endanger its independence in the short or long run. Accountability without independence reduces the Judiciary to a government agency.
2. The existence of formal, legal safeguards of independence (objective independence) are not sufficient for a judge to be independent. Actual independence depends on his or her behaviour and shows in his or her decisions, and this is reflected in independence as perceived in society and its constituent groups as well as by the judges themselves (subjective independence). It should be noted that perceptions frequently differ between societal groups.
3. For the Judiciary to be independent, the Judiciary as a whole must be independent and the individual judge must be independent. A distinction needs to be made between the independence of the Judiciary as a whole and the independence of the judge. While the independence of the Judiciary as a whole is a necessary condition for the independence of the judge, it is not a sufficient condition. Individual independence can be affected by the external influence of state organisations and others, and by internal influences within the Judiciary.
4. To be accountable, not only the formal requirements about accountability must be met, but also the population must perceive the Judiciary to be accountable. Even if there are formal objective procedures in place to ensure judicial accountability, the subjective perception of citizens as to judicial accountability is of equal importance. For example, judges and the judicial system may be seen as a 'closed shop', operating for their own benefit rather than for the benefit of society.

5. Accountability, like independence, relates to the Judiciary as whole and to the individual judge. At the level of the Judiciary as a whole, accountability means to be transparent about performance, while accountability of the individual judge relates in particular to the transparency of his judicial decisions.

As the framework distinguishes between objective and subjective independence and accountability, definitions are needed. Objective independence relates to the way in which judicial structures are in practice arranged, whilst subjective independence relates to the perception of the Judiciary amongst different interest groups including citizens in general, court users and judges.

The performance indicators consist of objective and subjective indicators. Consistent with the definitions, objective indicators are about the legal and other objectively observable aspects of the legal system that are essential for independence and accountability. As to the measurement of these objective aspects, the scoring or categorization is done by the Councils or, in the absence of a council, other governance bodies, using a standardised questionnaire. It is a self-evaluation, but of aspects that can be checked by anybody who is knowledgeable about the legal systems concerned.

Subjective indicators relate to the perceptions of independence and related topics among the population, the users of the courts and the judges themselves. Subjective indicators about accountability are not yet available. The ENCJ intends to look at perceptions of accountability at a later stage. With respect to independence and related subjects external surveys are available about perceptions in society. Also, some judiciaries have conducted satisfaction surveys among court users. No data are available about the perceptions of judges, and the project group has undertaken to fill this gap.

To get a proper idea of judicial independence, objective and subjective indicators need to be assessed together. In the next section the indicators are listed, and the changes that proved necessary in the indicators as defined in the 2013/2014 report are described.

Having defined appropriate indicators for objective and subjective judicial independence and objective accountability, the next step is to identify an appropriate methodology to score the results. This requires a normative assessment of what is good and bad practice. To simplify matters, a points system, using scoring rules, is employed, and the following underlying principles are applied:

1. With respect to all formal safeguards, the key issue concerns the ease with which such safeguards can be removed or altered. A safeguard embedded in a constitution offers more protection than one contained in normal legislation. Legislative safeguards are more effective than those contained in subordinate legislation, general jurisprudence or tradition.
2. Judicial self-government, balanced by accountability, is desirable. Where other state powers have the authority to make decisions about the Judiciary, decisions based on objective criteria are to be preferred to discretionary decisions.



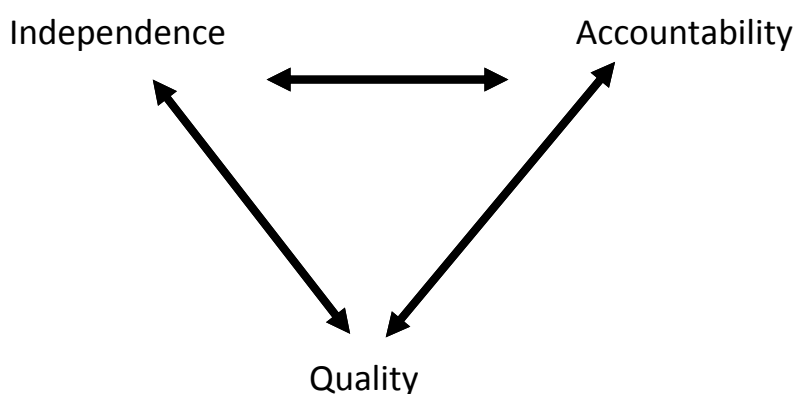
3. Responses based upon transparent rules are to be preferred to *ad hoc* reactions to particular situations.
4. Judicial decisions and procedures, including complaints processes should all preferably be formalized, public and transparent.
5. Transparency requires active dissemination of information, rather than simply making information theoretically available.

Most indicators consist of several aspects, captured by sub indicators. With each sub indicator, points can be earned, and a total score for an indicator is reached by adding up the scores per sub indicator.

It is unavoidable that in scoring the (sub)indicators by means of the questionnaire in some cases different interpretations are possible and that this creates the opportunity for countries, knowing the scoring rules, to sketch a picture as positive (or negative) as possible, if they so desire. This would go against the intentions behind the indicators: to establish strengths and weaknesses of a legal system and thereby to find possibilities for improvement. To guard against this (theoretical) possibility the expert group has critically evaluated the answers to the questionnaires.

### **Extension to quality indicators**

Independence and accountability capture important aspects of the quality of the Judiciary. Independence is, for instance, a prerequisite for impartial judicial decisions, while accountability requires procedures to be understandable for the parties. There may also be a tension between independence and quality in some respects. An example could be the uniform application of the law that may be unnecessarily hindered by judges who do not pay attention to what colleagues are deciding. A similar tension may exist between accountability and quality. A case in point would be random allocation of cases, as a result of which cases are not assigned to the most knowledgeable judges. In most instances the three concepts will strengthen each other, but in some a balance must be found.



The performance indicators about quality that have been developed are in addition to the indicators about independence and accountability. There is some overlap, where quality requires a more detailed treatment of aspects, and also some tensions, where quality requires a different perspective.

It should also be emphasised that the focus is on 'output quality' and not on the quality systems and mechanisms to continuously improve the quality of the Judiciary. Output quality is about the actual performance delivered to the users of the courts and to society.

### 3. Performance indicators Independence and Accountability 2017

As explained in Chapter 2, the set of indicators consists of objective and subjective indicators. The objective indicators are divided into indicators about the Judiciary as a whole and about the individual judge.

#### 3.1 Areas covered by the indicators

	independence		accountability	
objective	Judiciary as a whole	Individual judge	Judiciary as a whole	Individual judge
subjective	General perceptions		Not available	

In the 2014/2015 report the set of indicators was described and the outcomes were presented for the first time. In 2015/2016 the indicators were evaluated with respect to definitions as well as measurement (application of scoring rules), and some changes were implemented. The 2015/2016 report detailed these changes.

The resulting set of indicators for 2017 is listed below.

#### INDICATORS OF THE OBJECTIVE INDEPENDENCE OF THE JUDICIARY AS A WHOLE

**1. Legal basis of independence, with the following sub-indicators:**

- Formal guarantees of the independence of the Judiciary;
- Formal assurances that judges are bound only by the law;
- Formal methods for the determination of judges' salaries;
- Formal mechanisms for the adjustment of judges' salaries;
- Formal guarantees for involvement of judges in the development of legal and judicial reform.

**2. Organisational autonomy of the Judiciary, with the following sub-indicators where there is a Council for the Judiciary or equivalent independent body:**

- Formal position of the Council for the Judiciary;
- Compliance with ENCJ guidelines;
- Responsibilities of the Council.

**Sub-indicator when there is no Council for the Judiciary or an equivalent body:**

- Influence of judges on decisions.

**3. Funding of the Judiciary, with the following sub-indicators:**

- Budgetary arrangements;
- Funding system;
- Resolution of conflicts about budgets;

- Sufficiency of actual budgets.

#### **4. Management of the court system.**

- Management responsibility of the courts.

### **INDICATORS OF THE OBJECTIVE INDEPENDENCE OF THE INDIVIDUAL JUDGE**

#### **5. Human resource decisions about judges, with the following sub-indicators:**

- Selection, appointment and dismissal of judges and court presidents;
  - Selection, appointment and dismissal of Supreme Courts judges and the President of the Supreme Court;
- Compliance with ENCJ guidelines about the appointment of judges;
- Evaluation, promotion, disciplinary measures and training of judges;
- Compliance with ENCJ guidelines about the promotion of judges.

#### **6. Disciplinary measures, with the following sub-indicators:**

- Compliance with ENCJ standards about disciplinary measures against judges
- Competent body to make decisions about disciplinary measures against judges

#### **7. Non-transferability of judges, with the following sub-indicators:**

- Formal guarantee of non-transferability of judges;
- Arrangements for the transfer of judges without their consent.

#### **8. Internal independence, with the following sub-indicators:**

- Influence by higher ranked judges;
- Use and status of guidelines;
- Influence by the management of the courts.

### **INDICATORS OF THE SUBJECTIVE INDEPENDENCE OF THE JUDICIARY AND THE INDIVIDUAL JUDGE**

#### **9. Independence as perceived by society;**

- Flash Eurobarometer 435 'Perceived independence of the national justice systems in the EU among the general public and Flash Eurobarometer 436 'Perceived independence of the national justice systems in the EU among companies'.
- Global competitiveness report 2016-2017
- World Justice Rule of Law Index 2016

#### **10. Trust in Judiciary, relative to trust in other state powers by citizens in general;**

- National surveys.

#### **11. Judicial corruption as perceived by citizens in general;**

- EU Anti-Corruption Report 2014
-

**12. Independence as perceived by courts users at all levels;**

- National surveys.

-

**13. Independence as perceived by judges;**

- ENCJ survey, question 13<sup>2</sup>

#### INDICATORS OF THE OBJECTIVE ACCOUNTABILITY OF THE JUDICIARY AS A WHOLE

**1. Allocation of cases, with the following sub-indicators:**

- Existence of a transparent mechanism for the allocation of cases;
- Content of the mechanism for the allocation of cases.

**2. Complaints procedure, with the following sub-indicators:**

- Availability of a complaints procedure;
- External participation in the complaints procedure;
- Scope of the complaints procedure;
- Appeal against a decision on a complaint;
- Number of complaints.

**3. Periodic reporting by the Judiciary, with the following sub-indicators:**

- Availability of annual reports;
- Publishing of the annual report;
- Scope of the annual reports;
- Periodic and public benchmarking of the courts.

**4. Relations with the press, with the following sub-indicators:**

- Explanation of judicial decisions to the media;
- Availability of press guidelines;
- Broadcasting of court cases.

**5. External review, with the following sub-indicators:**

- Use of external review;
- Responsibility for external review.

#### INDICATORS OF THE OBJECTIVE ACCOUNTABILITY OF THE INDIVIDUAL JUDGE

**6. Code of judicial ethics, with the following sub-indicators:**

- Availability of a code of judicial ethics.
- Availability of training on judicial ethics;

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<sup>2</sup> This question which concerns the independence of judges in a country in general is used instead of the question about personal independence, as was mentioned in the 2015/2016 report, because of the larger diversity of answers. See further chapter 5.

- Responsible body to provide judges with guidance or advice on ethical issues

**7. Withdrawal and recusal, with the following sub-indicators:**

- Voluntary withdrawal;
- Breach of an obligation to withdraw;
- Request for recusal;
- Deciding authority;
- Appeal against a decision on a request for recusal.

**8. Admissibility of external functions and disclosure of external functions and financial interests, with the following sub-indicators:**

- Policy on admissibility of external functions;
- Authorisation for the exercise of accessory functions;
- Availability of a (public) register of external functions of judges;
- Availability of a (public) register of financial interests of judges.

**9. Understandable proceedings, with the following sub-indicators:**

- Duty of judges to make proceedings intelligible to the parties;
- Duty of judges to make proceedings intelligible to categories of court users such as children, youth, disabled people (physically/mentally), victims, those for whom the national language is not their mother tongue; self-represented litigants.
- Training of judges.

The questionnaire that was sent to all participating councils and, in the absence of a council, other governing bodies to gather the data, is enclosed as Appendix 1. The scoring rules that were used to calculate the indicators are enclosed in Appendix 1 as well.

## 4. State of independence and accountability in Europe 2017

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The outcomes of the indicators are presented in the figures below for each country separately. The scorecards with the outcomes of the questionnaire can be found online at [www.encj.eu](http://www.encj.eu). The data itself can be provided upon request by sending an email to [office@encj.eu](mailto:office@encj.eu). The score per indicator is given in combination with the minimum and maximum score achieved by any of the participating countries. Indicator 12 about independence as perceived by judges is based on the survey among the judges of Europe. The survey is discussed in detail in the next chapter. In section 4.2 averages per indicator over all countries are given.

It is important to note that the indicators should be seen in the light of the normative vision on the independence and accountability of the Judiciary and the analytical framework identifying the essential constituents of the (i) independence and (ii) accountability of the Judiciary. The indicators have not been developed to create rankings of judicial systems, but can be used to discuss the strengths and weaknesses of judicial systems. Readers of the report are advised to treat the comparison of data from different countries with various geographical, economic and legal backgrounds with great caution.

### 4.1 Method of presentation

The objective indicators explicitly set a standard about how formal arrangements should look like. These specify what is good, and what is less so. For all indicators a high score is good and a low score bad. Ideally, this standard should be met for all (sub) indicators. The outcomes for each indicator are presented as percentage of a standardised maximum score that reflects the best arrangements.<sup>3</sup> Statistics such as average and standard deviation can be calculated for each sub indicator as well as indicator over all countries. It is not possible to do this across the indicators.

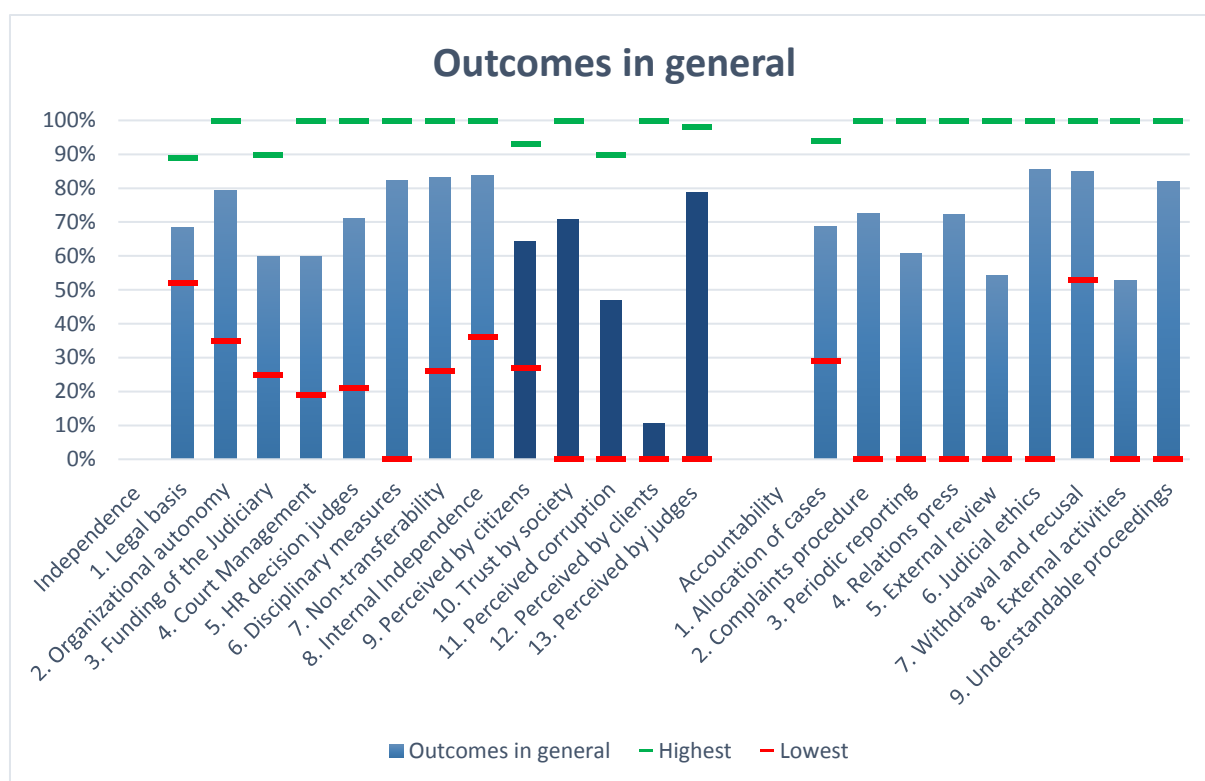
### 4.2 State of independence and accountability in Europe: outcomes in general

As to the availability of data, all indicators could be measured for nearly all countries, except for the independence of the Judiciary as perceived by court users. Surveys among court users are unfortunately still quite rare. As a result, most countries have a minimum score on this indicator. Given the importance of court user feedback, the indicator was retained.

The table below gives the average score per indicator over all participating members and observers of the ENCJ. The red dash gives the lowest score of any country and the green dash the highest score. Given the differences between the countries, the average scores give only a very rough indication of the outcomes.

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<sup>3</sup> As interval scales are used (per sub indicator points can be earned on a scale with equal intervals: the distance between 1 and 2 is the same as between 2 and 3), taking percentages is allowed.



Nevertheless, some general conclusions can be drawn from the averages in combination with a global inspection of the country outcomes.

### Independence and accountability in general

There is much room for improvement with respect of independence as well as accountability, judging from the difference between the actual scores and what are deemed good arrangements (100%). For most indicators at least one Judiciary reaches this level (green dash), showing that these good arrangements are achievable. On the other hand, minimum scores also occur (red dash), especially in the area of accountability.

### Subjective independence

The lowest mean scores concern subjective independence. As mentioned, most judiciaries do not conduct court user surveys. As a result, the average score on indicator 12 is very low. The score on corruption is also low. The scores on the other subjective indicators are, however, at similar levels as the indicators about objective independence. Indicator 10 warrants specific attention, because it provides a within country perspective. It concerns trust of citizens in the Judiciary relative to trust in the other state powers. In nearly all countries the trust in the Judiciary is higher than the trust in other state organisations (16 of the 18 countries for which data exist).

### Low scores about funding and court management

With regard to objective independence (1-7), funding of the Judiciary and court management score lowest by far. The funding of the Judiciary is generally not well arranged, and judiciaries are dependent on discretionary decisions by the government. Court management is still often



in the hands – directly or indirectly - of ministries of Justice. It has proven to be difficult to change arrangements in both instances.

### **Ambivalent outcomes about appointment and promotion of judges**

With regard to human resource decisions (appointment and promotion of judges), a high score on the indicator does not generally go together with a high score on the questions in the judges' survey about whether judges are appointed and promoted solely on the basis of merit and experience, as will be presented in the next chapter. Full compliance with the formal rules can occur together with a (very) low opinion of the judges. Also, systems that are valued positively by judges in this respect are not fully in compliance.

### **Independence as perceived by citizens and by judges**

The ENCJ set of indicators contains an indicator about judicial independence as perceived by citizens. The correlation between this indicator and the perceived independence by judges is high<sup>[1]</sup>, showing that the perceptions of judges of their actual independence are fairly in agreement with those of citizens.

### **Diverse outcomes about accountability**

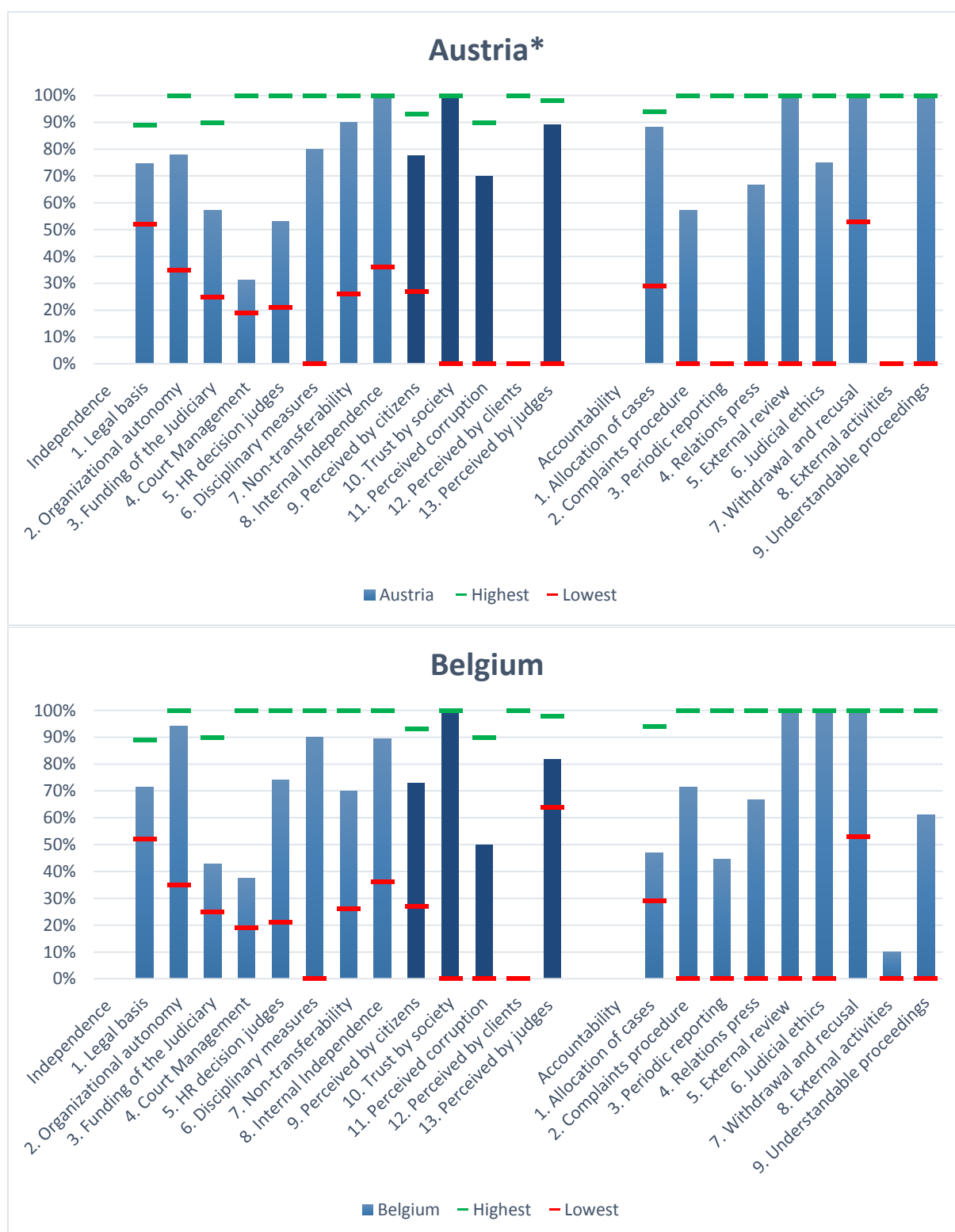
With respect to accountability, outcomes vary considerably among countries. For instance, about half of the countries score very low on periodic reporting, whilst the others score very high. More generally, external review and (disclosure of) external functions of judges get low scores, again with substantial exceptions. External review is a complicated issue, because, if it is not commissioned by the Judiciary itself, it opens the door for outside interference with the Judiciary and thus detracts from independence.

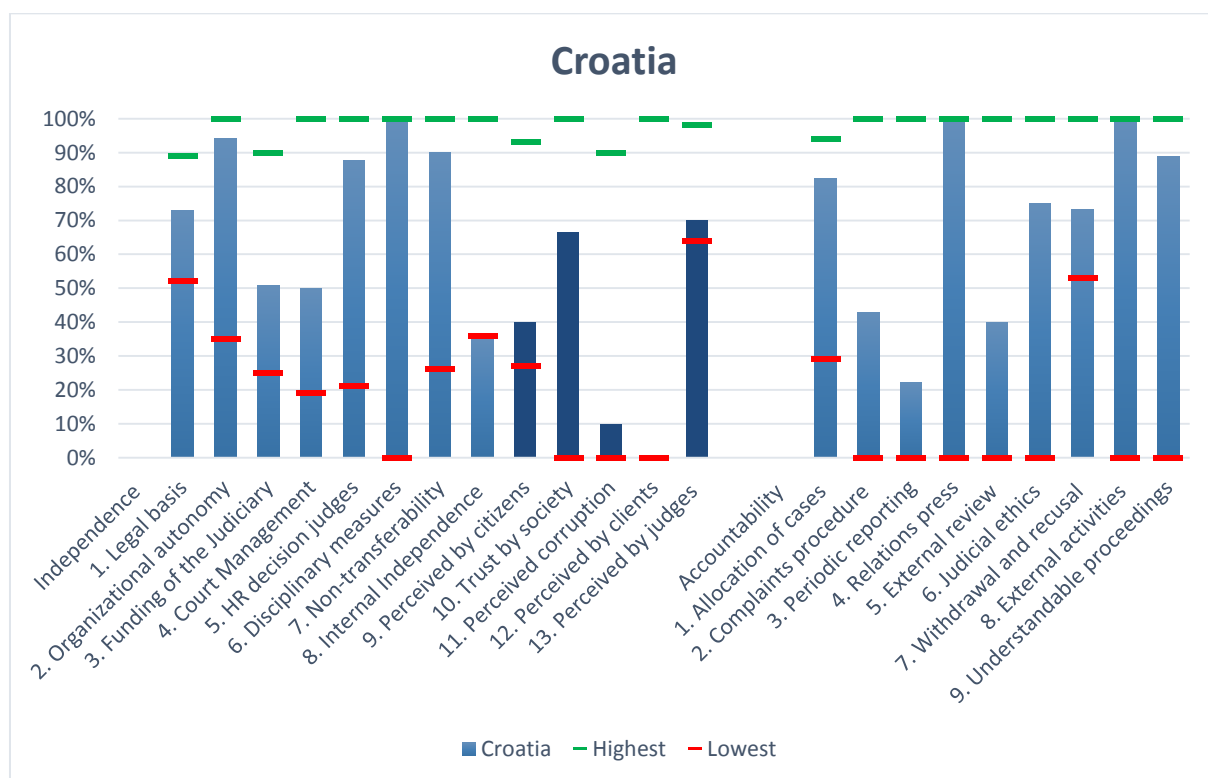
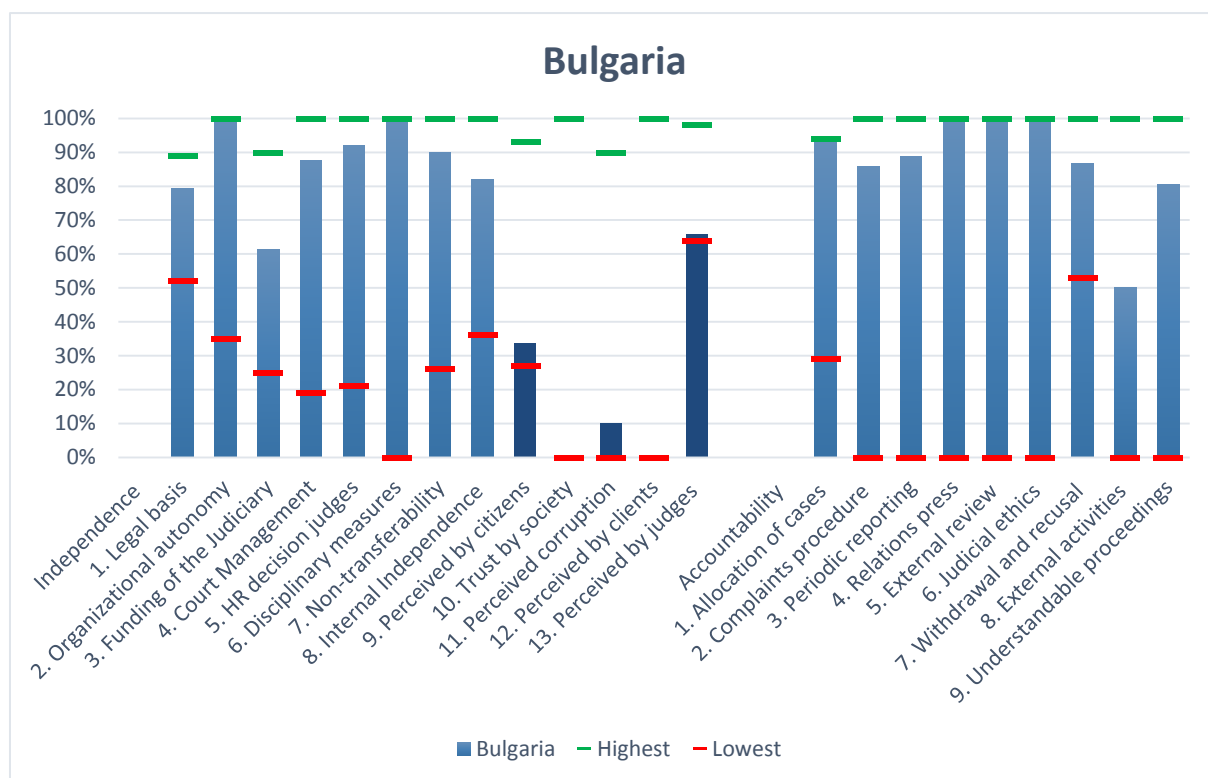
## **4.3 State of independence and accountability per country**

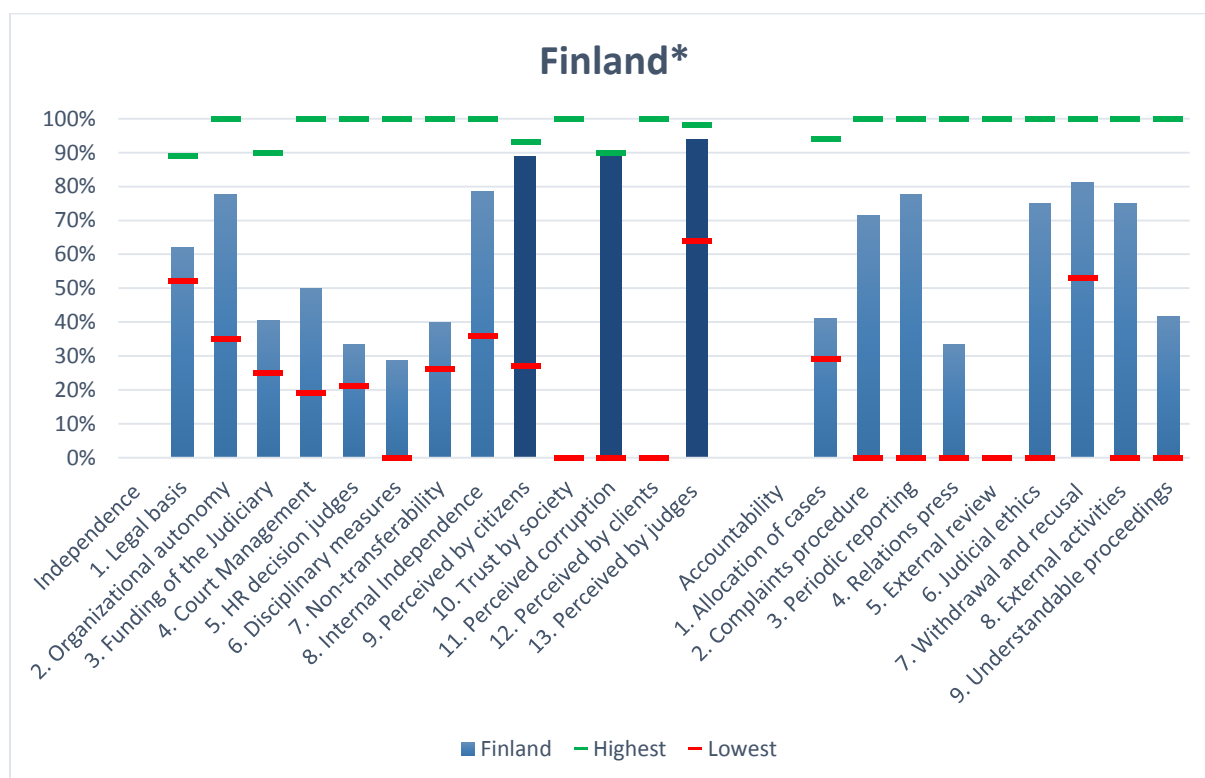
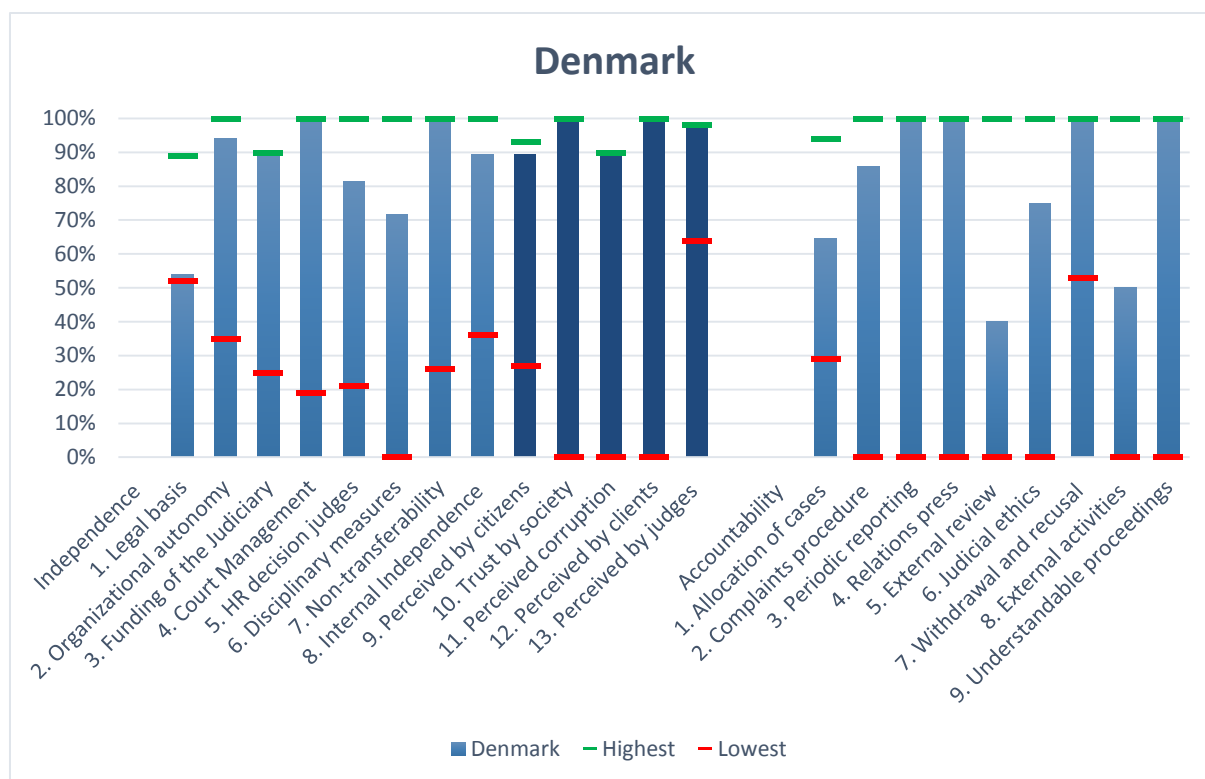
The outcomes are given in alphabetical order for all participants, members of the ENCJ as well as observers. In total 23 entities participated, including England and Wales and Scotland. The observers are denoted by an asterisk. The results of indicator 9 until 13 indicate the subjective independence, and are marked a darker shade of blue than the objective indicators.

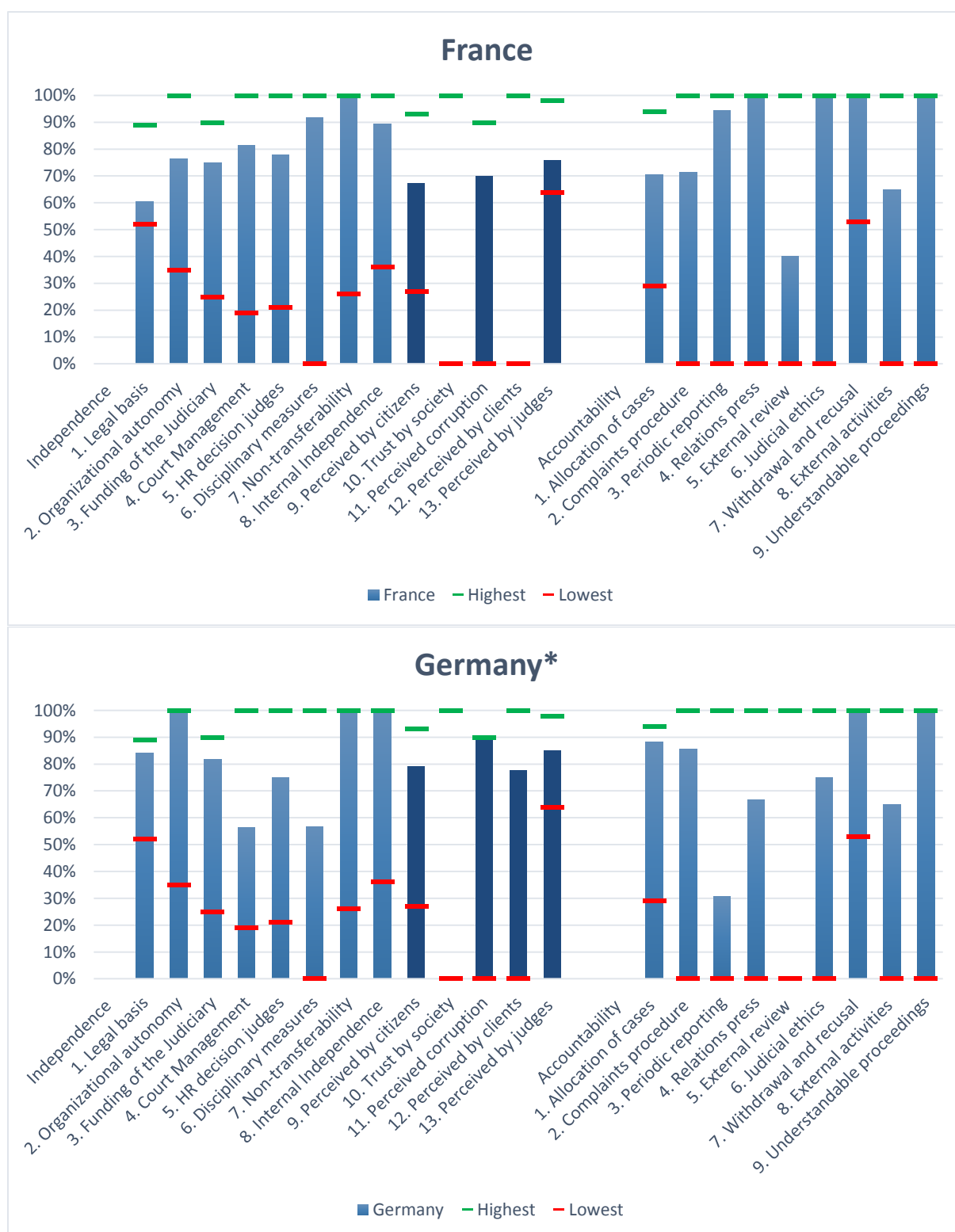
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<sup>[1]</sup> Pearson correlation: 0.83 (N=24). This indicator of perceived independence by citizens is an average of three separate data sets. The correlation with these data sets separately is also high: 0.90 (N=26) with judicial independence in the Global Competitiveness Report of the World Economic Forum and 0.84 (N=22) with the impartiality of the criminal law system measured by the Rule of Law Index. Finally, the correlations with the European Barometer percentages of respondents that rate the independence of courts and judges as (fairly) good are 0.67 (N=24).

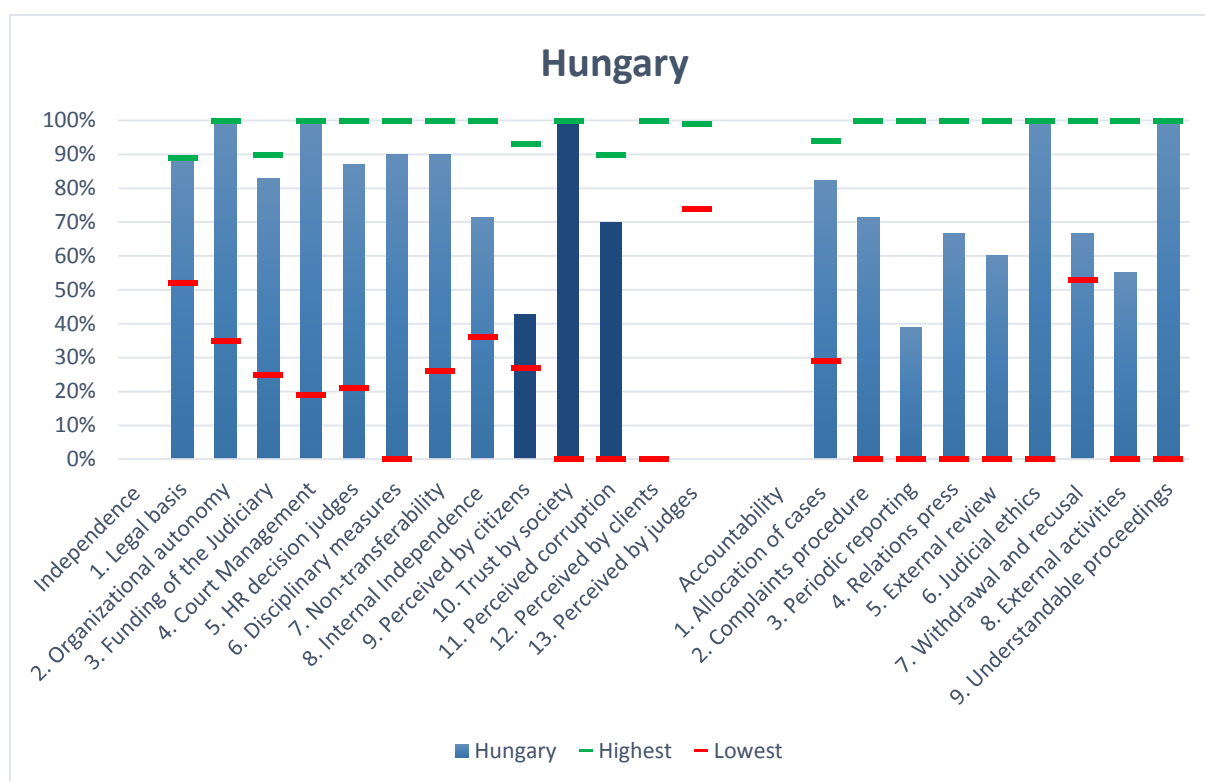




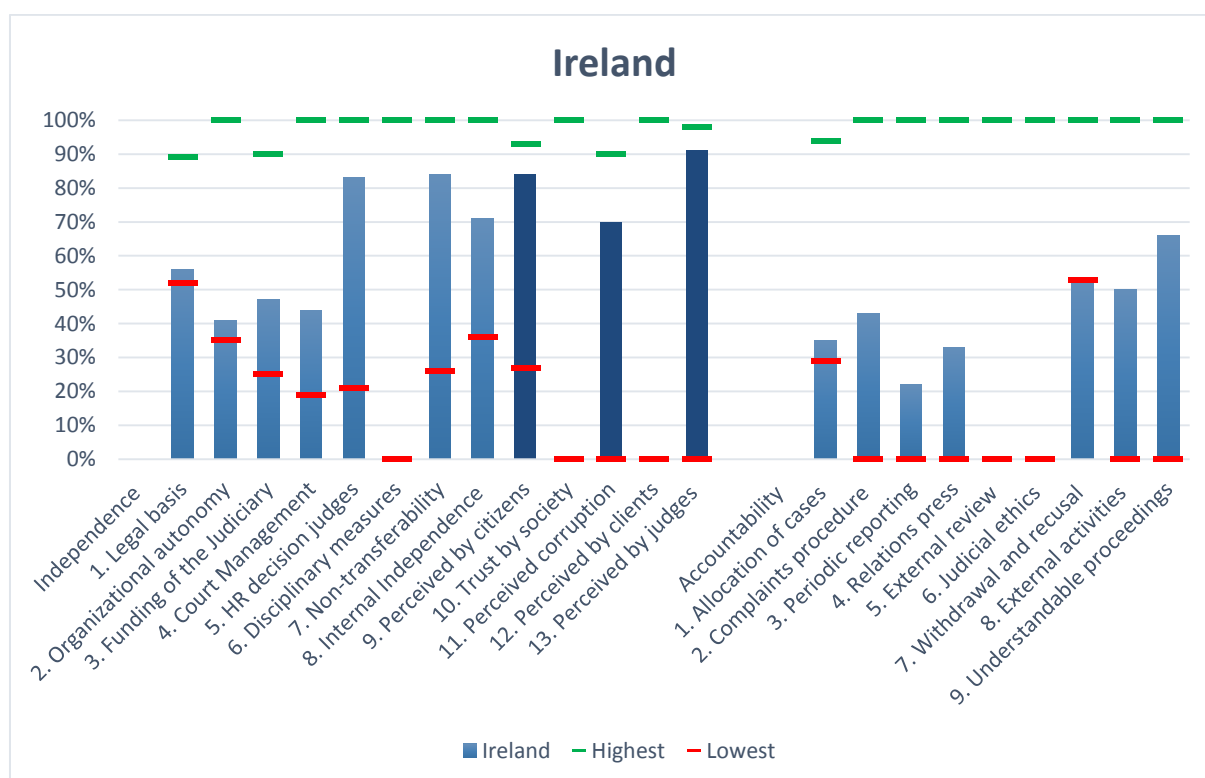


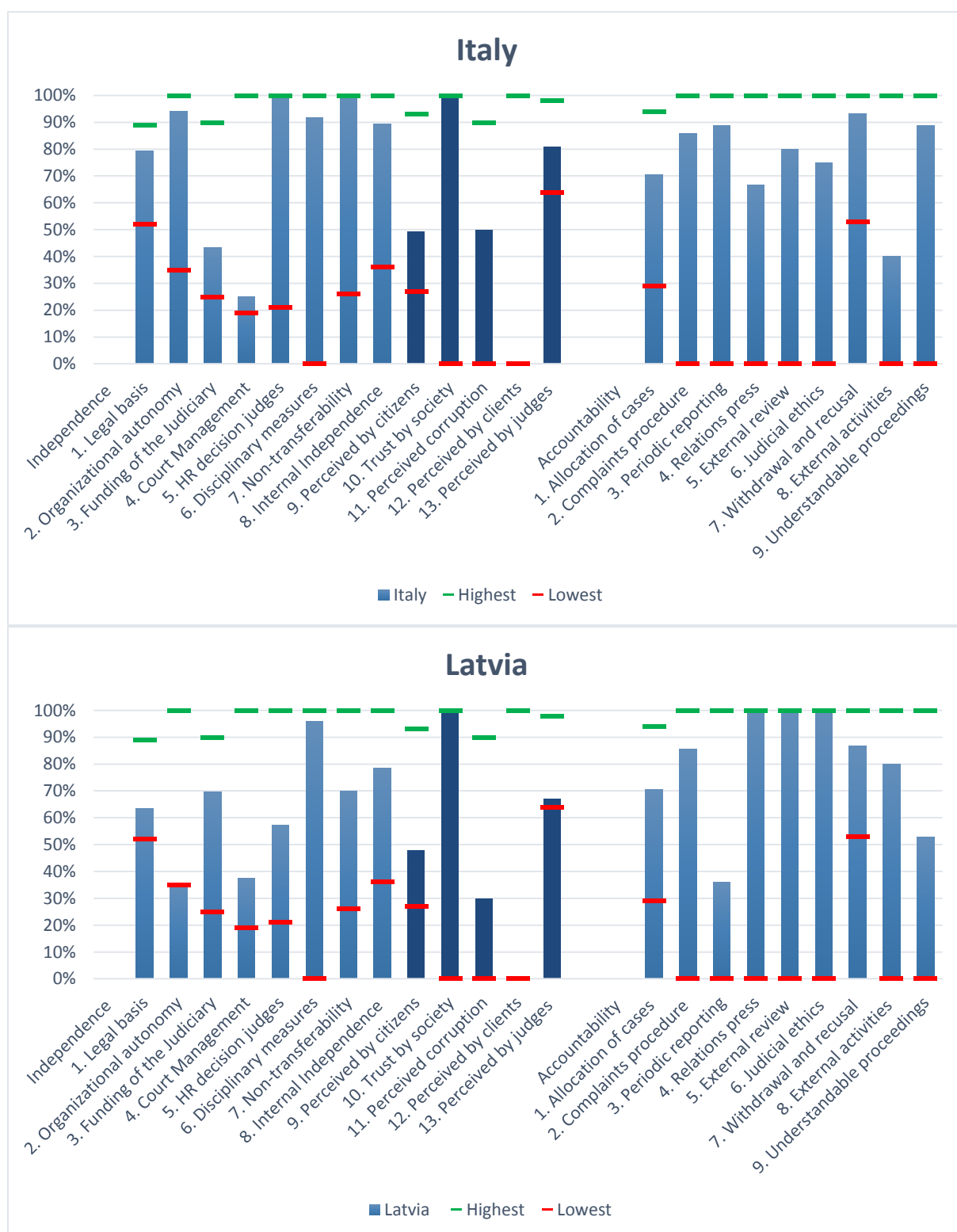


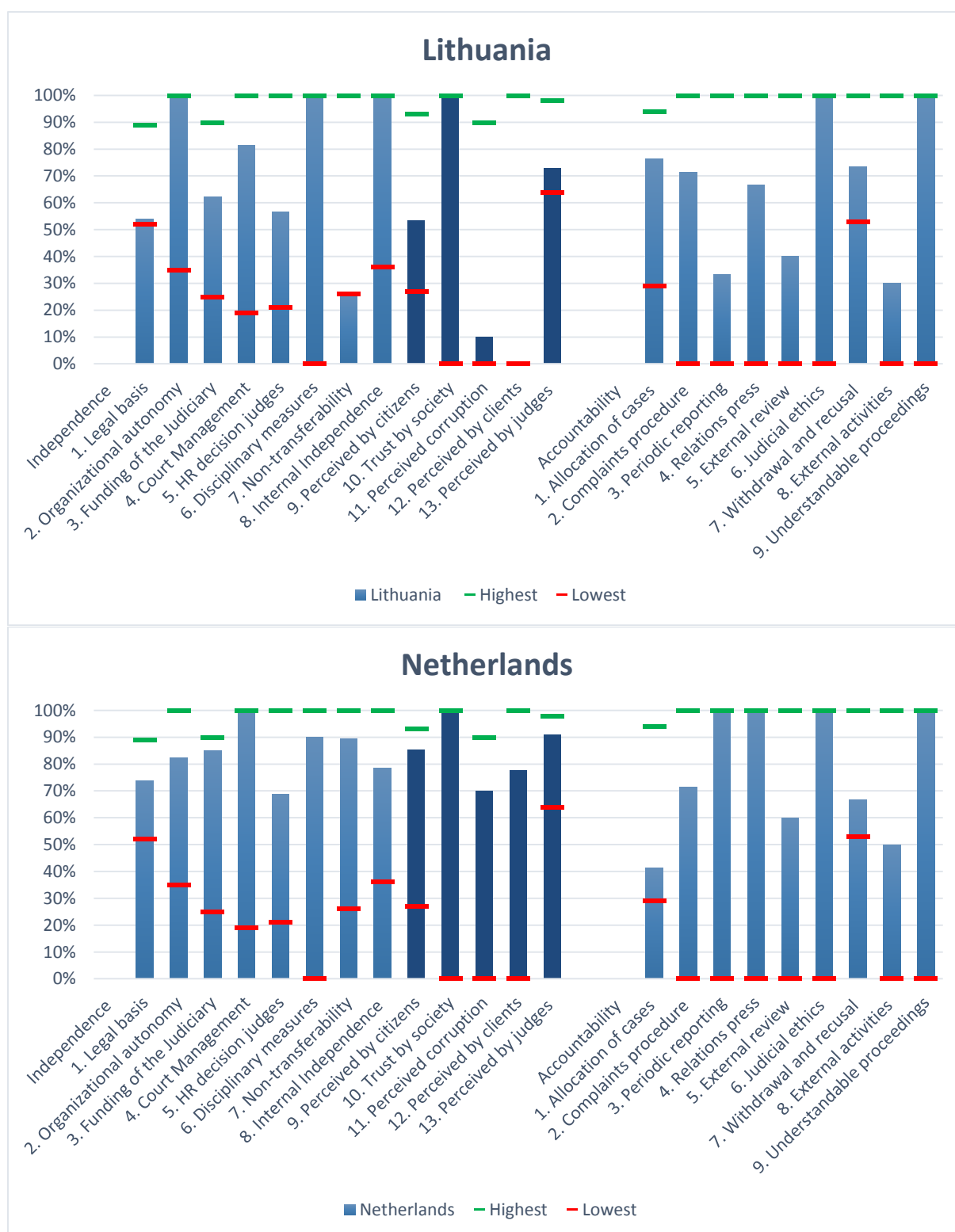
\* Note: As a federal state, the Federal Republic of Germany is characterised by decentralised structures. The provided answers are not representative for every Land respectively every court - and the situation can differ from Land to Land or from court to court. In addition, due to historical developments, the Federal Republic of Germany does not have a self-regulatory organisational system with councils for judicial administration. But the German justice system does include numerous self-regulatory mechanisms with far-reaching authority.



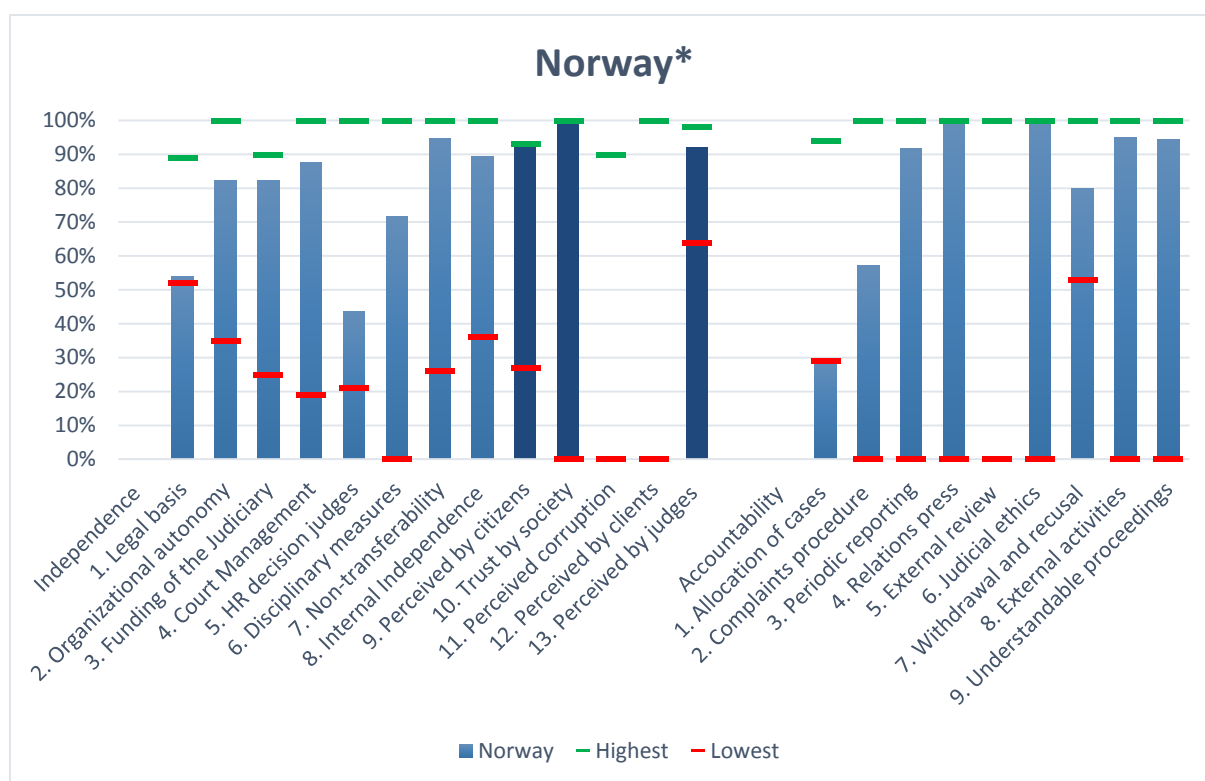
Note: The Hungarian Judiciary did not participate in the survey among judges, and has no score on indicator 13.



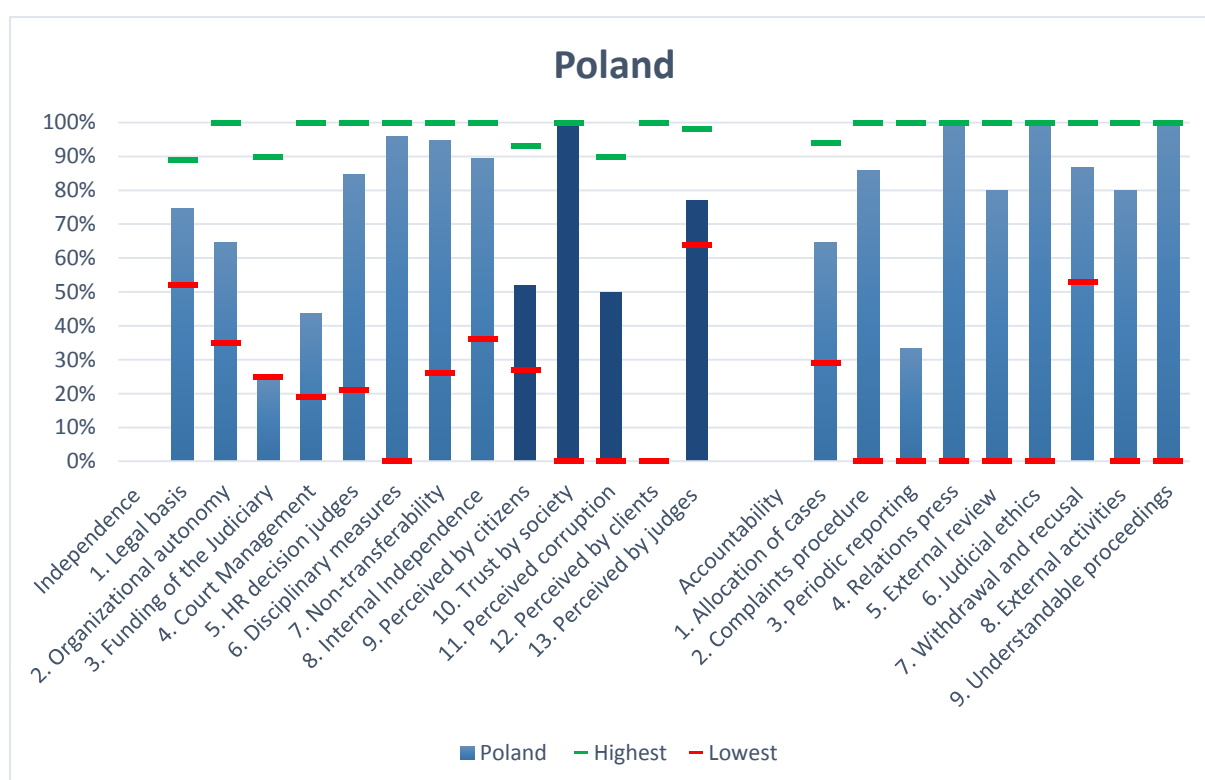






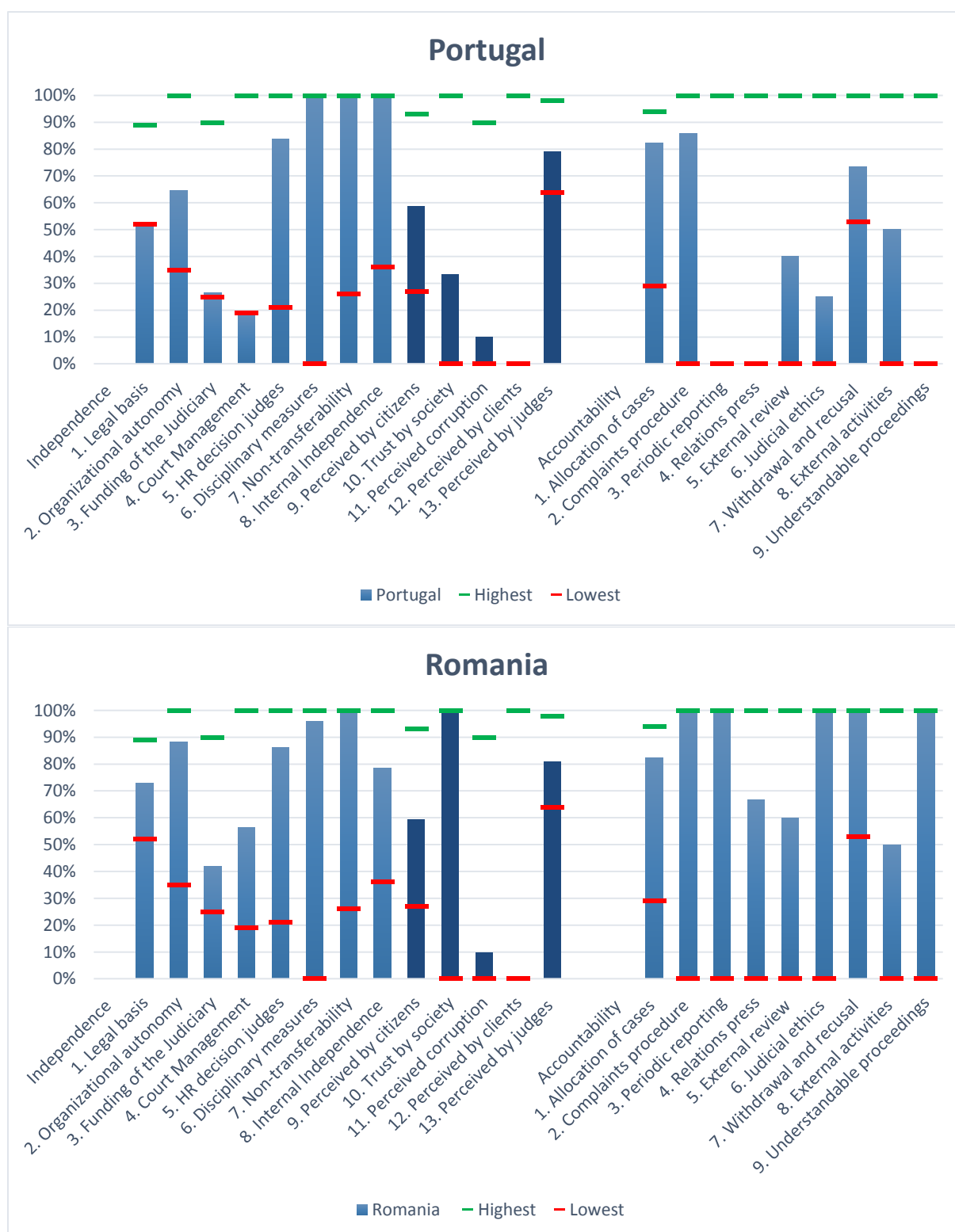


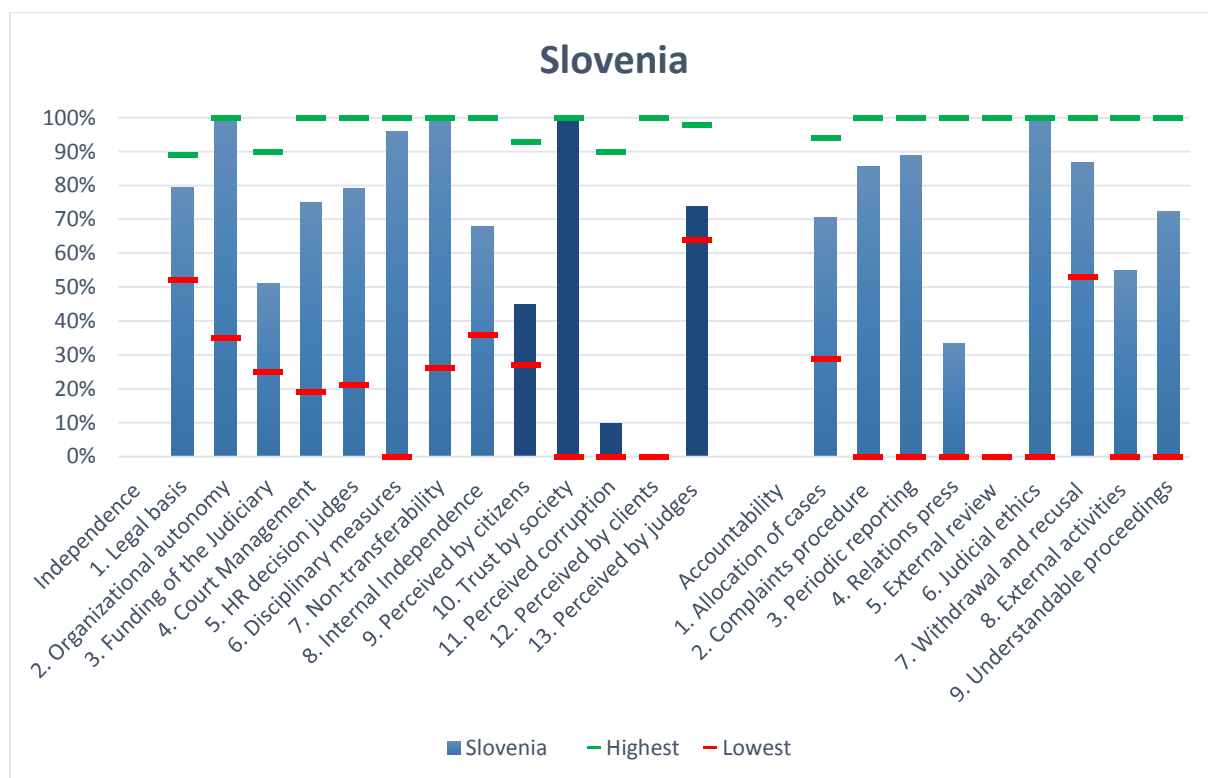
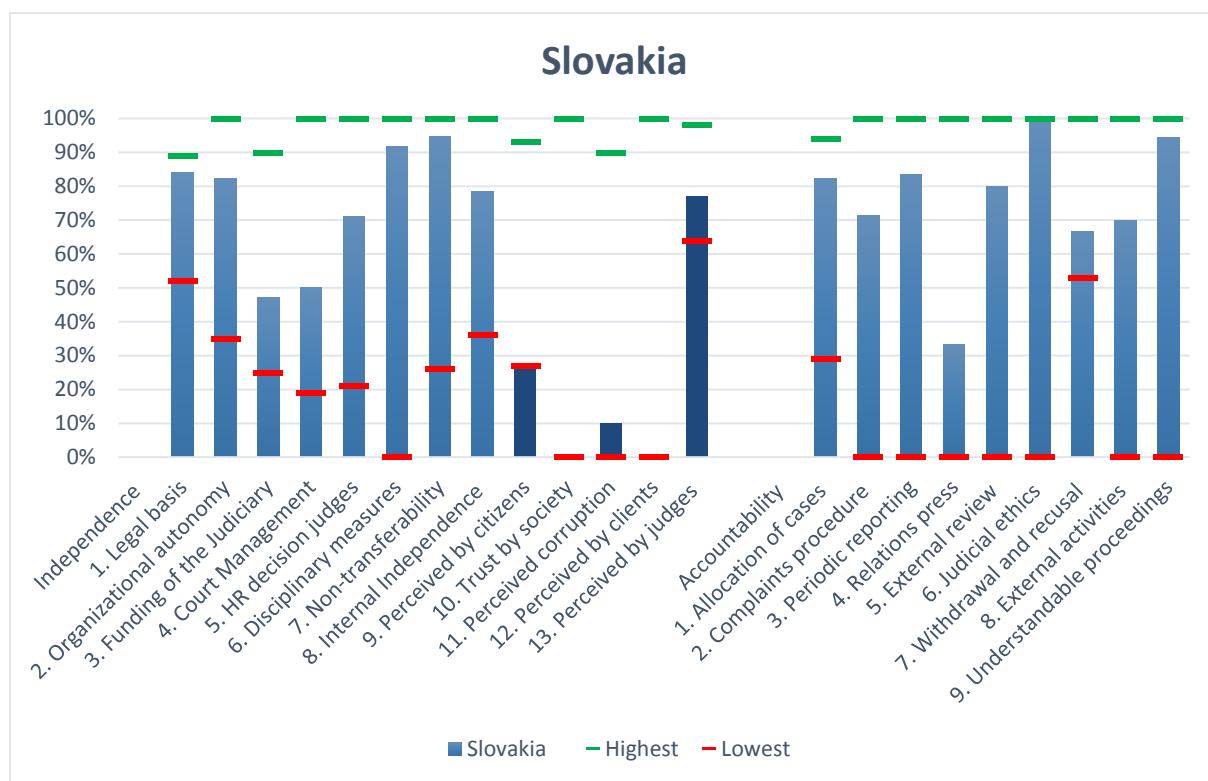
Note: Norway was not part of the EU Anti-Corruption Report 2014.

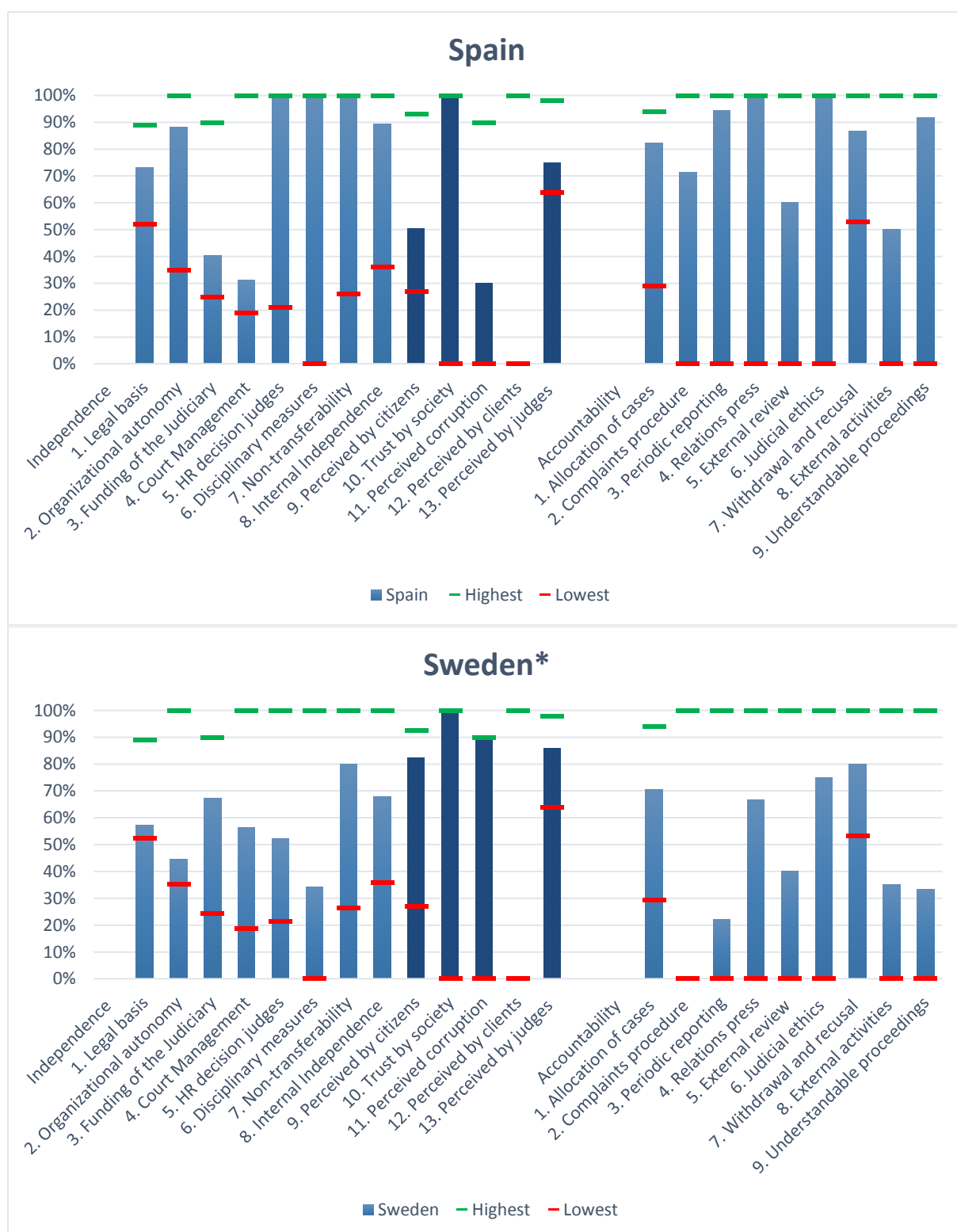


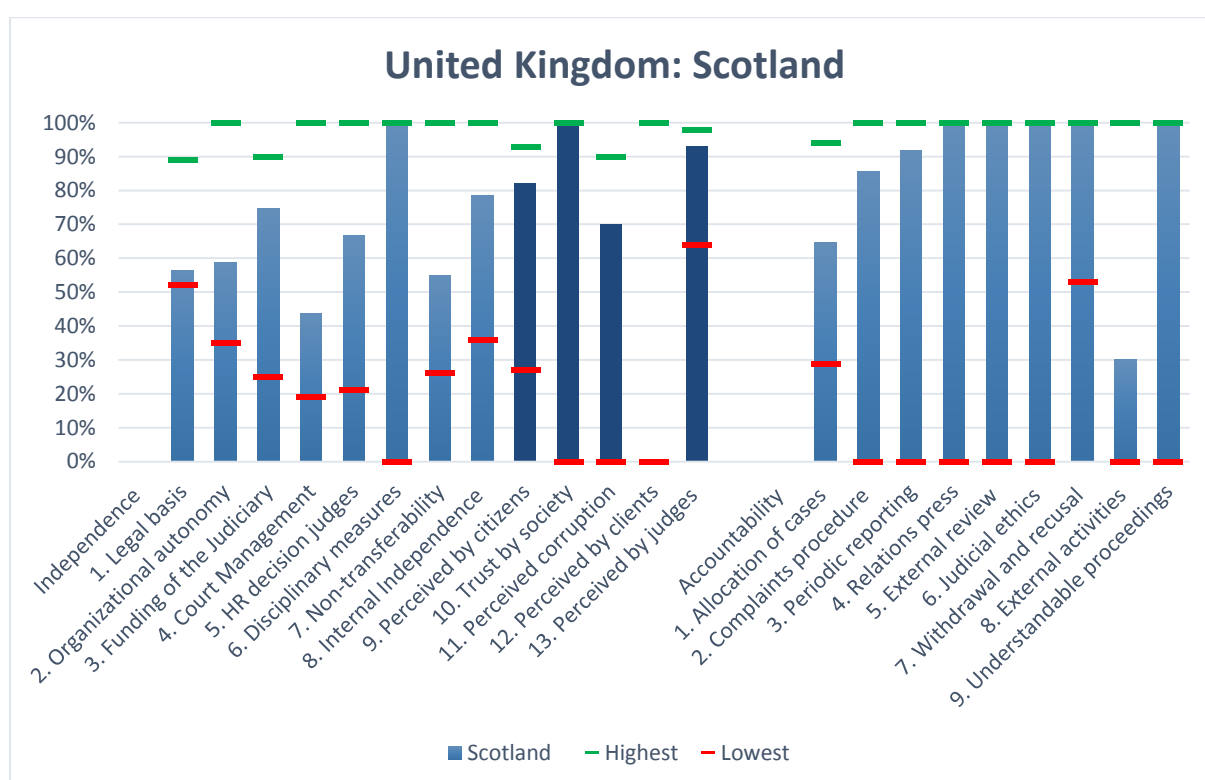
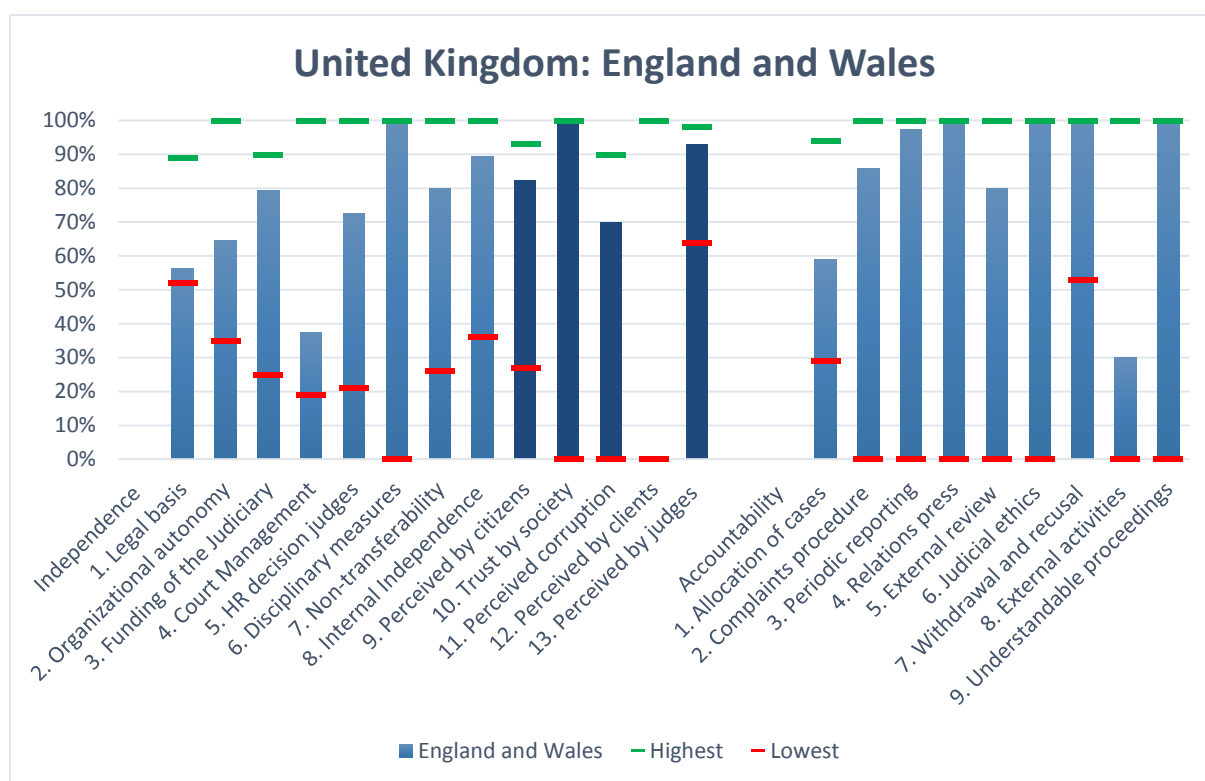
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<sup>4</sup> Based on current legislation (21 May 2017).









Note: owing to an oversight which could not be corrected in time for the survey to be changed, the survey among judges did not distinguish between England/Wales and Scotland.

## 5. Survey about independence among judges 2017

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One of the indicators with respect to subjective independence concerns the perceptions of judges of their independence (independence indicator 13). To gather these data, for the second time a survey among the judges of Europe was conducted. This time, in total 11,712 judges from 26 countries participated, comparing very favourably to the 5,878 judges from 20 countries who took part in 2015. The survey was conducted at the end of 2016. The data of the results of the survey can be provided upon request by sending an email to [office@encj.eu](mailto:office@encj.eu).

### 5.1 Methodology

The survey was sent to all the ENCJ members and observers. All the members and observers that were willing to participate, distributed a letter of introduction and recommendation of the president of the ENCJ to the judges within their jurisdictions. The letter contained a link to the internet site of the ENCJ that hosted the survey. The respondents could fill in the survey on line anonymously. They were asked to specify the country in which they were working as a judge. The Councils had to decide for themselves whether or not to translate the letter of introduction and the survey itself. Judges could fill in the survey in any language into which the survey had been translated.

Most Councils were able to distribute the letter of introduction directly to the judges, other councils had to send the letter to the court president who in his/her turn distributed the letter among the judges of his/her court. Some Councils secured the endorsement of the judges association of their country. The survey was addressed only to the professional judges.

### 5.2 Design of the survey

The survey was designed in such a way that it asked judges to give a general assessment of their independence as they perceive it to provide the data for the indicator, but also explored different aspects of independence in depth. In addition, they were asked some about some personal characteristics (gender and experience). The questions are essentially the same as the first time, but the just mentioned questions about personal characteristics as well as a question about the adequacy of the mechanisms available to Councils to defend the independence of the Judiciary and a question about possibilities for improvement of independence were added. As explained in last year's report, also some textual changes were made. The survey consisted of the following substantive statements and questions.

1.1 During the last two years I have been under inappropriate pressure to decide the outcome of a case in a specific way.

1.2 If you agree or strongly agree with 1.1, what was the frequency of such pressure?

1.3 If you agree or strongly agree with 1.1, by whom? Possibilities offered: Parties and their lawyers, Government, Parliament, other Judges (including an association of judges), Court

Management (including the Court President), Council for the Judiciary, Supreme court, Constitutional court, Media, Social Media.

2.1 In my country I believe that during the last two years individual judges have accepted bribes as an inducement to decide case(s) in a specific way.

2.2 If you agree or strongly agree with 2.1, did this occur on a rare exception, occasionally or regularly.

3a. During the last two years I have been affected by a threat of, or actual, disciplinary or other action because of how I have decided a case.

3b. During the last two years my decisions or actions have been directly affected by a claim, or a threat of a claim, for personal liability.

4. I believe during the last two years cases have been allocated to judges other than in accordance with established rules or procedures in order to influence the outcome of the particular case.

5a. I believe judges in my country have been appointed other than on the basis of capacity and experience during the last two years.

5b. I believe judges in my country have been promoted other than on the basis of capacity and experience during the last two years.

6. I believe that in my country decisions or actions of individual judges have, during the last two years, been directly affected by the actual, or anticipated, actions of the media (i. e. press, television or radio).

7. I believe that in my country decisions or actions of individual judges have, during the last two years, been directly affected by actual, or anticipated, actions using social media (for example, Facebook, Twitter or LinkedIn).

8. During the last two years I believe that my independence as a judge has been respected by the following actors 8(a) ... (8i) (list as above 1b).

8j. I believe that in my country the Council of the Judiciary has the appropriate mechanisms and procedures in order to defend judicial independence effectively.

9.1 During the last two years negative changes occurred in my working conditions in relation to (multiple answers possible): (a) Pay, (b) Pensions, (c) Retirement age, (d) Caseload and (e) Court resources. Also, the following option was presented: (f) I was moved to another function, section or court.

9.2 I believe that changes which occurred in my working conditions in relation to the domains listed in 9.1 directly affected my independence (multiple answers possible).

10. During the last two years I have had to take decisions in accordance with guidelines developed by judges of my rank.

11. During the last two years the management of my court has exerted pressure on me to decide individual cases in a particular way.

12. During the last two years the management of my court has exerted inappropriate pressure on me to decide individual cases within a particular time.

13. On a scale of 0 - 10 (where 0 means "not independent at all" and 10 means "the highest possible degree of independence), the professional judges in my country are not independent at all or completely independent.

14. On a scale of 0 - 10 (where 0 means "not independent at all" and 10 means "the highest possible degree of independence), as a judge I do not feel independent at all or feel completely independent.

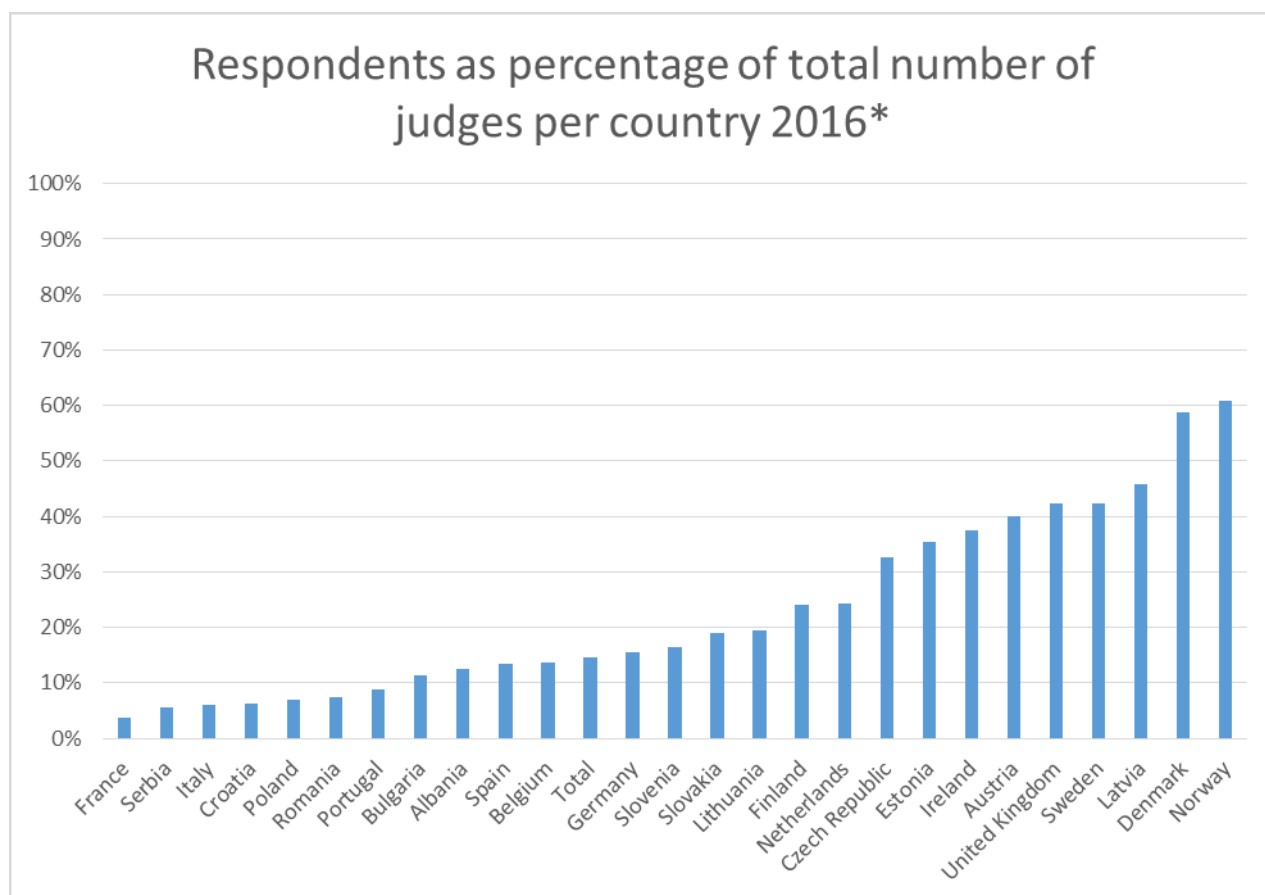
15. What would, in your view, contribute most to the improvement of the independence of the judges in your country? Options:

- A reduction of judicial corruption
- Less use of (the threat of) disciplinary action by judicial authorities
- Less use of (the threat of) claims for personal liability by parties
- A more objective allocation of cases to judges
- Appointment and promotion of judges strictly on the basis of ability and experience
- Less pressure from the media
- Less pressure from social media
- Less guidelines by judges of my own rank
- Less pressure from court management to decide cases in a particular way
- Less pressure from court management to decide cases within a particular time
- Better working conditions regarding pay including pensions and retirement age
- Better working conditions regarding case load
- Better working condition regarding court resources

### 5.3 Response rate per country and representativeness

The figure below gives an overview of the response among the judges who received the survey in the participating countries. The countries are ranked from low to high response rates.

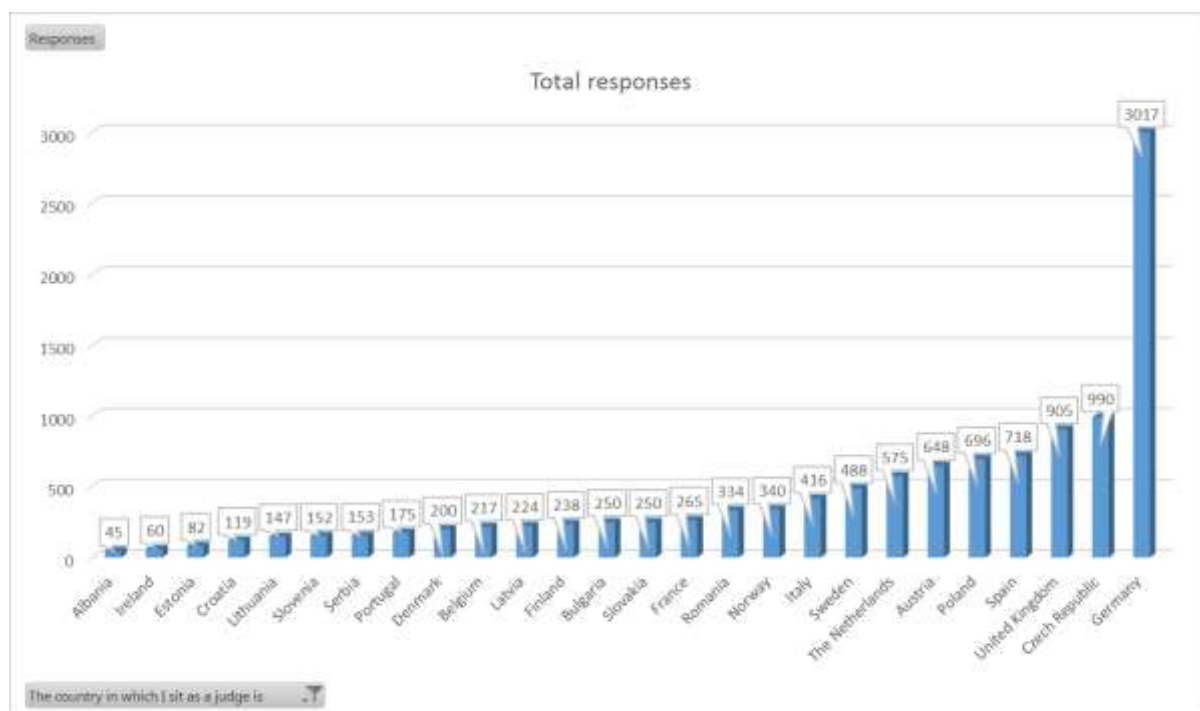




\*Number of judges based on CEPEJ data of total professional judges 2014.

The response rate varies from 4 per cent in France to 61 per cent in Norway. The mean response rate over all participating countries is 24 per cent.

For the representativeness of the results of the survey the absolute number of responses per country is important. Even if the response rate in a country is low, the results can be meaningful. In comparison, population surveys cover usually only a very small portion of the population, but are nevertheless statistically meaningful. The only caveat is that the response is not selective, in the sense that responding judges do not differ clearly from the not responding ones in aspects that are relevant to the results of the survey. This is relevant with each response rate which is not close to 100 per cent. The graph shows the number of responding judges per country, ranked by number.



The number of responding judges varies from as few as 40 in Albania to as many as 3,017 in Germany. The ‘confidence interval’ around the results for the countries with a small number of respondents (especially Albania, Ireland and Estonia) will be relatively large. For most countries, the numbers are high enough to distinguish meaningful differences which can be statistically checked by using the data that can be provided upon request by sending an email to [office@encj.eu](mailto:office@encj.eu).<sup>5</sup>

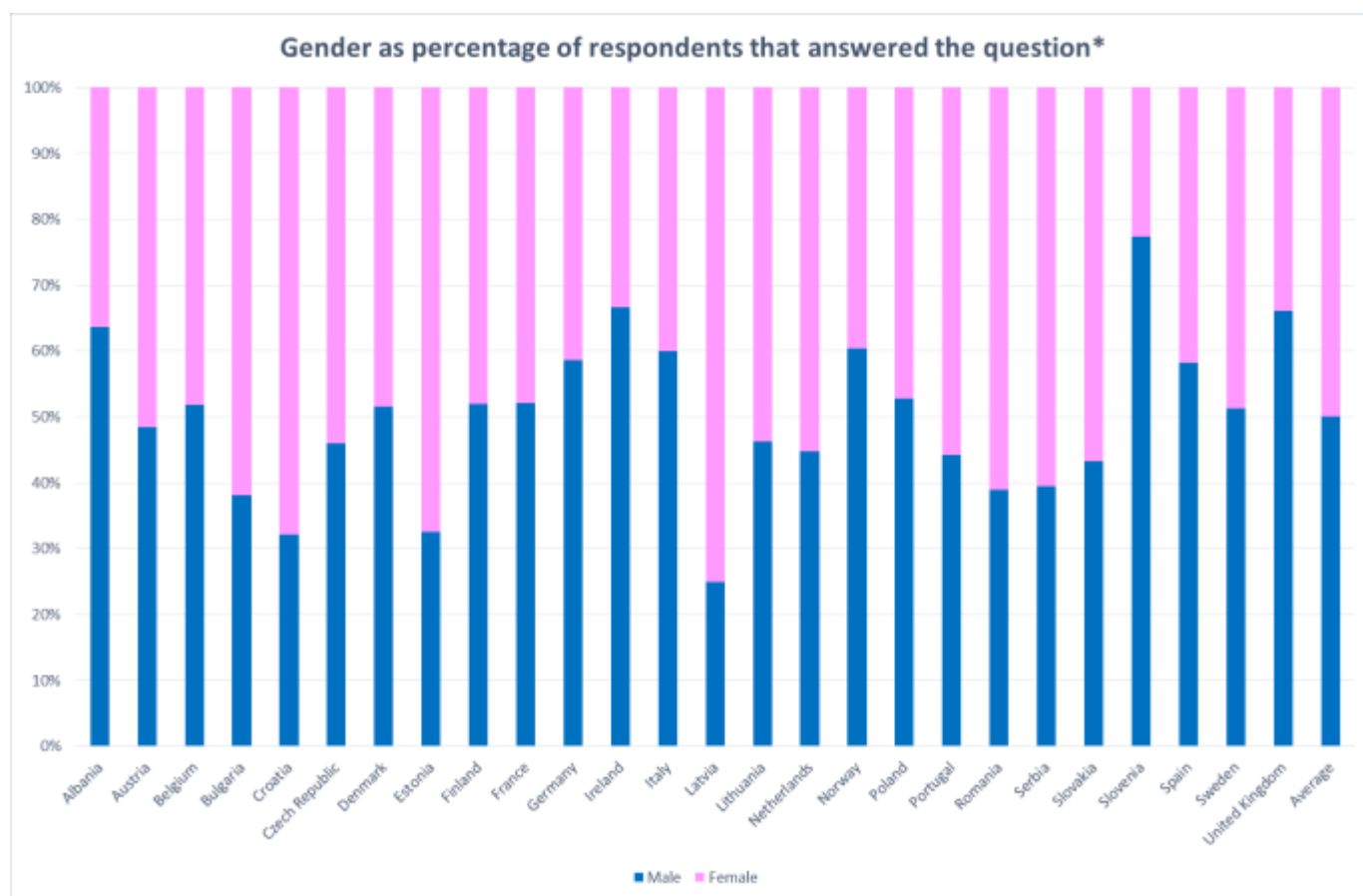
#### 5.4 Characteristics of the respondents

The survey asked the respondents about their gender and experience. The following figures give the data. The mean female/male ratio is exactly 50%, whilst the differences between countries are substantial.

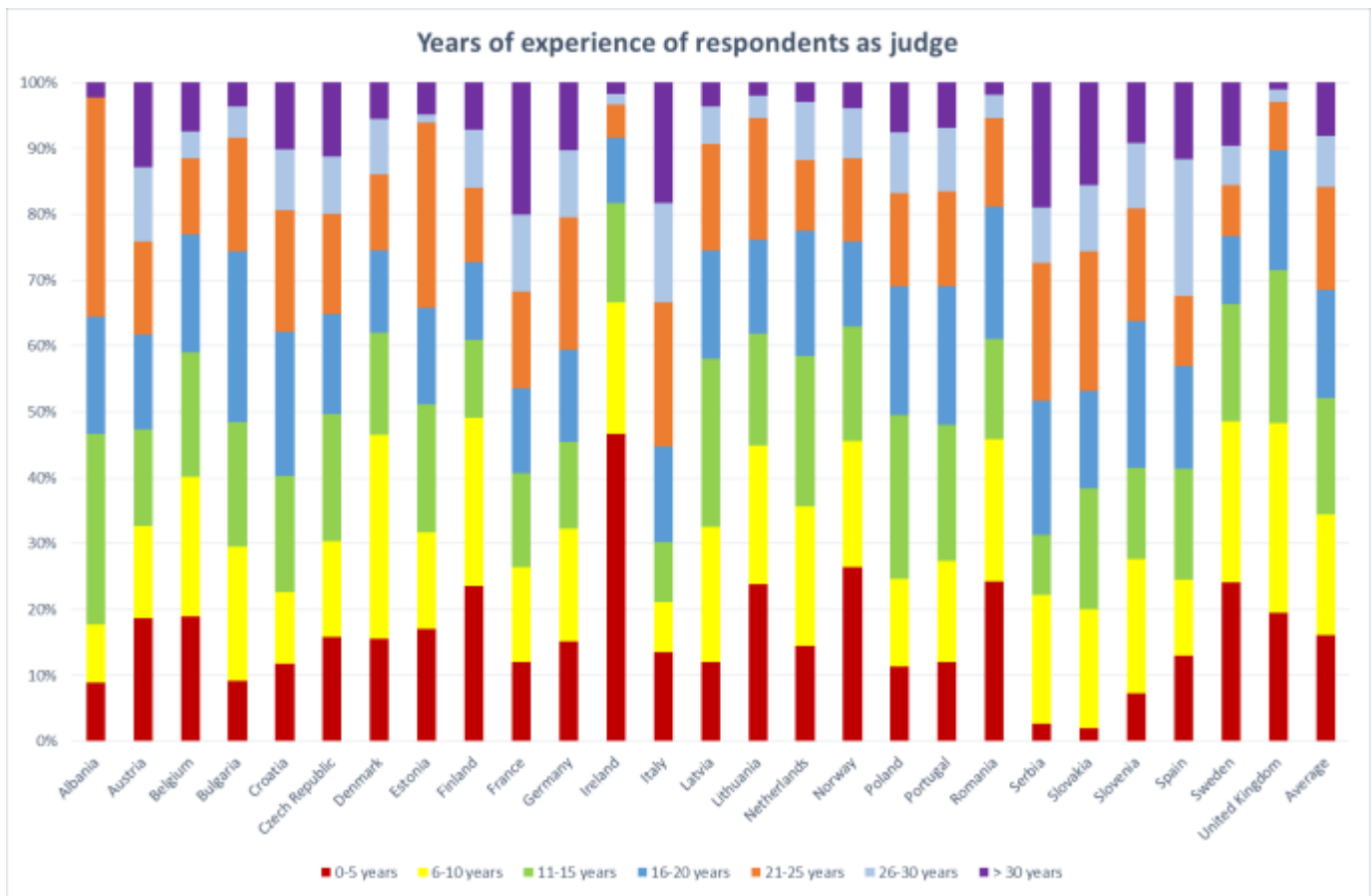
Most respondents are very experienced judges. On average, only 17% had worked 0 -5 years as a judge, whilst 65% had been a judge for more than 10 years. The differences among countries are substantial. Only the participants from Ireland report relatively short experience (47% have worked between 0 – 5 years).

<sup>5</sup> For each question it can be established which percentage scores differ, for instance, significantly negatively from the mean score for all participating countries. When the answers are put into percentage scores, it is can calculated whether a country score is (e.g., at 5% level) significantly higher than the average score of all countries. The estimated standard deviation is based on that of a binomial probability distribution using the total percentage score over the countries and the number of responding judges of a country. When the answers are described by a mean score (questions 13 and 14), it is possible to calculate whether this score of a country is significantly lower than the total mean score over all countries by a t-test. The estimated standard deviation is based on the individual data for all countries and the number of responding judges of a country. To avoid technical analysis these calculations are not presented here.

As will be discussed later, the impact of gender and experience is limited.



\*2.9% the respondents did not answer the question.



## 5.5 Outcomes of the survey

In this paragraph the outcomes of the survey are presented in tables per survey question for all participating countries. In this manner the data are made available concisely, as the opinions of 11,712 European judges about each subject are available at a glance. In addition to the results for each country, the average outcome across countries is given in all tables. Averages over all judges are not presented here, as big judiciaries with very many judges would dominate the outcome.

Before turning to the tables, the outcomes are summarised. In this summary average outcomes refer to averages across countries, as just explained. Where large changes have occurred, a comparison is made with the previous survey,

### Overall perception of Independence

On a 10-point scale judges rate the independence of the judges in their country between 6.5 and 10 on average per country. Five countries, all in Eastern Europe, have scores between 6.5 and 7. These countries are spread out between Albania and Latvia. The scores of six countries are between 9 and 10. These countries are the UK, Ireland, the Netherlands and the Scandinavian countries (except Sweden).

These outcomes are consistent with the outcome that the vast majority of judges in Europe do not experience inappropriate pressure. 7% of the judges report inappropriate pressure (1%

regularly, 3% occasionally and 3% very rarely). Percentages of 10% and higher are reported by Albania (24%), Croatia (12%), Lithuania (12%), Latvia (11%) and Spain (10%). In other countries, percentages are much lower with Denmark the lowest at 2%. The fact that judges are under inappropriate pressure does not mean, of course, that they yield to that pressure.

When judges experience inappropriate pressure, the three most given answers as to who exerts this pressure are: (1) court management including the court president (25%), closely followed by (2) parties (24%) and their lawyers and at a wider distance by (3) the media (16%).

### **Corruption**

As to the prevalence of bribes three categories of judiciaries can be distinguished. (1) Judiciaries in which nearly all judges are sure that no bribes are accepted. Countries are Denmark, Finland, Ireland, the Netherlands, Norway, Sweden and the UK. (2) Judiciaries in which a small percentage of judges (less than 4%) believes that bribes are accepted, and 10% - 20% is not sure whether or not bribes are accepted. Austria, Belgium, Estonia, France, Germany, Portugal and Poland fall into this category. And (3) judiciaries in which a higher percentage believes that bribery occurs and many more than 20% (up to 55%) are uncertain whether or not bribes are accepted. The fact that judges are uncertain about the occurrence of bribery is a bad sign in itself. On the positive side: when judges believe that bribery occurs, they seldom expect this to happen regularly.

### **Internal aspects**

With regard to internal matters, case allocation and disciplinary action are distinguished in the survey. 10% or more of the judges in 7 countries believe that case allocation is used to influence the outcome of cases. The use of disciplinary action to influence judicial decisions is thought by more judges to happen than in the previous survey two years ago, but is still not widespread. Like two years ago the influence of management on how cases are decided is minimal.

### **Influence of management and colleagues**

Whilst influence of management and colleagues is bad from the perspective of independence, it may be good from other perspectives, such as timeliness and the uniform application of the law. In many judiciaries, judges experience pressure from management to handle cases expeditiously.

In the 2017 survey the word 'inappropriate' was introduced in the relevant statement of the 2015 survey. It now reads: 'During the last two years the management of my court has exerted inappropriate pressure on me to decide individual cases within a particular time.' This change provides inadvertently an interesting insight in the opinions of judges. Whilst in 2015 on average (across countries) 35% of the judges agreed with the statement, in 2017 only 15% agreed. In the Netherlands the score dropped from 44% to 5% and In Denmark from 23% to 3%. In other countries the drop was less pronounced, and in some countries it hardly occurred (e.g. for Spain it dropped only from 26 to 25% and in Italy from 23 to 20%). Apparently, pressure to decide cases within a particular time is not seen as inappropriate by many judges.

### **Appointment and promotion**

The appointment and promotion decisions about judges are major issues. Many judges believe that appointment decisions are not based on merit and experience. Spain (65% of judges), France (50%) and Serbia (48%) stand out. Only in Denmark and the Netherlands do very few judges believe this to be the case (less than 5%).

The situation with regard to promotion is even worse in most countries, with extremes in Spain (70%) and France (60%). On average, 38% versus 22% of judges have this view about promotion and appointment. Only five countries score below 10% on promotion with Denmark as the only country with a percentage below 5%.

### **Impact of the (social) media**

The impact of the media on decisions of judges is large in most countries and is increasing. Only in Scandinavia, the Netherlands and the UK do well under 10% of judges believe this impact to exist. In other countries this percentage is higher: for instance, Germany and Czech Republic (20%), France, Spain and Poland (40%) and Italy and Croatia (60%). The influence of social media is much smaller than that of the traditional media, but it is increasing in nearly all countries. A particularly large influence is found in Italy and Croatia.

### **Working conditions and independence**

Judges were also asked about changes in their working conditions which negatively impact independence. As in the first survey, pay, caseload and court resources are issues. The situation is essentially the same. With regard to pay, the situation is diverse. In quite a number of countries pay constitutes a problem, especially in Latvia, but also in Spain, Portugal, Ireland, Bulgaria, Serbia, Albania, Slovenia and Lithuania and (less so) in the UK. In other countries, it is not much of an issue.

Caseload and court resource are a serious issue in many countries. Only in the Netherlands and some Scandinavian countries do well below 10% of judges believe these aspects to have an impact on their independence. France and Spain stand out at the other end of the spectrum.

It should be noted that the transfer of judges is not an issue, except in Albania, Croatia and Serbia.

### **Respect for the Judiciary**

22% of all participating judges feel that the Judiciary is not respected by government and parliament, and 34% by the media. The views about government and parliament are generally similar. The differences among judiciaries are very large. In Poland 75% of the judges feel not respected by government, in Bulgaria 55% and in the UK, Italy and Albania 40%. In Germany, Austria, Scandinavia and the Netherlands this percentage is well below 10%. Fluctuations over time can be large and need not be negative. For instance, in Italy the percentage dropped from 70% two years ago to 38% and in Slovakia from 48% to 17%.

With regard to the media, the answers are consistent with the answers about the impact of the media on decisions discussed before. The issues are particularly large in Poland, UK, Lithuania and Bulgaria where around 60% of the respondents do not feel respected. In Germany, Czech Republic and Austria this percentage is still as much as 20%.

The (lack of) respect shown in the social media is generally seen as less problematic, but in the UK, Poland, Bulgaria and Lithuania 50% of the judges and in quite a number of countries such as Germany and the Netherlands 30% of the judges do not feel respected.

### **Mechanisms available to Councils to defend judicial independence**

On average, 33% of judges do not believe that Councils for the Judiciary have the appropriate mechanisms and procedures in order to defend judicial independence effectively. In Poland this percentage is 71%, whilst it is 62% in Spain, 50% in Portugal, 44% in Romania and 43% in Ireland. In France the percentage is 37% and in Italy 32%. Only in Denmark, the Netherlands and Norway the percentage is between 11% and 15%.

### **Possibilities for improvement**

This time, the question was asked what would contribute most to the independence of the Judiciary in the country of the respondent. The respondents were asked to provide the three most important items.

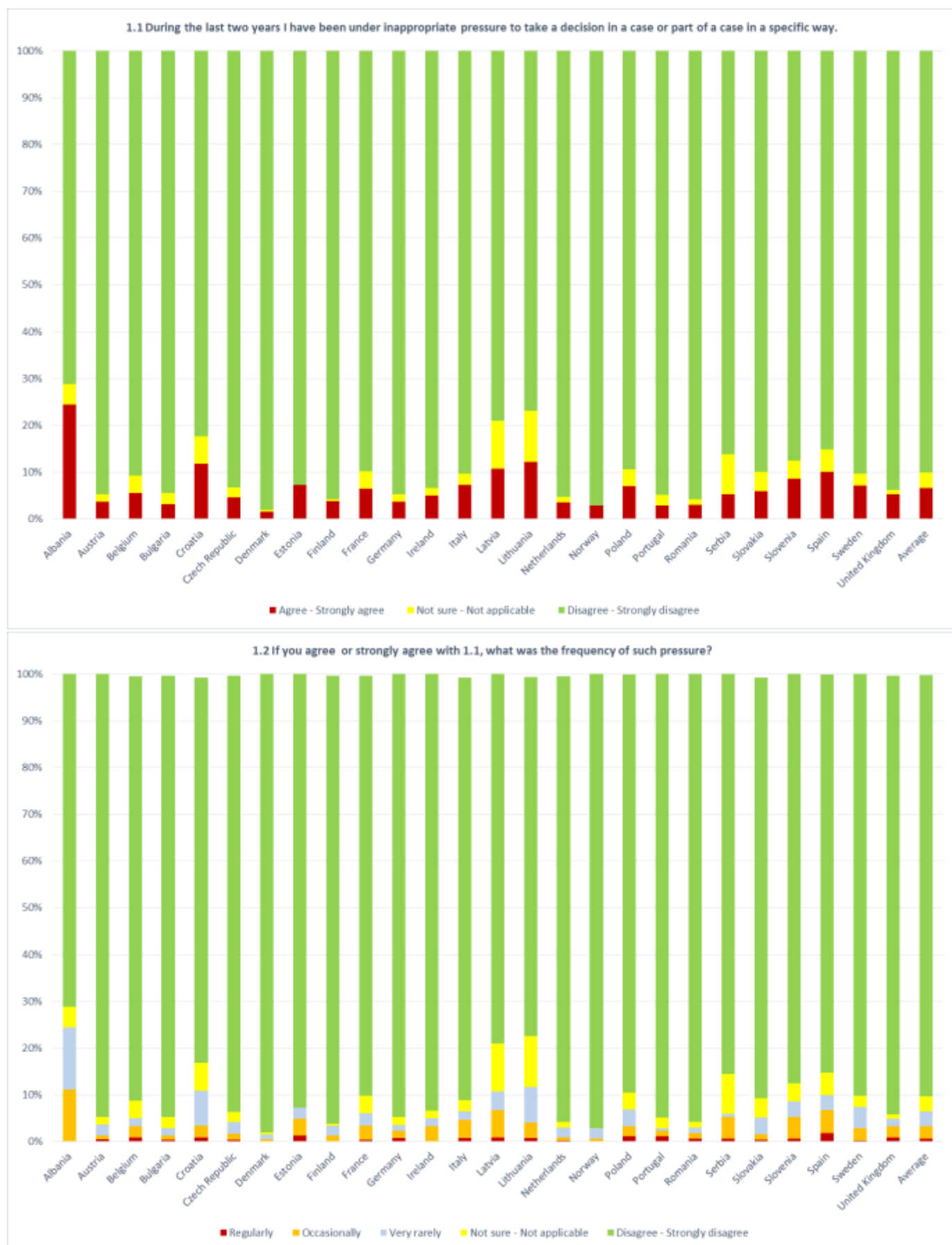
The responses were very consistent. Better working conditions regarding work load was mentioned most often (6,575 times), with working conditions regarding pay including pensions and retirement age in second place (5,737) and appointment and promotion based on ability and experience in third place (5,241). These items were followed by working conditions regarding court resources (4,748) and less pressure from the media (3,917). Other aspects were less frequently mentioned (less than 1,800).

### **Impact of gender and experience**

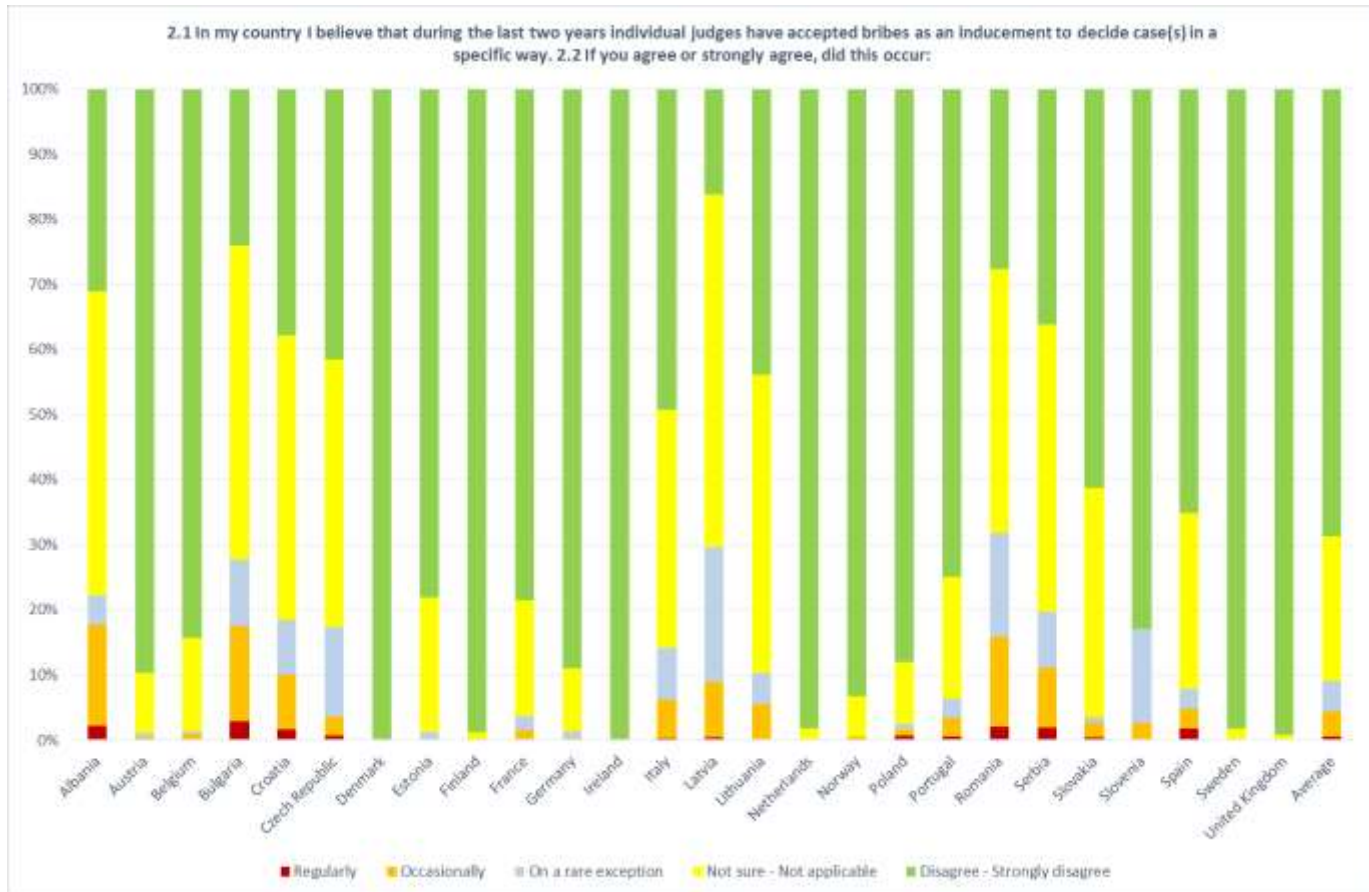
As mentioned before, we also asked for some information about the personal characteristics of the respondents: gender and experience.

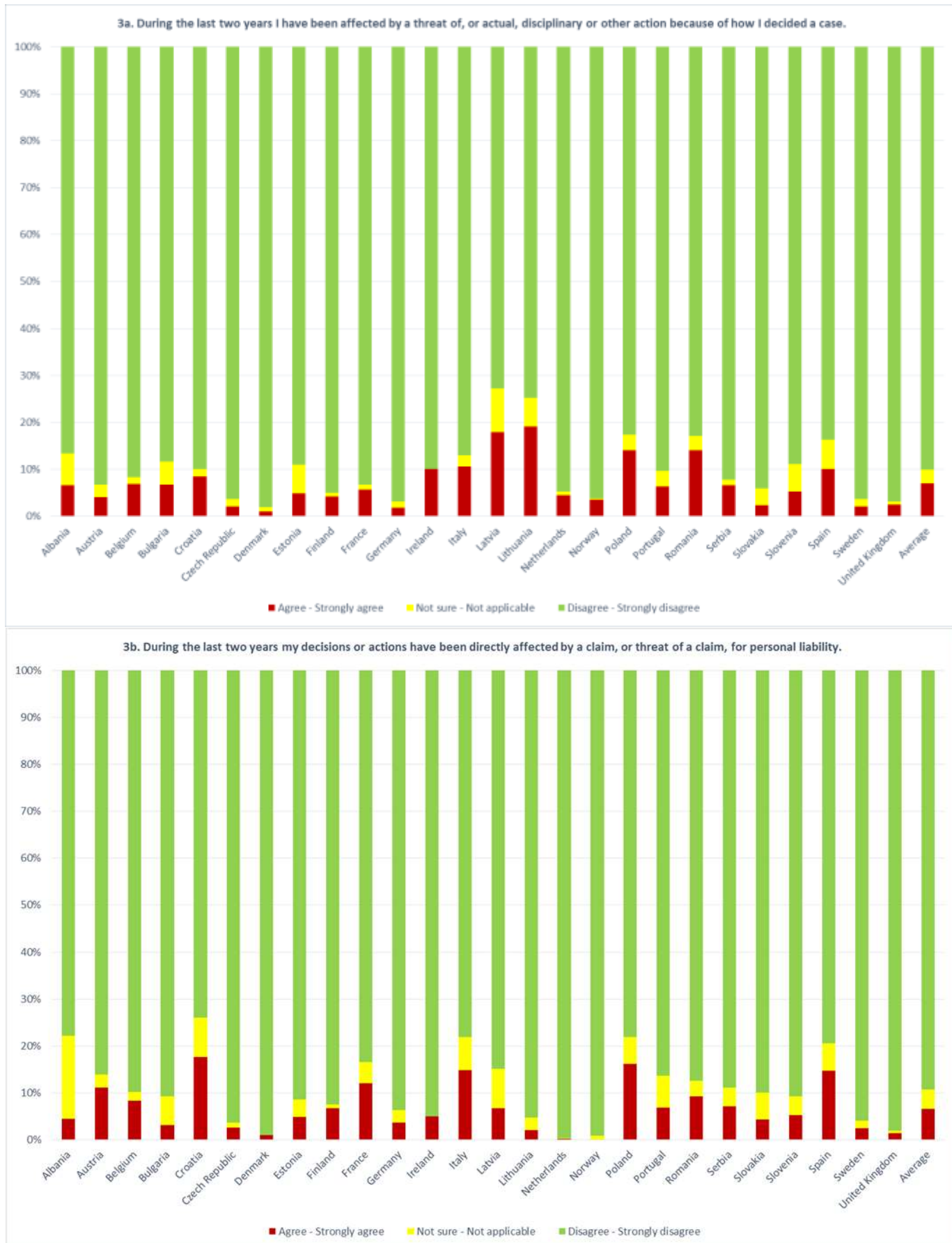
Gender has no impact on the score about the independence of the judges in the country (on average for all countries 8.4 for male judges and 8.3 for female judges). The impact of gender on the opinions about specific aspects of independence is also limited, although differences exist among countries and some countries, in particular Albania, stand out. For instance, in Albania women disagree much more than men that judges are appointed solely on the basis of merit and experience. In general men are more critical, for instance about working conditions. The impact of experience is overall small, but in some countries substantial. There is a general tendency that very experienced judges score their independence higher than less experienced judges (score of 9.2 versus 8.8 for least experienced judges as average across all countries).

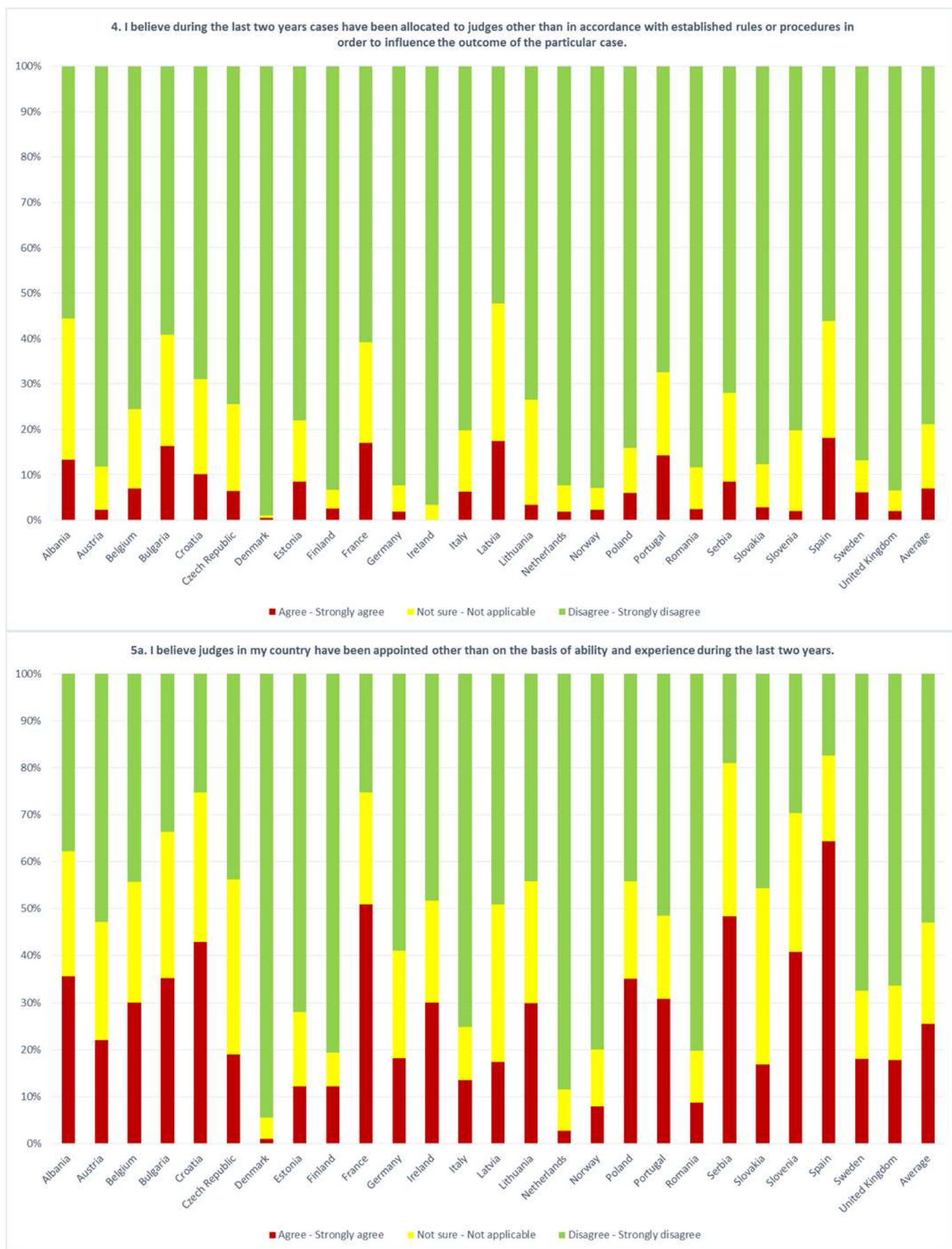
In the following tables the outcomes are presented by question.

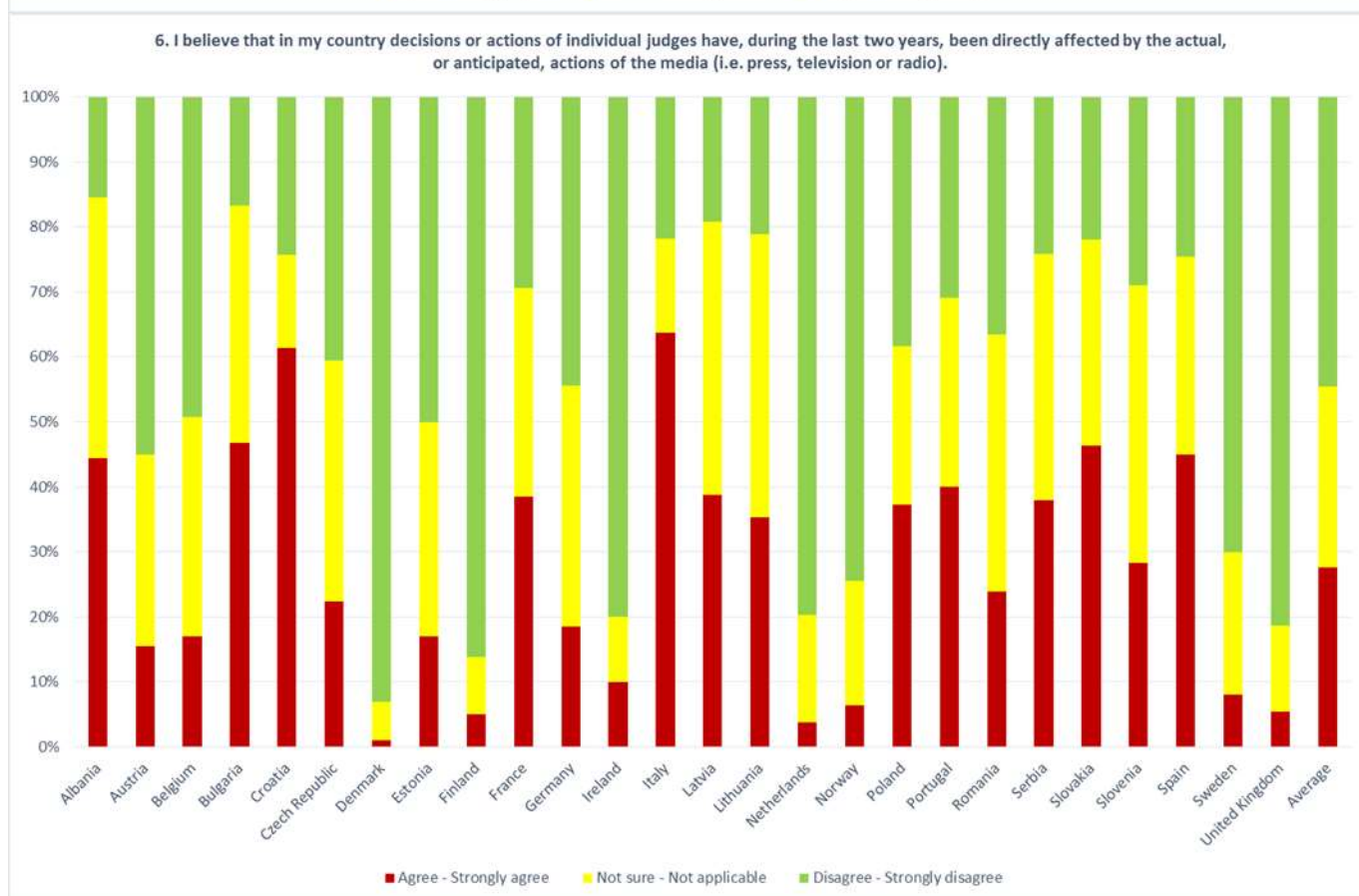
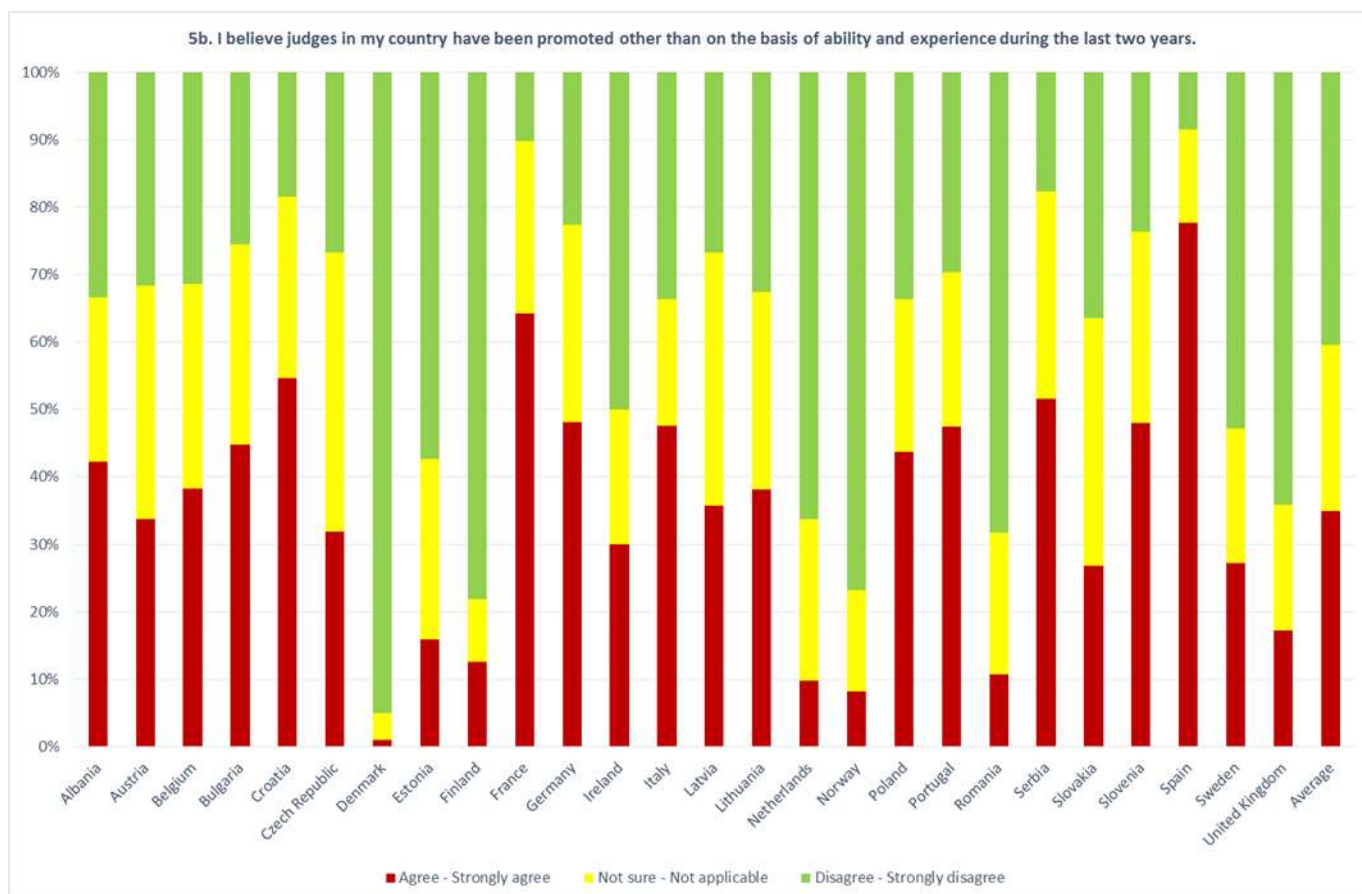


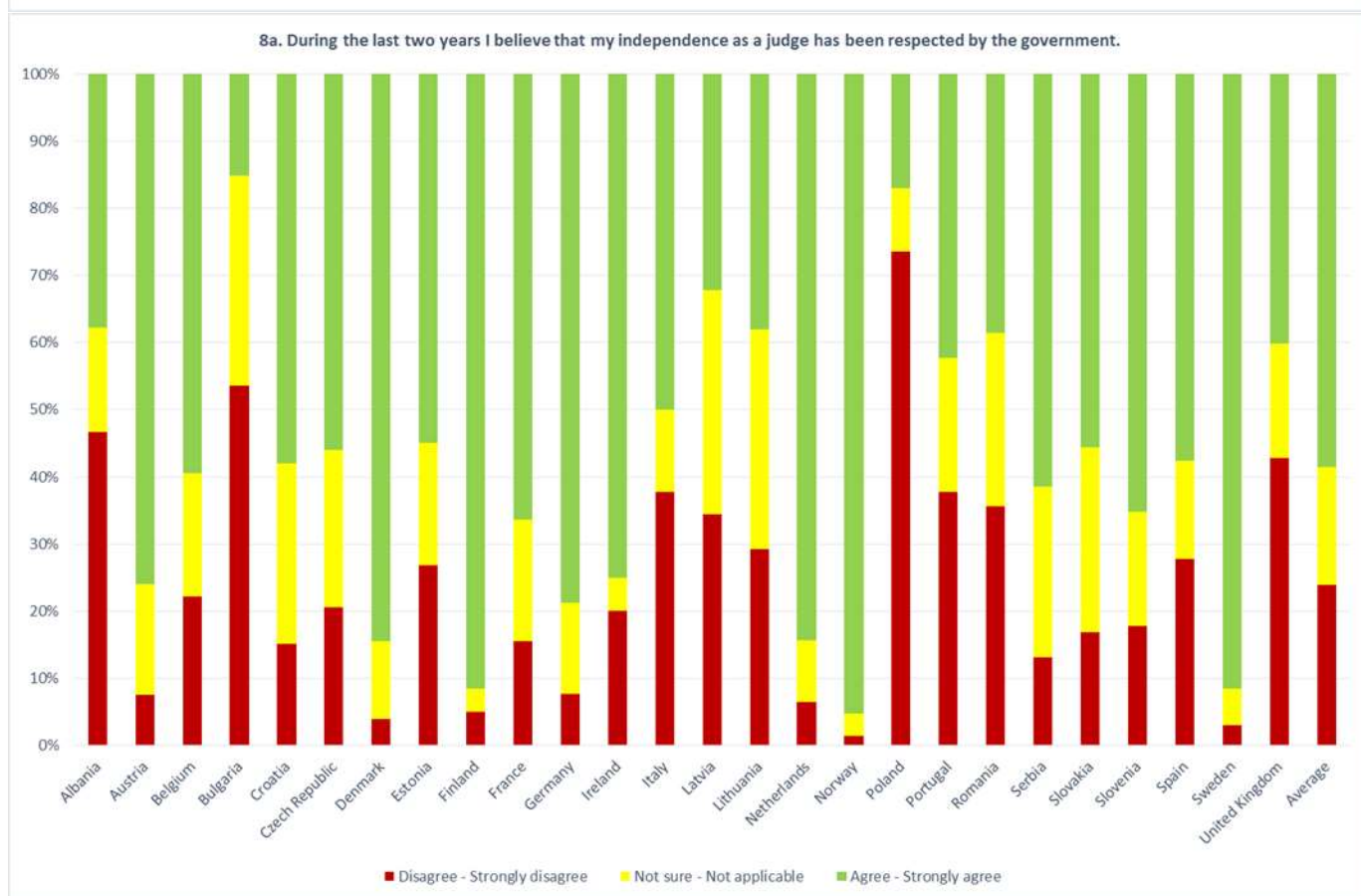
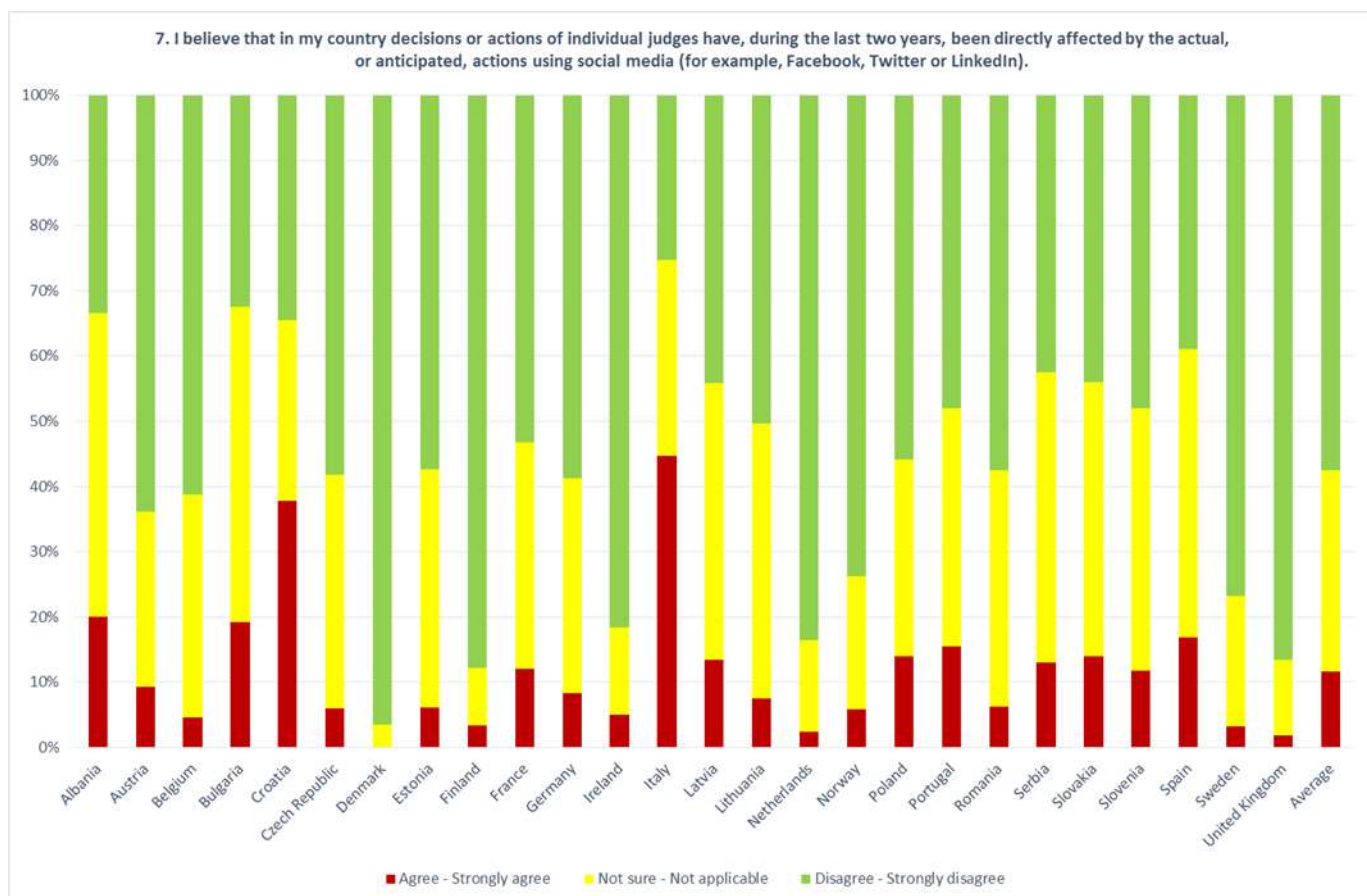




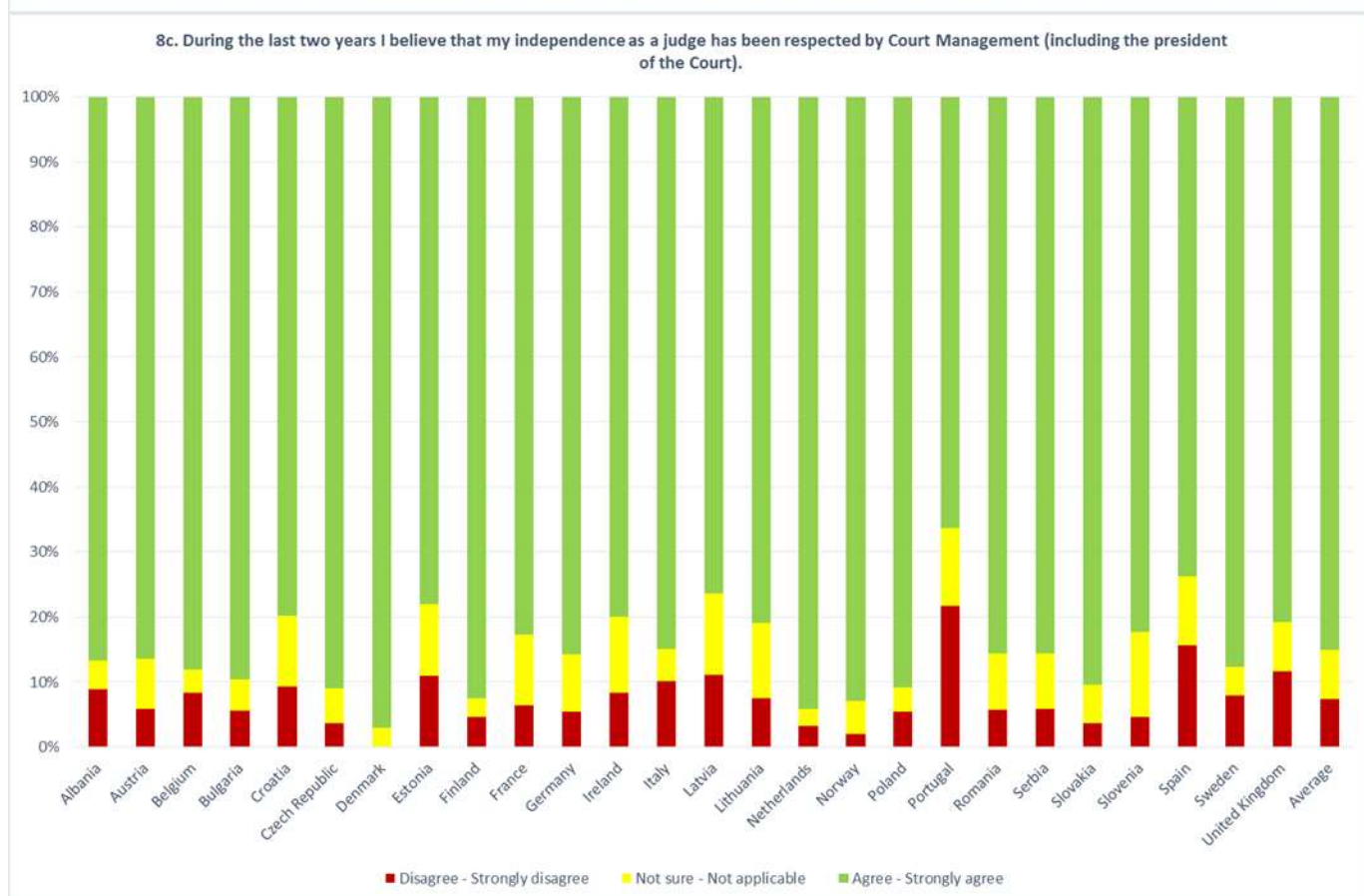
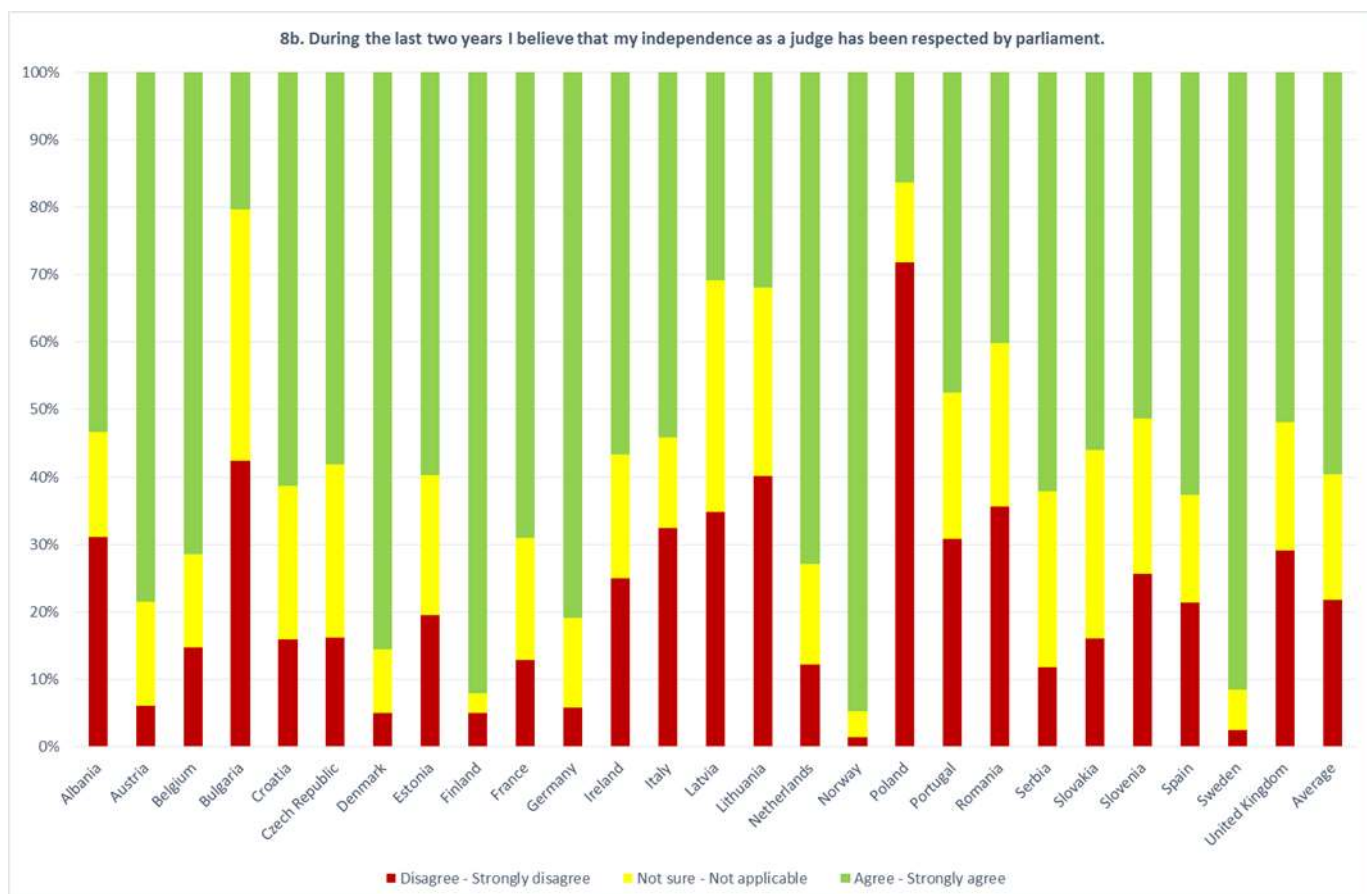


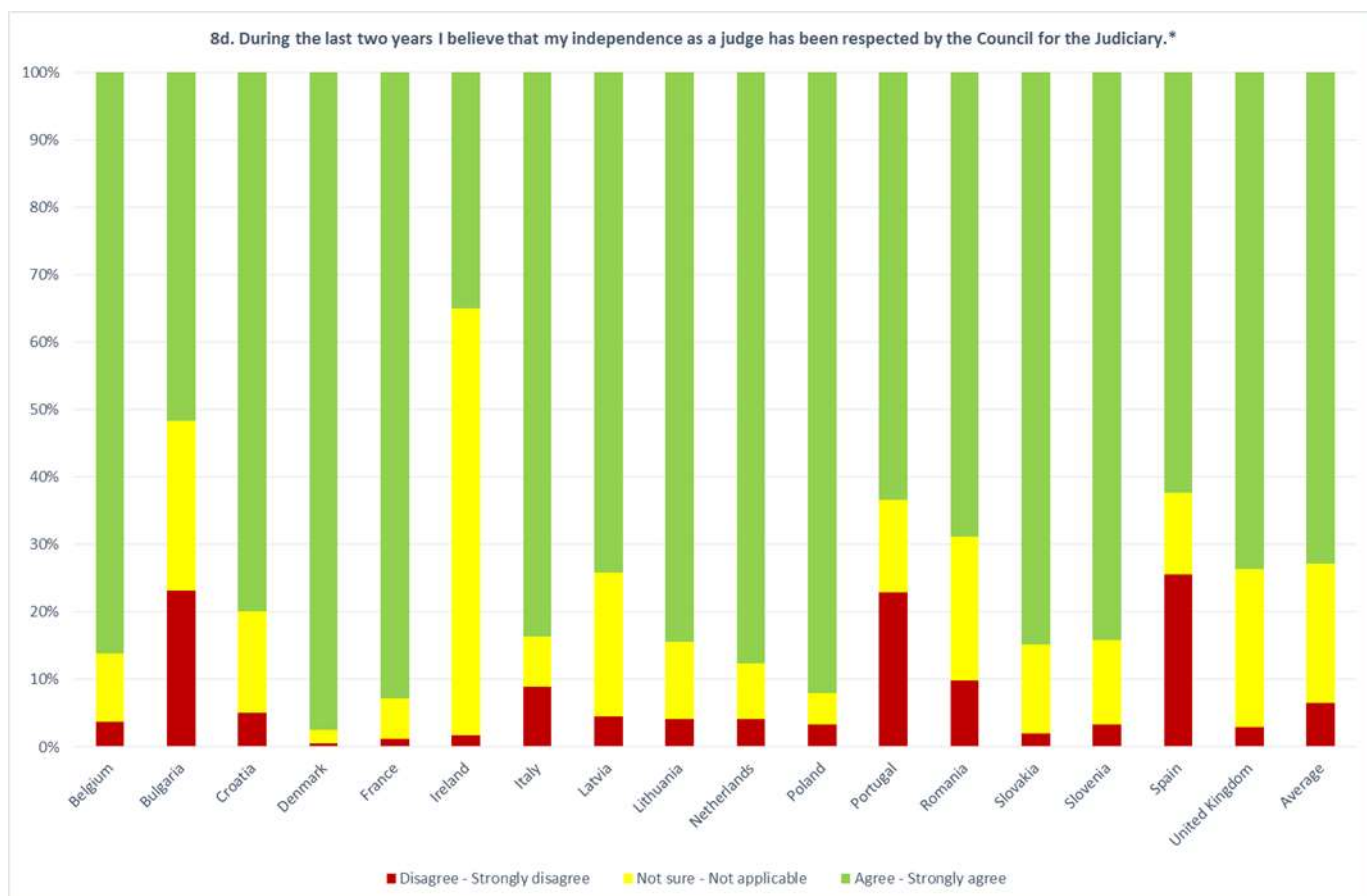




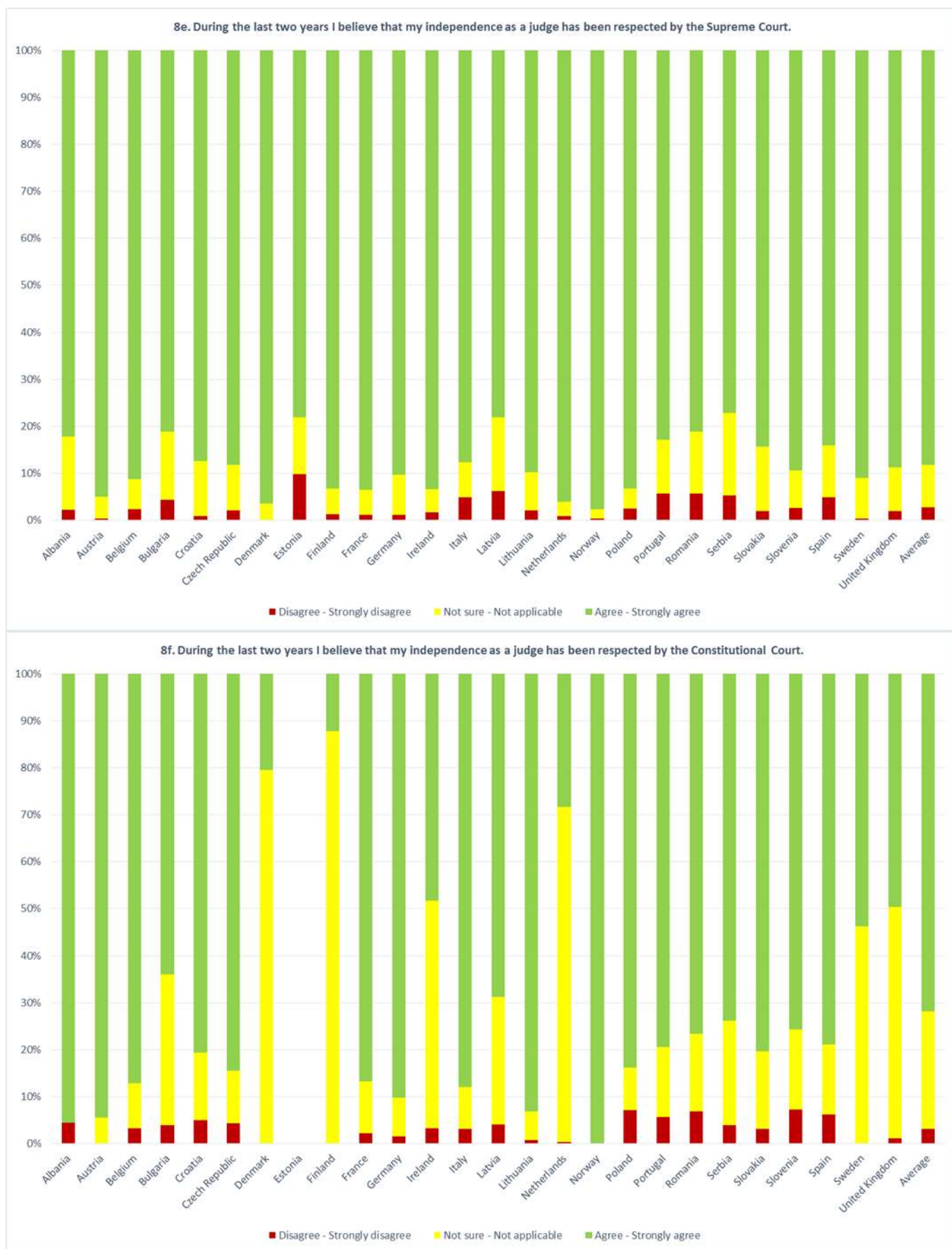




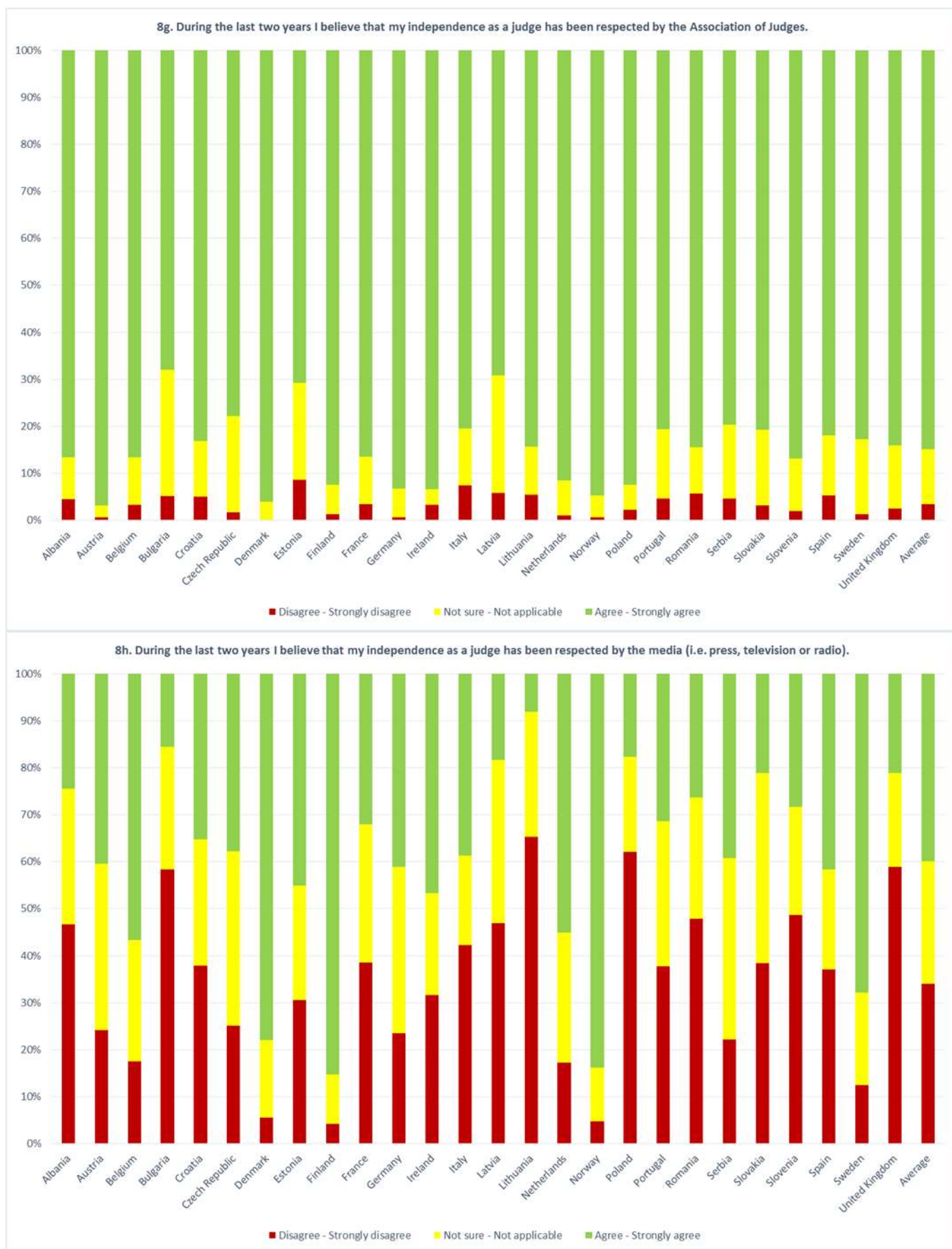


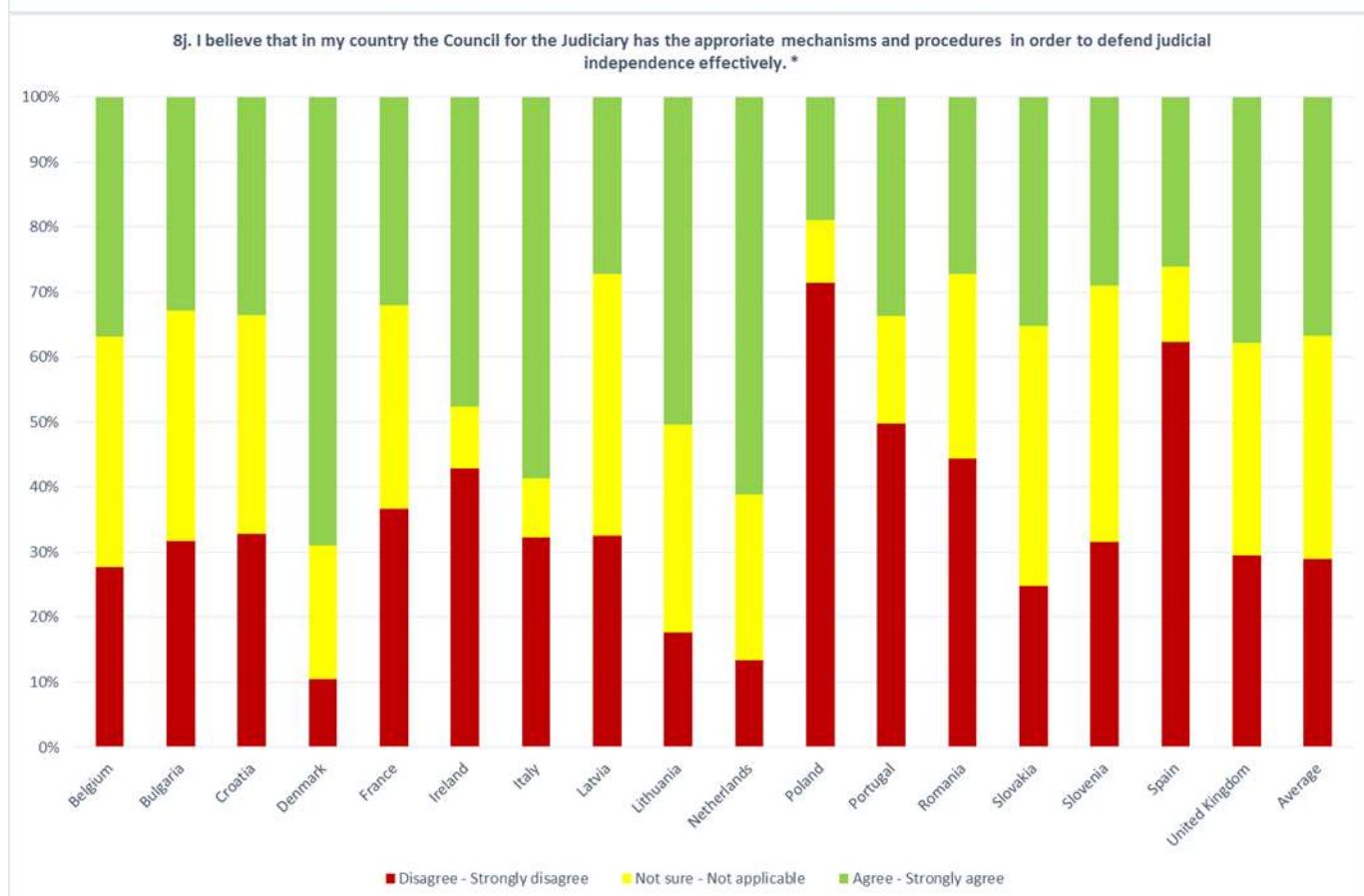
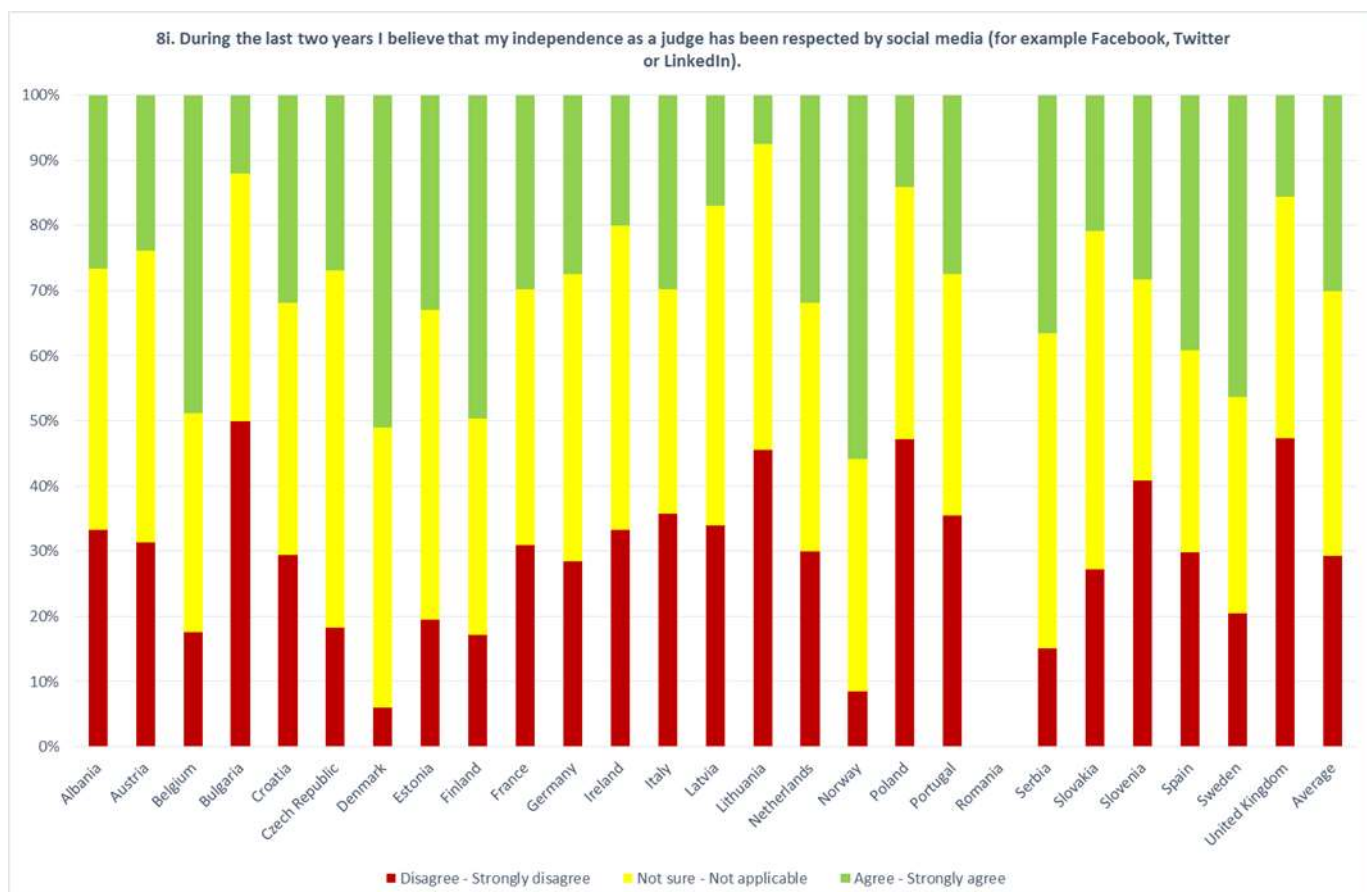


\* Only results for countries that have a Council for the Judiciary are shown.

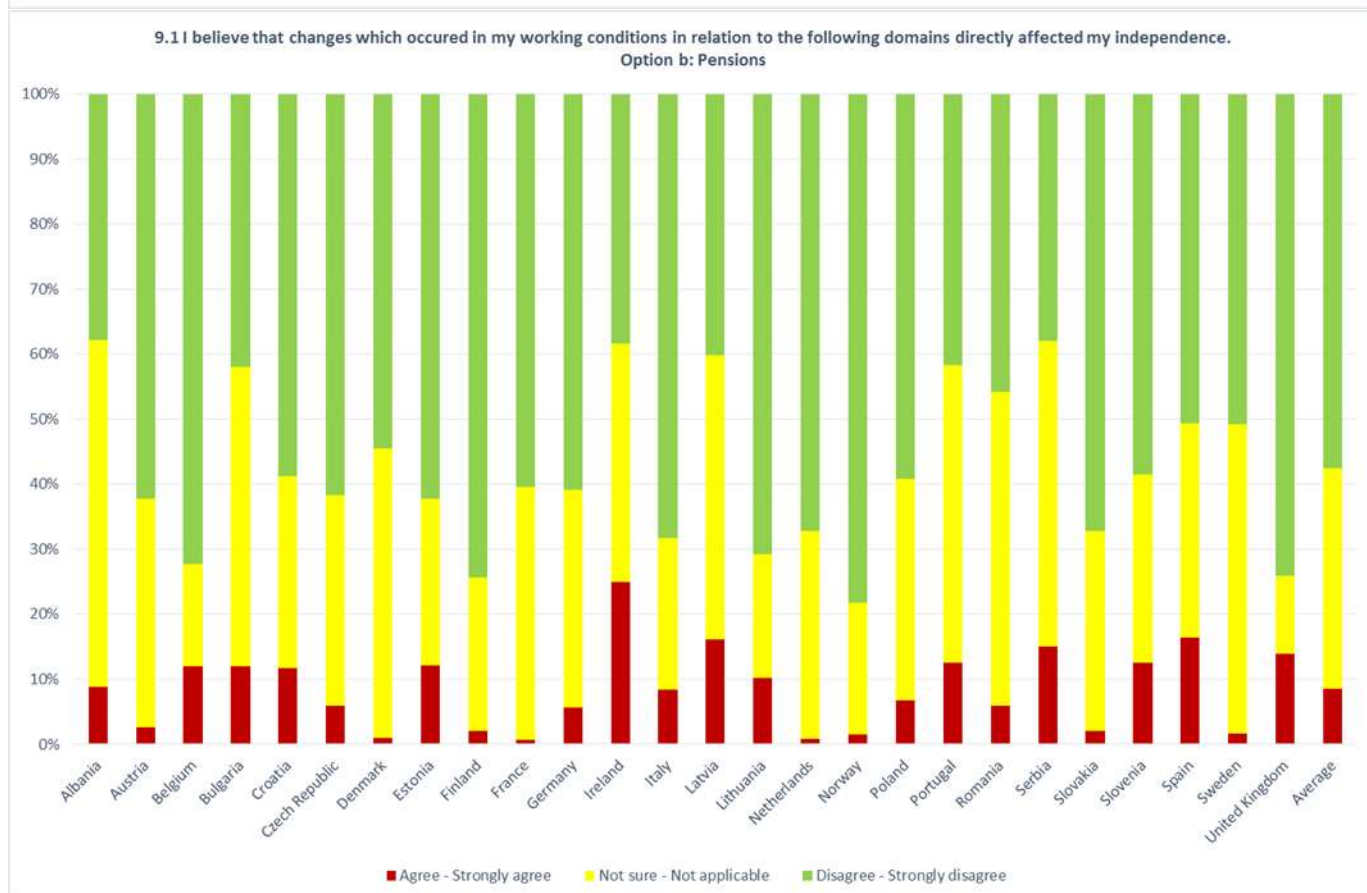
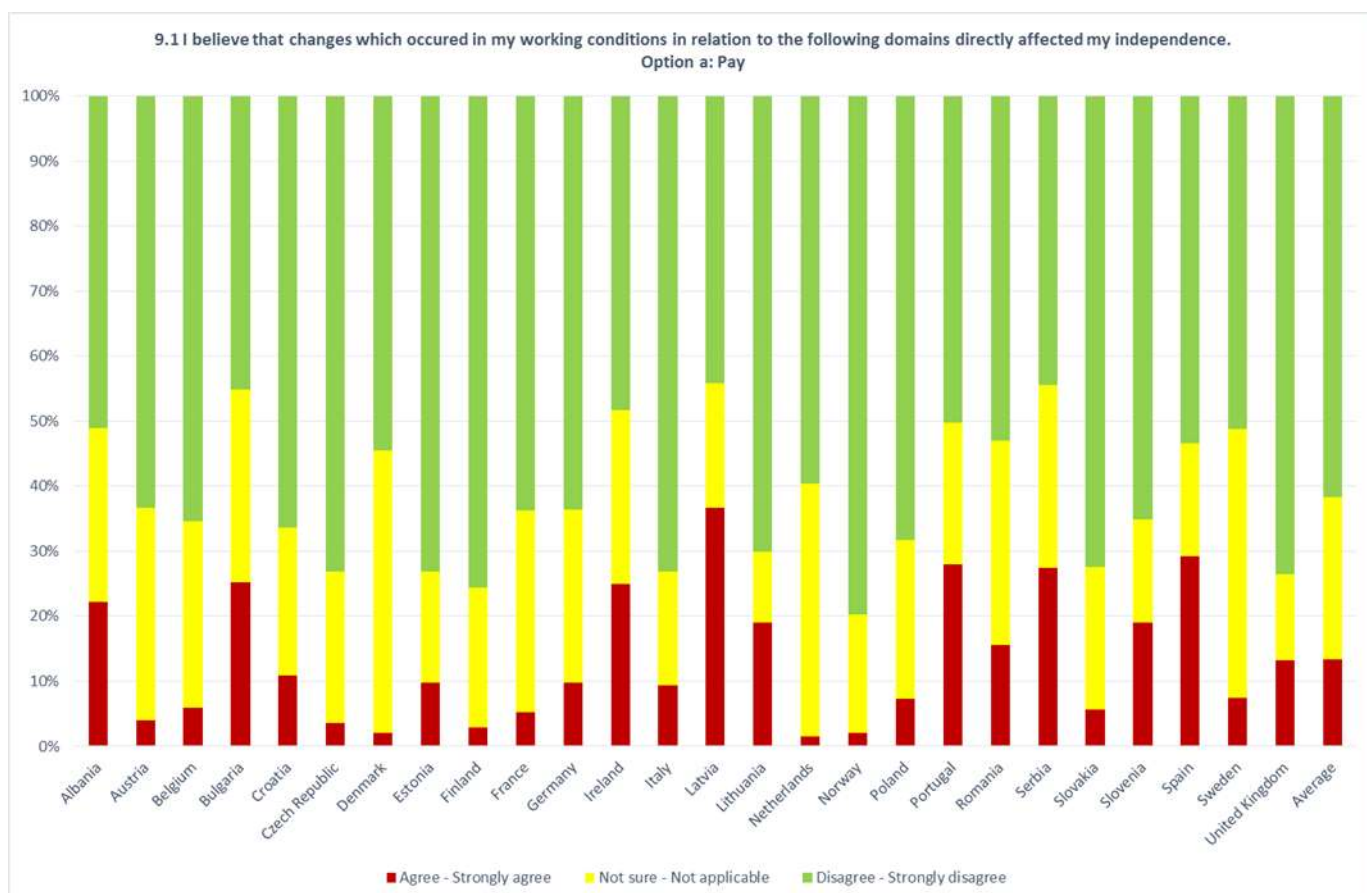


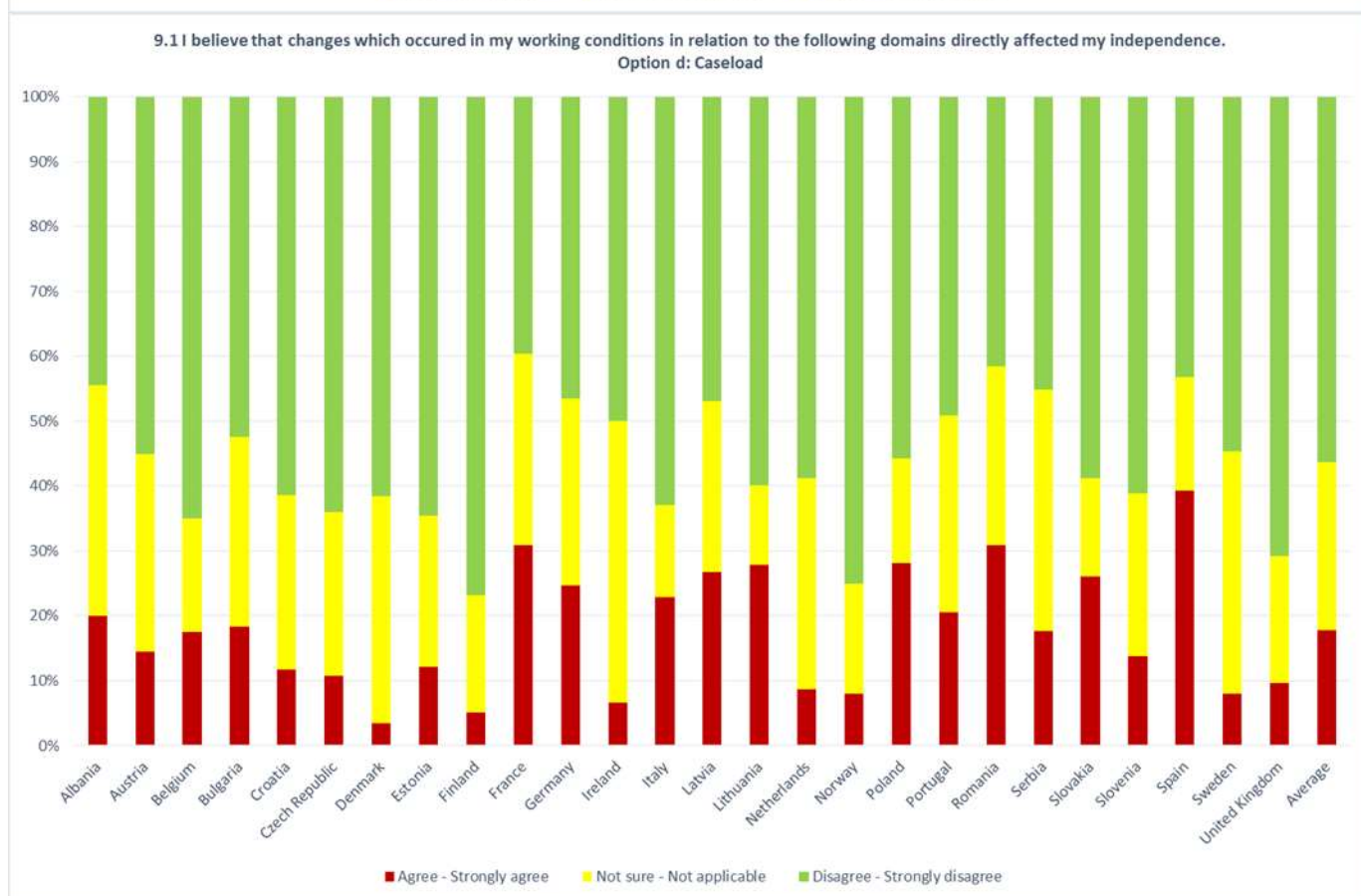
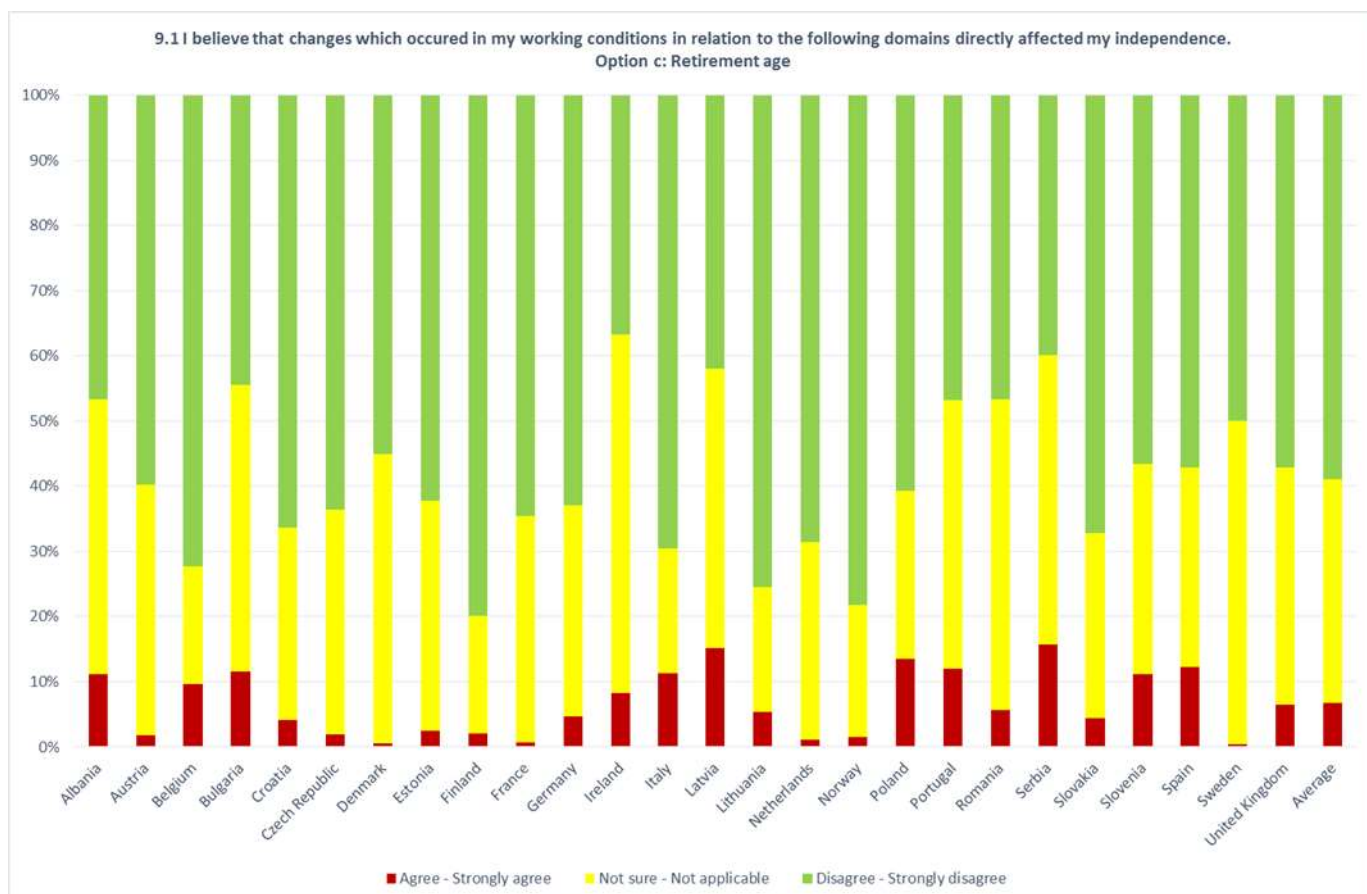




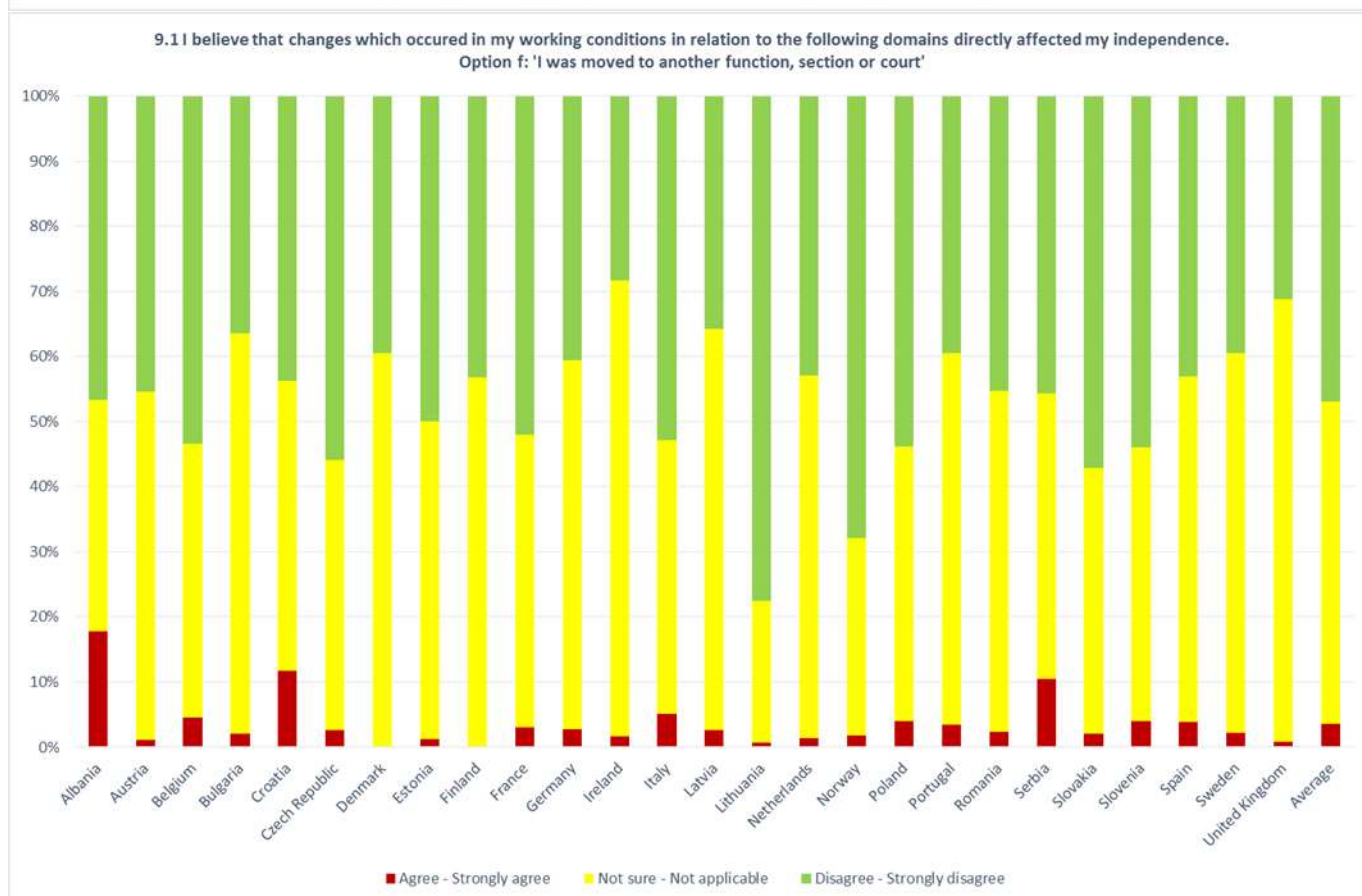
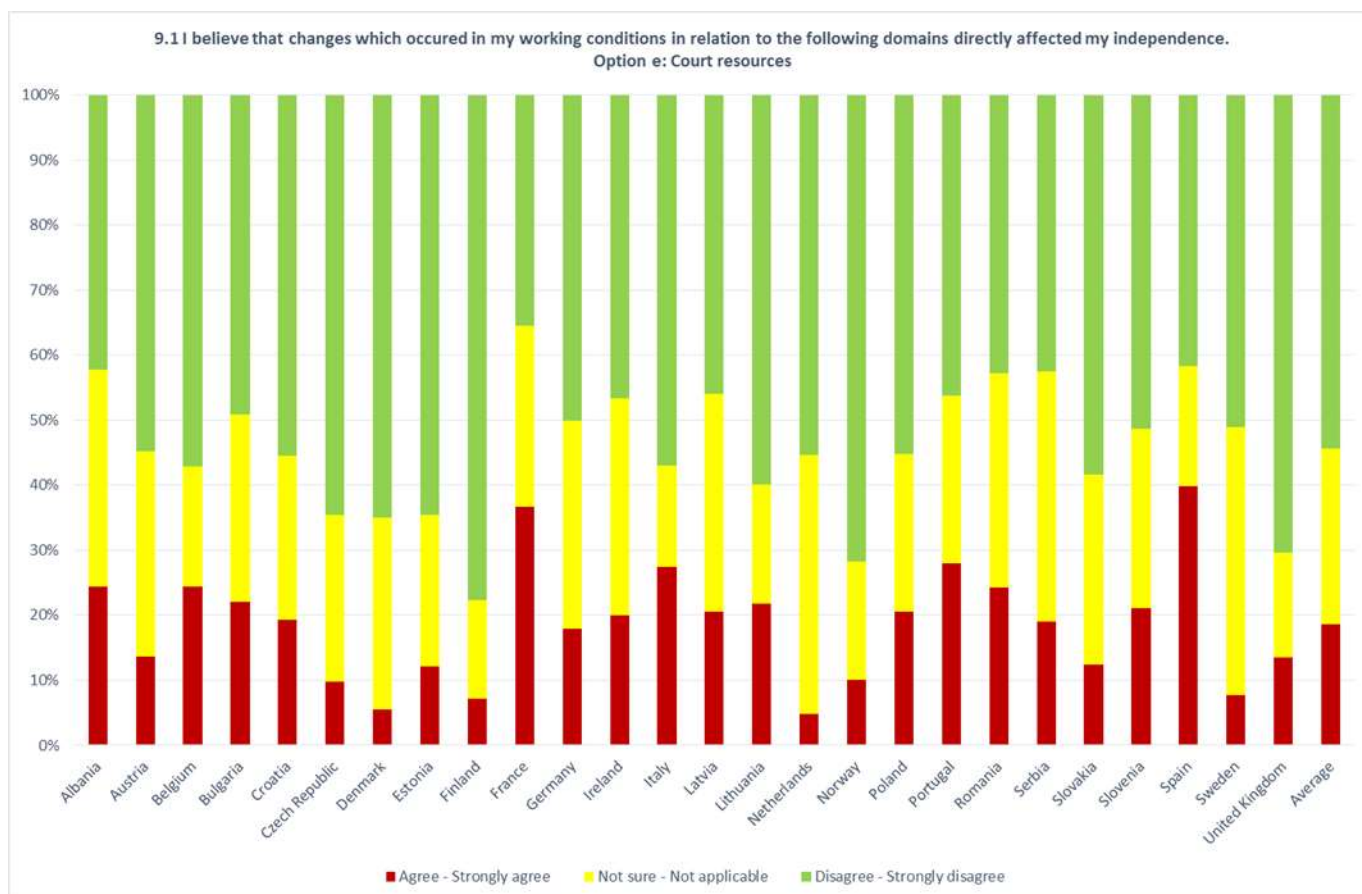


\* Only results for countries that have a Council for the Judiciary are shown.



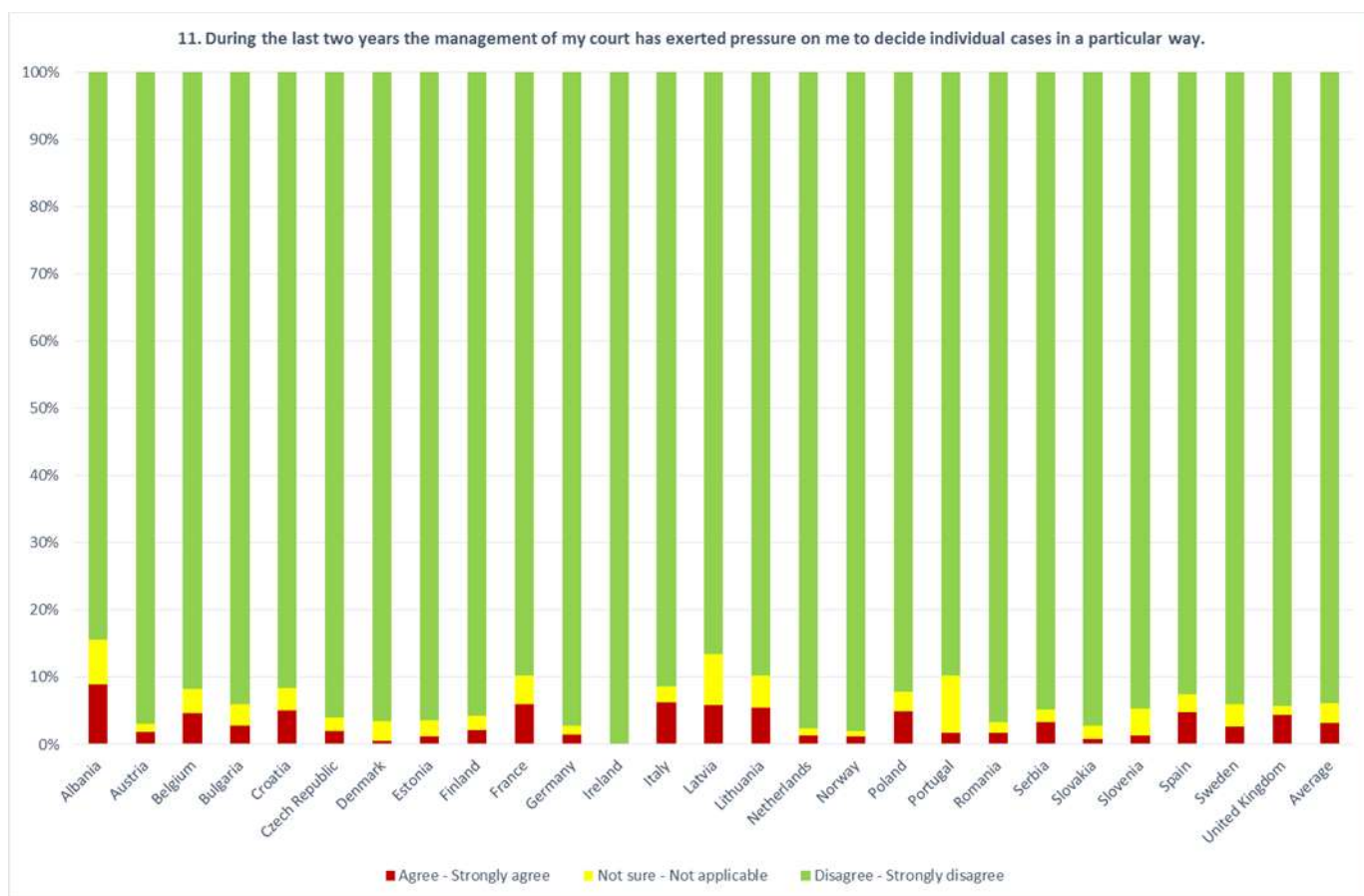
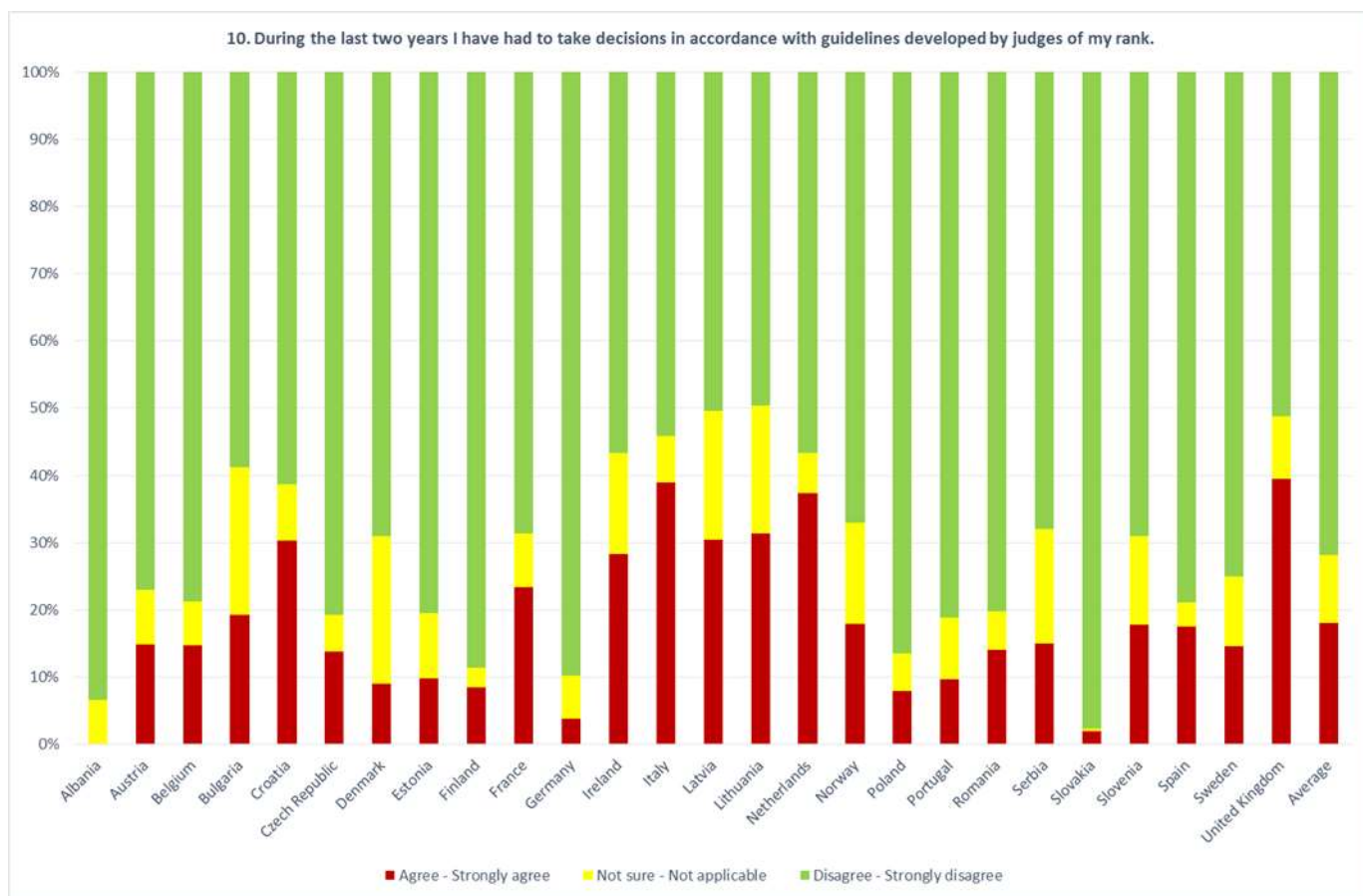


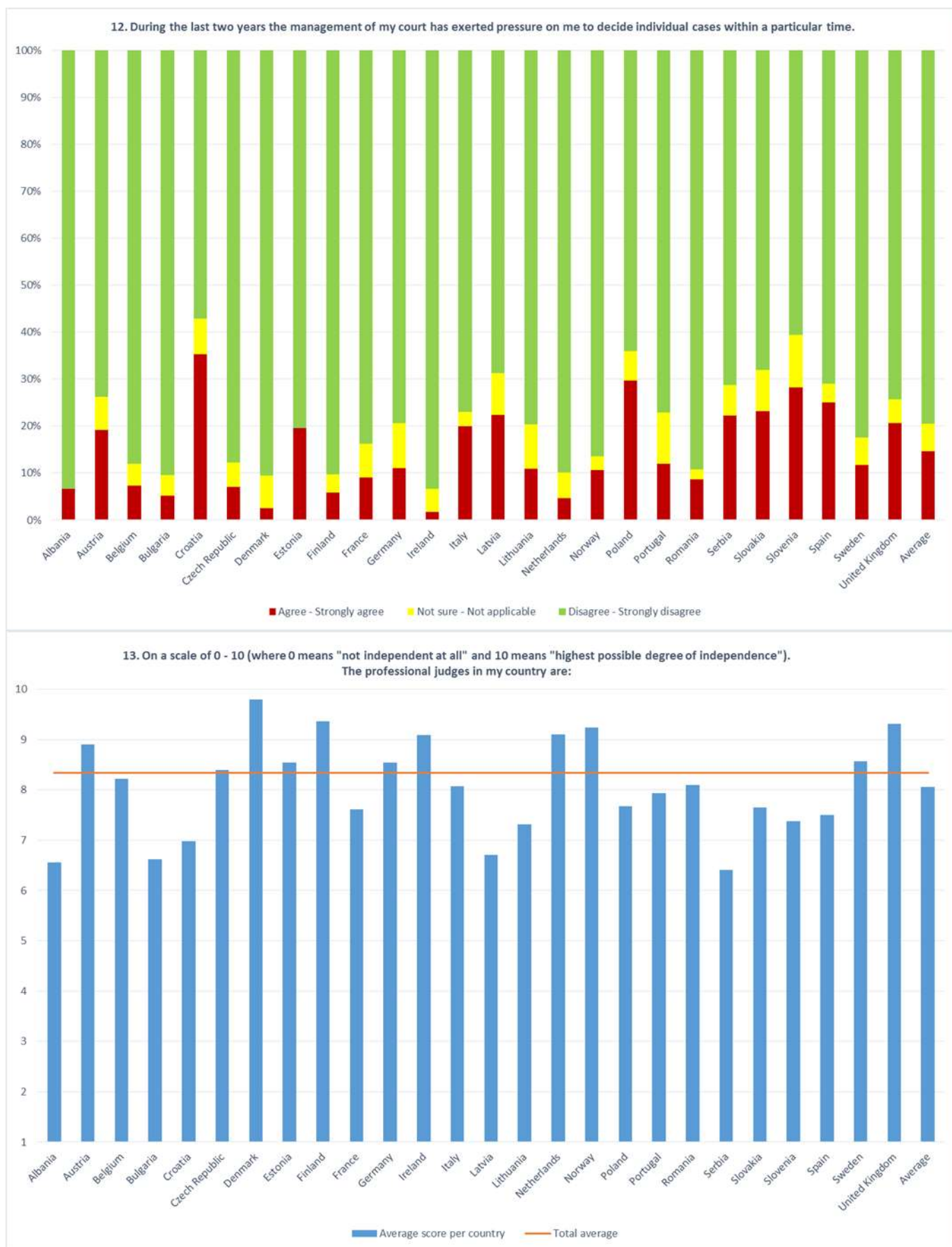




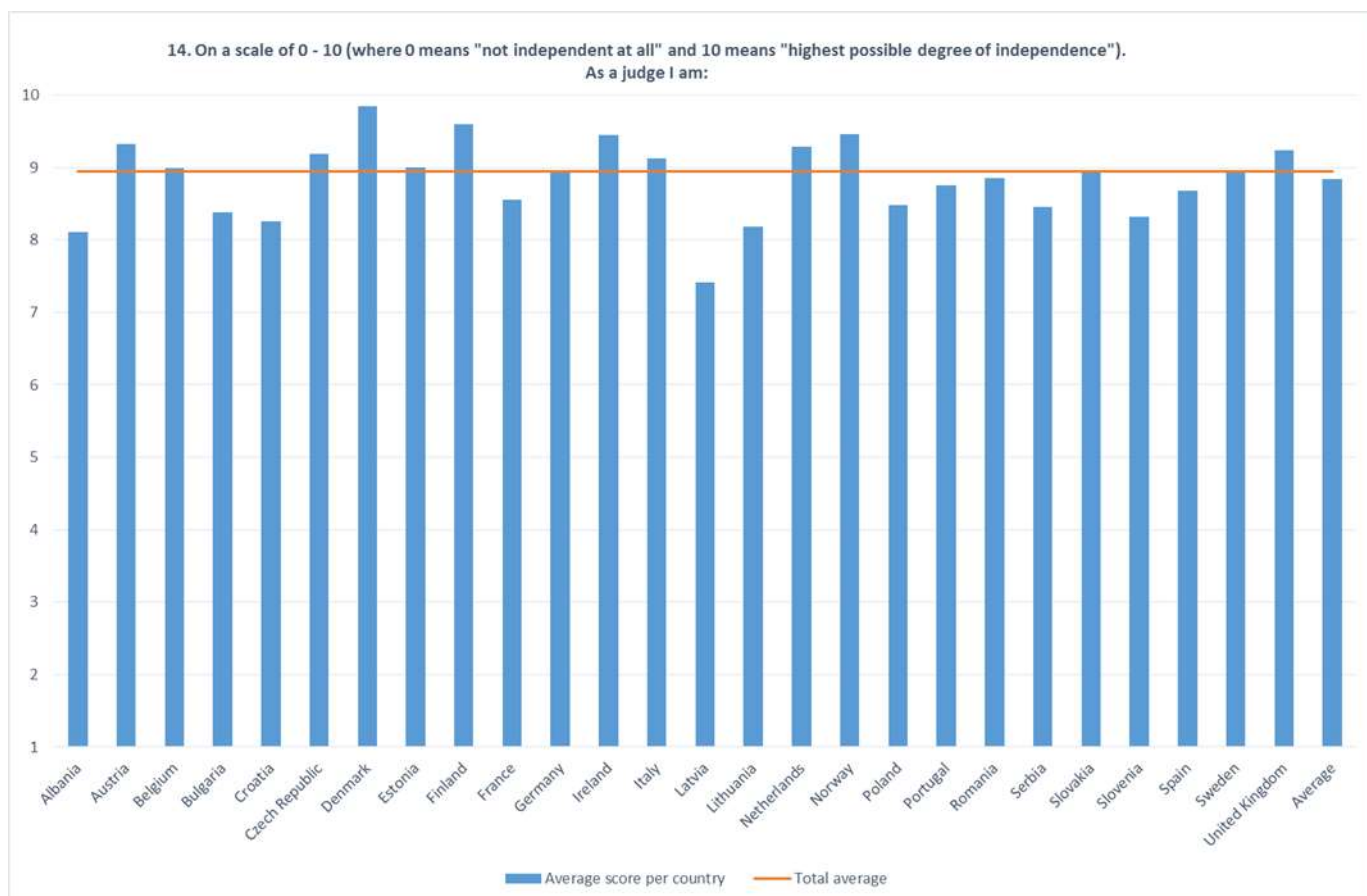
9.2: The three most frequently given answers to the question: I believe that changes which occurred in my working conditions in relation to the domains listed in 9.1 directly affected my independence (multiple answers possible): (a) Pay, (b) Pensions, (c) Retirement age, (d) Caseload and (e) Court resources. In addition, the following option was presented: (f) I was moved to another function, section or court.

Country	No.1	No.2	No.3
Albania	Caseload	Court resources	Pay
Austria	Caseload	Court resources	Pay
Belgium	Court resources	Pensions	Caseload, Retirement age
Bulgaria	Pay	Court resources	Caseload
Croatia	Pay	Court resources	Caseload
Czech Republic	Caseload	Court resources	Pensions
Denmark	Court resources	Caseload	Pay
Estonia	Pay	Caseload	Court resources
Finland	Court resources	Caseload	Retirement age
France	Court resources	Caseload	Pay
Germany	Caseload	Pay	Court resources
Ireland	Court resources	Pay	Pensions
Italy	Court resources	Caseload	Retirement age
Latvia	Pay	Caseload	Court resources
Lithuania	Caseload	Pay	Court resources
Montenegro	Pay	Caseload, Court resources	Retirement age
Netherlands	Caseload	Retirement age	Court resources
Norway	Court resources	Pay	Pensions, Retirement age
Poland	Caseload	Court resources	Retirement age
Portugal	Pay	Court resources	Caseload
Romania	Caseload	Pay	Court resources
Serbia	Pay	Court resources	Caseload
Slovakia	Caseload	Court resources	Retirement age
Slovenia	Pay	Court resources	Caseload
Spain	Caseload	Pay	Court resources
Sweden	Caseload	Court resources	Pay
United Kingdom	Pensions	Court resources	Pay
Average	-	-	-
Total	Caseload	Court resources	Pay









15. Most frequently given answers to the question what would contribute most to independence of the Judiciary:

Country	No.1	No.2	No.3
Albania	Better working conditions regarding pay including pensions and retirement age	Less pressure from the media	Appointment and promotion of judges strictly on the basis of ability and experience
Austria	Better working conditions regarding case load	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding pay including pensions and retirement age
Belgium	Better working conditions regarding pay including pensions and retirement age	Better working condition regarding court resources	Better working conditions regarding case load
Bulgaria	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding pay including pensions and retirement age	Less pressure from the media
Croatia	Better working conditions regarding pay including pensions and retirement age	Appointment and promotion of judges strictly on the basis of ability and experience	Less pressure from the media
Czech Republic	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age
Denmark	Better working condition regarding court resources	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age

Estonia	Better working conditions regarding pay including pensions and retirement age	Better working conditions regarding case load	Less pressure from the media
Finland	Better working condition regarding court resources	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age
France	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding case load	Better working condition regarding court resources
Germany	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age	Appointment and promotion of judges strictly on the basis of ability and experience
Ireland	Better working condition regarding court resources	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding pay including pensions and retirement age
Italy	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding case load	Better working condition regarding court resources
Latvia	Better working conditions regarding pay including pensions and retirement age	Less pressure from the media	Better working conditions regarding case load
Lithuania	Better working conditions regarding pay including pensions and retirement age	Less pressure from the media	Better working conditions regarding case load
Montenegro	Appointment and promotion of judges strictly on the basis of ability and experience	A more objective allocation of cases to judges	A reduction of judicial corruption
Netherlands	Better working conditions regarding pay including pensions and retirement age	Better working conditions regarding case load	Better working condition regarding court resources
Norway	Better working condition regarding court resources	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age
Poland	Better working conditions regarding case load	Appointment and promotion of judges strictly on the basis of ability and experience	Less pressure from the media
Portugal	Better working conditions regarding pay including pensions and retirement age	Better working condition regarding court resources	Better working conditions regarding case load
Romania	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age	Better working condition regarding court resources
Serbia	Better working conditions regarding pay including pensions and retirement age	Appointment and promotion of judges strictly on the basis of ability and experience	Better working condition regarding court resources
Slovakia	Better working conditions regarding case load	Less pressure from the media	Appointment and promotion of judges strictly on the basis of ability and experience
Slovenia	Less pressure from the media	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding pay including pensions and retirement age
Spain	Appointment and promotion of judges strictly on the basis of ability and experience	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age
Sweden	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age	Better working condition regarding court resources

United Kingdom	Better working conditions regarding pay including pensions and retirement age	Better working condition regarding court resources	Less pressure from the media
Average	-	-	-
Total	Better working conditions regarding case load	Better working conditions regarding pay including pensions and retirement age	Appointment and promotion of judges strictly on the basis of ability and experience

## 6. Next steps about independence and accountability

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With the revised set of indicators and also revised survey, which has been applied in nearly all countries of Europe, the outcomes have become more solid and reliable. Whilst there is always room for improvement (about which shortly), the results can be used now more fruitfully than before to think about the need for change and to set priorities.

This is primarily a matter for the individual Councils. However, to create and preserve momentum, it would seem advisable to agree within the ENCJ to develop plans and to share and discuss those among each other. To assist this process it could be useful to organise workshops such as a workshop which recently took place on the topic of IT.

The set of indicators and the survey bring substantial challenges to light. For instance: (1) lack of confidence of judges in appointment and promotion procedures, (2) relationship between the political system and the media on the one hand and the Judiciary on the other hand that is characterized by lack of respect and (3) lack of insight in the experiences of the clients of the courts. Apart from inspiring individual councils, this may lead to new ENCJ initiatives.

In recent years, the use of dialogue groups has proven very valuable. A drawback, however, is that the dialogue group discussions have not led to concrete follow-up. This can perhaps be remedied by focusing dialogue groups on specific problems that countries have in common. Dialogue groups could then be organised around themes, when councils or other governing bodies face similar problems or can profit from specific input from councils that have struggled with these problems before.

As mentioned before, there is room for improvement of the system of indicators including the survey. These improvements would have to take place within the periodicity of the measurement of the indicators and the conduct of the survey of two years. The next round would be in 2018/2019.

Now that the indicators have gone through extensive internal scrutiny, the next step is to subject them to external review by the scientific community and by international partners of the ENCJ within and outside the Judiciary. External review is important to broaden our perspective and forestall tunnel vision, but also to get more exposure of the interesting work the ENCJ has done in this field. External review should be done in the first part of 2018, as it could lead to the further revision of indicators and survey. A revision could then be implemented in 2018/2019.

A specific issue concerns the position of lay judges. In many judiciaries they play an important role. In 2014/2015 a pilot survey about independence was held among lay judges in Scandinavia. As the survey proved to be feasible and the outcomes interesting, it would be possible to hold a survey among the lay judges of Europe, for instance in 2017/2018.

Finally, the activities that were discussed here may lead to ideas for additional surveys by the ENCJ alone or in cooperation with other bodies. This could fill an important gap in the current indicators and provide independent confirmation of the outcomes that were found so far.

## 7. Methodology Performance indicators for Quality of Justice

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### 7.1 Introduction

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 recognized that this would be a difficult but worthwhile exercise.

This chapter applies the approach that was used to develop performance indicators for independence and accountability to the quality of the Judiciary. Sections 7.2 and 7.3 deal with conceptual matters: which areas of quality are to be addressed by the indicators and for each area what are the essential elements that should be focused on. In section 7.4 the set of indicators is presented. Again, it should be noted that this is a first attempt that requires further thought in the coming years. The indicators have been tested by three Councils in a pilot. The outcomes are presented in Chapter 8. Section 8.1 summarizes the comments received during the pilot and provides clarifications. The last section of chapter 8 looks at next steps.

It needs to be emphasized that the indicators essentially provide a starting point for the development of standards about the quality of justice and the categorization of practices in good and less good practices. It is essential that standards of quality are defined and evaluated by the Councils for the Judiciary themselves, where they exist, and not by the other powers of state, because it is the duty of the Councils to reconcile the topic of quality with the principle of independence of Judiciary and judges.

### 7.2 Areas to be covered by the indicators

Starting from a broad perspective on quality, quality is linked with the essential tasks the Judiciary is deemed to fulfil under the rule of law. These tasks range from maintaining fundamental rights to practical matters such as the service provided to the public. The following areas are distinguished. Key aspects of these areas are staccato enumerated and briefly explained. Obviously, each aspect of an area would require an extensive discussion to do it justice. This is, however, not the place to do that, as our focus is on developing performance indicators.

#### ***Maintaining the rule of law***

**Key aspects:** constraints by Judiciary on government, upholding human rights, upholding the constitution and the division of power

**Explanation:** the Judiciary is one of the three state powers, and needs to play its role in upholding the constitution, international covenants and national laws in individual cases in which the interests of the other state powers or other major interests are at stake.

#### ***Providing public access to the law to guide society***

**Key aspects:** precedence, shadow of law, knowledge of law, access to legal and court information, also in minority languages

**Explanation:** the Judiciary is not only about conflict resolution in individual cases. It provides guidance to society how to apply the law, thereby clarifying the rules for economic and social interaction. The better it succeeds in this function, the less reason for conflict. At the same time the law must be re-interpreted to allow for changes in society. This and the previous function set the Judiciary aside from private mechanisms for conflict resolution.<sup>6</sup> Information is an area that also increases in importance due to “big data”, but also aspects such as the provision of information about court procedures in general and for groups in society remain important.

### ***Guaranteeing due process from the perspective of accessibility***

**Key aspects:** hearing parties, giving voice, justice for vulnerable groups, equality of arms, proportionality, effective and efficient appeal process

**Explanation:** this aspect covers to what extent the courts can provide for a fair trial (art. 6 ECHR, art. 47 of the Charter of Fundamental Rights of the EU and art. 13 of the UN Convention on Fundamental Rights of Disable People), and together with the area about the decision constitutes the legal core of the work of the courts. accessibility is a major concern, as citizens cannot find their way to even an excellent court if access is not secured. Accessibility can only partly be guaranteed by the courts themselves, as for instance court fees but also the judicial map are generally determined by government and Parliament. Still, other aspects are under the remit of the Judiciary.

### ***Adjudicating cases in a timely and effective manner***

**Key aspects:** no unnecessary delay, length of procedures proportionate to the importance/complexity of the case, active monitoring and control of process, pre-trial conferences, policy re delay tactics, size limits to presentations from lawyers/parties.

**Explanation:** “Justice delayed, is justice denied.” The ENCJ leaves the measurement of the duration of cases to CEPEJ, in particular. It focuses on the methods to control the duration of procedures. For that purpose case management can be distinguished from due process. Key issue is whether or not the judge leads the trial and by what means.

### ***Delivering judicial decisions***

**Key aspects:** fairness, knowledgeable, uniformity, predictability, well-reasoned, resolves conflict, judgments reflect views in society, appropriate sentences

**Explanation:** the decision is central to any court case. The way in which a decision is delivered is crucial: reasoning, clarity, length and enforceability are all important topics in this regard.

### ***Providing services to the clients***

**Key aspects:** court rooms, administrative procedures, waiting rooms, waiting times

**Explanation:** the experience of people going the court is also determined by practical aspects such as the way they are received on entering the court, the time they have to wait and the adequacy of waiting rooms (have victims and defendants to wait in the same room?)

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<sup>6</sup> See: John Thomas (2015). The Centrality of Justice: its contribution to society, and its delivery. The Lord Williams of Mostyn Memorial Lecture.

### ***Enforcement of judicial decisions***

**Key aspects:** enforceable judgments

**Explanation:** obviously for litigants it is key whether judgments can in practice be enforced. It does not make much sense to go to court if a favorable judgment has no practical effect. However, enforcement is generally not within the brief of the Judiciary, and the Judiciary is dependent on other parties to enforce. Courts do play a role by providing clear, enforceable decisions.

It is the intention to develop performance indicators for all these areas. For some areas this is easier than for others, as areas differ in conceptual complexity and also in the work that has been done already. The choice has been made to focus on four of these areas in this first version of the indicators. These areas were seen by the project team as the most pressing ones, either because they come first (for instance, without high quality decisions the other areas lose much of their meaning) or because performance falls evidently short. Most participants of the project team still see timeliness as the most vulnerable aspect of the performance of their judiciaries. The other areas of quality can be addressed at a later stage. The next table sets the scene.

	<b>Description of objective characteristics</b>	<b>Subjective assessment of performance</b>
<b>Maintaining the rule of law</b>	Next phase	Next phase
<b>Providing public access to the law to guide society</b>	Included	Next phase
<b>Guaranteeing due process from the perspective of accessibility</b>	Included	Included
<b>Adjudicating cases in a timely and effective manner</b>	Included	Included
<b>Delivering judicial decisions</b>	Included	Included
<b>Enforcement of decisions</b>	Next phase	Next phase
<b>Providing services</b>	Next phase	Next phase

In this table a distinction is made between the description of objective characteristics and the subjective assessment of performance. Quality is in part determined directly by the arrangements stipulated by law. In addition some aspects of quality such as the duration of cases are objectively measurable. However, there are also many aspects that can only be

assessed subjectively, at least at this stage. Subjective assessments can be given by the councils/courts/judges and by court users/lawyers/observers. At this stage very little is known about the views of court users, as was also noted in the context of independence and accountability. Subjective assessment is therefore limited to the views from within.

### 7.3 Substantive exploration of the selected areas of quality

In this section the areas of quality that were selected are elaborated upon. Special attention is given to the quality of judicial decisions.

#### 7.3.1. Adjudicating cases in a timely and effective manner

Both timeliness and case management are topics that have been discussed extensively within the ENCJ. The balance between timeliness and other quality aspects is an important issue, as indicated in the first recommendation of the 2010-2011 Timeliness Report: *‘Justice delayed is justice denied’ is a true statement that underlines the importance of delivering justice without undue delay. However, in striving for timeliness it must be remembered that the drive for expedition should be balanced with other quality aspects, of which the quality of the decision should have the highest priority. The demands of society require processing without undue delay, but drive for efficiency must not lead to inferior quality decisions.’*

After the publication of the report, regional timeliness seminars have been organised to increase awareness for the issue of timeliness, to deepen the understanding of causes and remedies, and to discuss the recommendations and the cooperation between stakeholders, and thus to further the implementation of the recommendations. The seminars have been organised with participants from countries within a region with comparable culture and legal traditions.

The ENCJ has developed case management guidelines, as presented in the 2012-2013 report ‘Judicial Reform in Europe – Part II’. The guidelines are:

- Every Judiciary should set up a structure on how to establish methodologies for case management, including the associated standards for the (average) duration of cases, for specific categories of cases/jurisdictions. These structures should be guided by the judges and should allow for discussion with stake holders such as lawyers.
- The methodologies for case management need to establish a balance between the importance of a case and the attention the case is given in terms of procedural steps allowed.
- In the methodologies an important place should be given to pre-trial conferences to establish the proper method to resolve the case and to sort out differences of opinion about procedure.
- The case load of judges and support staff should allow for sufficient time for proper case management. It should be carefully considered whether judges can delegate some administrative aspects of case management to support staff.



- Case management requires a change of attitude and culture of many judges, which needs to be promoted by training and/or other tools to disseminate knowledge.

These guidelines provide a normative framework to evaluate good practices in this area.

### **7.3.2. Guaranteeing due process from the perspective of accessibility**

The extent to which the courts can provide for a fair trial as stipulated by art. 6 ECHR in practice depends on a range of factors. Here the focus is on factors that are related to access to justice in a broad sense. At the most basic level, due process and accessibility require that parties can understand what is said and written. This implies that procedures are available in the official languages of a country, that arrangements are in place for widely used non-official languages and that for other languages translation facilities are available. People with disabilities require specific attention. Apart from physical arrangements, their full participation may require specific procedural arrangements. Also, information about the courts and justice system must be made available for people with disabilities (i.a. for visually impaired). Another elementary requirement is that parties must have access to all relevant documents. Any exemption must have a legal basis. It is relevant how often such exemptions are invoked.

Assuming these basic conditions are met, matters arise from the adversarial nature of judicial procedures. From this perspective a key issue is equality of arms. When there is a big gap between parties in knowledge of the law and of procedure and experience in litigating, one of the parties does not stand a chance unless the disadvantage is compensated in one way or the other. The issue will then be whether parties get adequate legal representation. If they cannot afford adequate legal representation and public funding is insufficient, or if they do not want legal representation, can judges order or offer legal representation? If that possibility does not exist, have judges the duty to compensate for the difference in knowledge and experience when hearing the case? And, more practically, do they have the time to do so? A related matter is abusive conduct. If parties or their lawyers misuse proceedings to delay the conclusion of cases or to otherwise drive up the costs for the other parties, a fair trial may become illusory if judges do not have the authority or do not use it to block such behavior.

Another issue is whether judges can and do spend sufficient time on all cases. As cases differ in the effort they demand from judges or panels of judges, judges must be able to muster the time that is needed for each individual case, irrespective of the parties or the matter at stake.

The availability of appeal is an important aspect of access to justice. It should be allowed to appeal not only on the law, but also on the facts. At the same time appeal takes time and resources, and without prospect of success merely delays justice and drives up costs for the parties and for the Judiciary. The implication is that an adequate balance must be found between access to appeal and its limitation. A similar situation arises with respect to the impact of appeal on the execution of the order appealed against.

The ENCJ has developed guidelines on appeal in the report about judicial reform mentioned above ('Judicial Reform in Europe – Part II'). The guidelines are:

- The law should state that the decision on meritorious cases<sup>7</sup> is a judicial decision based solely on the merits of the case.
- Filters should be defined to reduce the unnecessary use of court time on unmeritorious cases so allowing more timely access to justice for those who have a meritorious appeal.
- Filters should be defined to provide criteria by which the Judiciary can evaluate the merits of the appeal in each case and exercise judicial discretion in the final decision.
- Procedures should be in place to avoid repetition and a re-hearing of the first instance trial and to require applications for appeal to focus on the outstanding issues.
- To limit the number of appeal judges<sup>8</sup> is not recommended, as more effective measures are available to reduce the burden of appeal and court time.
- Decisions on meritorious cases should normally and primarily be taken through a paper exercise rather than any court hearing.
- The appeal procedure could be simplified by setting limits to the length of written and oral presentations of parties.

In this area of quality the identification of good practices is more ambiguous, as guidelines are lacking or, where these do exist, not very specific. The work is ongoing, and the indicators presented below preliminary.

### **7.3.3 Delivering judicial decisions**

As argued in opinion n°11 of the CCJE "To be of high quality, a judicial decision must be perceived by the parties and by society in general as being the result of a correct application of legal rules, of a fair proceeding and a proper factual evaluation, as well as being effectively enforceable". To achieve these aims, a number of requirements must be met.

#### **The reasoning of the judicial decision**

Judicial decisions must in principle be reasoned. According to the ECHR case law, courts should give sufficient reasons for their judgments, both for civil and criminal decisions. This raises the question whether all decisions rendered by courts should be motivated. This depends on the provisions of each domestic law but, as a general guideline, it may be considered that, unless otherwise stated, decisions involving the management of the case (for example: a decision adjourning the hearing) do not need a specific motivation. In principle, the obligation to state reasons should be reserved to the final decision of the trial.

Jury decisions give rise to specific considerations. According to Recommendation n° R (95)5 of the Committee of Ministers of the Council of Europe to Members States concerning the appeal process (civil and commercial cases), "in principle, reasons need not to be given... for decisions made by juries". This leads to issues such as the kind of civil or commercial cases that can be

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<sup>7</sup> Whether a case is meritorious or not.

<sup>8</sup> For instance, by hearing cases by a single judge instead of a panel of judges.

judged by a jury and what kind of means can be used to make the reasons of the verdict understood by the litigants and, if necessary, by the court of appeal.

A further issue is whether the reasons should be written or a judge can render his decision orally. Recommendation n° R(87)18 of the Committee of Ministers to Members States concerning the simplification of criminal justice states ( III, c, 3 ) that in less serious cases, or if the parties agree, the tribunal should be allowed not to make a written decision, but an oral decision "which should be limited to a mention in the record".

If a recommendation is to be made, it seems necessary to put the parties in a position to know, by whatever means, the reasons for a judgment pronounced by a judge, even if delivered orally.

An issue is also whether the practice consisting of giving the reasons of the judgment only if a party appeals against this judgment is acceptable. This practice has been condemned by the European Court of Human Rights because the litigants must be able to understand, as soon as the decision is rendered, the reasons why they won or lost their case. However, this practice still exists.

Reasoning takes a different form if it is done by a single judge or a panel. This choice depends on the culture and the system of each country. Whatever the system is, even in countries of which the traditions favor judgment by a single judge, informal discussions among judges dealing with similar cases should be encouraged in order to ensure predictability of decisions and legal certainty.

The ENCJ recommends that whenever it is possible, judges should provide this reasoning at least orally.

### **The clarity of the decision**

The judicial decision should, not only be motivated, but also be intelligible, drafted in clear and simple language. This issue depends on the use of the decision. Is the decision aimed at the litigants, the lawyers, the professors of law, the media or the public in general?

The judicial authorities of each country should set up a guide of good practices in order to facilitate the drafting of decisions (See opinion n° 11 of the CCJE).

### **The length of the decision**

It is desirable that a judicial decision is as concise as possible. For a decision to be read, understood and have impact it has to be sharp and focused and to refrain from unnecessary detail and academic excursions.

### **The enforcement of the decision**

A judicial decision needs to be written in clear and unambiguous language to be readily capable of being given effect. The decision should be effectively enforceable for the benefit of the successful party, which is a component of the right to a fair trial. As argued by the European Court, the Convention does not establish theoretical protection of Human Rights, but aims to assure that the protection it provides is given practical effect.

## **The assessment of the quality of judgments**

In many judiciaries in Eastern and Southern Europe the performance of judges is evaluated either regularly or for the purpose of career decisions. The quality of judgments is often part of the evaluation, albeit not always an important part. Productivity and timeliness take precedence, also because these aspects are easier to measure. Still, often a sample of judgments is taken and evaluated by those responsible. The evaluations do not seem to dig deep, and often the outcome is very positive and uncritical. This is reason in some countries to consider stopping this practice.

In other (in particular north western countries) judges are not evaluated, as this is seen as infringing on their independence. Assessment of the quality of judgments takes the form of peer review, and outcomes are not used in individual performance reviews. This is especially the case in the Netherlands which has developed a system of quality assessment by the appeal courts of first instance civil judgments. The assessment is not about the merits of the judgments, but about their professional quality ("craftmanship"). The UK is moving towards performance reviews that take the quality of judgments into account, starting with magistrates and recorders.

In many countries appeal rates are used as a proxy of the quality of judgments. Many international bodies such as CEPEJ do the same. The ENCJ is rather critical about using appeal rates for this purpose, as reversals are often based on other aspects than quality such as new evidence. If appeal rates are used, the percentage of judgments left standing is probably the most relevant criterion. This combines appeal rate and reversal rate, and defines it positively. Other assessment methods focus on specific aspects of quality, such as the understandability which can be evaluated by linguists. Finally feedback mechanisms such as customer satisfaction surveys and individual feedback generally include the quality of judgments.

Two main difficulties emerge:

### *How to assess the quality of a judicial decision?*

It is rather difficult to evaluate the quality of judgments because assessment systems could affect the independence of judges. As mentioned above, a distinction can be made between the content of the decision (merits of the case) and the 'craftmanship' of the decision. The assessment does not examine then whether the decision is 'correct', but whether it conforms with objective criteria.

The CCJE takes a different approach. In its opinion number 17 (2014) upon the evaluation of judges' work the CCJE states that it is "problematic to base evaluation results on the number or percentage of decisions reversed on appeal, unless the number and manner of the reversals demonstrates clearly that the judge lacks the necessary knowledge of law and procedure" (paragraph 35). This circumstance should be included in a system of assessment: citizens could not understand that inexcusable negligence from a judge or the judge's willingness not to apply the law, would not be taken into consideration in assessing his or her work.

As pointed out by some of ENCJ members, the statute of judges and a high quality training system are pre-requisites for safeguarding the rule of law and the fundamental guarantee of a fair trial. In this context judges should be able to cope with feedback about their decisions.

More generally, the judicial system as a whole, including access to Justice and the use of digital instruments, has to be examined in order to evaluate the quality of judicial decisions.

#### *Who should assess the quality of a judicial decision?*

Two approaches can be distinguished:

- Evaluation by judges themselves or by a specific independent body, on the basis of predetermined guidelines, determined by the judges (confer the experience of The Netherlands).
- Evaluation by authorities that take human resource decisions about judges. In a number of countries judges are evaluated regularly or when they apply for promotion, and assessment of a sample of their cases is often part of the evaluation.

When assessment takes place, Councils for the Judiciary should be in the lead, and not Ministries of Justice or other organizations that are part of other state powers than the Judiciary. According to the law, some Councils don't have any competence in the field of quality of justice. However, because it is a duty of the Councils to ensure that the principle of independence of judges is preserved, the CCJE expressed in its opinion number 11 that the "Council should be entrusted with the evaluation of the quality of decisions".

The CCJE added that "where there is not Council for the Judiciary, the evaluation of the quality of decisions should be undertaken by a specific body having the same guarantees for the independence of judges as those possessed by a Council for the Judiciary".

The ENCJ believes that the assessment of the quality of judicial decisions, which likely is the most critical aspect of the quality of justice, is important, if one takes the improvement of quality serious. However, any assessment system must respect the independence of judges. A necessary condition is that Councils of the Judiciary are responsible for the system.

#### **7.3.4 Providing public access to the law to guide society**

Judicial decisions give - to some degree - guidance to behaviour of the members of society ("shadow of the law"). A prerequisite is that judicial decisions of the courts are published. In addition to passive publication, the reach of decisions can be enlarged by efforts of the courts to draw the attention of the public to decisions that have high impact and/or set precedent. This can be done directly by means of the Judiciary's websites and use of social media and indirectly by the official media. Also, given the worldwide development of 'big data' it may become increasingly important or even necessary for the courts to make statistical information available about the outcome of cases.

At a more general level the moral authority of the courts - and thereby the impact of judicial decisions - could be promoted by providing information to the public about core judicial values such as independence, impartiality and application of the law. This could be further helped by inviting the public to visit the courts and see judges at work.

Finally, new technologies to improve access to justice, such as on-line dispute resolution mechanisms, are important to retain or broaden the reach of the Judiciary, but also to keep in touch with a society that experiences rapid technological change. This has been

recognized by the ENCJ before. The already mentioned report on judicial reform contains the recommendation:

- Judiciaries should learn from on-line dispute resolution mechanisms and applications that are currently available on the internet.

The work on this area of quality is still in its first phase. The indicators presented below are therefore preliminary.

#### 7.4 Set of performance indicators about quality

In this section the performance indicators for the four areas are listed. Indicators about objective characteristics are in black and indicators regarding the subjective assessment of performance are in blue.

##### INDICATORS OF TIMELINESS AND CASE MANAGEMENT

###### 1. Standards for the duration of cases:

- Existence of standards in first instance and in appeal courts;
- Scope of the standards (total procedure or particular phases of the procedure);
- Degree to which standards are binding;
- Method by which standards are prescribed (law, court regulation, practice);
- Available methods to enforce standards;
- Degree of ambition in the standards at first instance and appeal courts
- Realization of standards in practice at first instance and appeal courts;
- Impact of standards on duration of cases, access to justice, quality of decisions, efficiency
- Sufficiency of court resources to meet the standards.

###### 2. Authority of judges to determine procedures:

- Authority of judges to determine the procedures in a case (to fit the procedure to the case) in first instance and appeal courts;
- Authority of judges to enforce the determined procedure if a party does not conform;
- Extent to which the authority to determine the procedure is used in practice;
- Impact of the authority to determine the procedure in a case on duration of cases, access to justice, quality of decisions, efficiency).

###### 3. Summary procedures:

- Existence of summary procedures in first instance and appeal courts;
- Limitations to summary procedures;
- Degree to which summary procedures are used in practice;
- Impact of summary procedures on duration of cases, access to justice, quality of decisions, efficiency.

###### 4. Digital case filing and digital procedures

- Possibility of digital case filing
- Possibility of digital procedures, in the sense that all communications are digital, except for the hearing
- Possibility for litigants to inform themselves digitally about the progression of their cases.
- Impact of digital case filing/digital procedures/digital information on duration of cases, access to justice, quality of decisions, efficiency.

## 5. Specialization of courts and judges

- Existence of specialized courts in first instance and appeal courts
- Existence of specialized chambers in first instance and appeal courts
- Existence of specialized judges outside specialized courts and chambers in first instance and appeal courts
- Existence of specialized rules of procedures for cases handled by specialized courts/chambers/judges at first instance and appeal level
- [Impact of specialization on duration of cases, access to justice, quality of decisions, efficiency.](#)

## INDICATORS OF DUE PROCESS FROM THE PERSPECTIVE OF ACCESSIBILITY

### 6. Equality of arms (legal representation):

- Possibility of litigants not to be represented by a lawyer
- [Frequency of litigants not being represented by a lawyer](#)
- Existence of mechanisms in case one of the parties is not represented, such as ordering or offering legal representation
- In the absence of such mechanisms or in case a party chooses not to be represented, existence of a duty of the judge to compensate for the difference in knowledge and experience when hearing the case
- [Frequency of litigants that are in need of compensation](#)

### 7. Equality of arms (funding and costs):

- Existence of a system under which public funding is provided to litigants without means to fund litigation themselves
- Existence of a system to shift the costs of litigation of the successful litigant to the unsuccessful litigant

### 8. Commensurate effort of judges:

- Existence of rules or regulations to decide whether a case is decided by a single judge or a panel of judges in first instance and appeal courts
- [Sufficiency of time for the judge to hear and decide cases adequately in regular and in complex cases in first instance and appeal courts.](#)

### 9. Transparency of proceedings

- Access of litigants in a case to all documents
- Existence of exceptional cases in which documents are withheld
- [Frequency of cases in which documents are withheld.](#)

### 10 Dealing with abusive conduct

- Authority of the judge to take action to prevent abuse by parties and/or their lawyers
- Instruments available to the judge to intervene
  - o Stop or stay the proceedings
  - o Order expedition of the proceedings
  - o Impose fines
  - o Initiate disciplinary measures
- [Frequency of cases in which abusive conduct occurs](#)

### 11 Availability of appeal

- Existence for an unsuccessful litigant to bring an appeal
- Requirement for permission to appeal

- Possibility of appeal on the facts (and not only on the law)
- Impact of appeal on the execution of the order appealed against

## **12. Communication**

- Existence of procedures in all official languages of the country
- Existence of procedures in not-official but frequently uses languages in the country
- Existence of facilities at the court to provide translation regarding languages not spoken in court

## **13. Access for people with disabilities**

- Existence of special procedural arrangements for people with disabilities
- Existence of physical arrangements for people with disabilities
- Availability of information about the courts and justice system for people with disabilities (i.a. website for visually impaired).

# **INDICATORS OF QUALITY OF JUDICIAL DECISIONS**

## **14. Reasoning of judgments**

- Existence of requirement to reason judgments dealing with substantive issues in civil cases and verdicts in criminal cases
- Nature of the legal basis of the requirement of reasoning in civil cases and in criminal cases
- Existence of restrictions on the reasoning of judgments in civil cases and verdicts in criminal cases
- Nature of the legal basis of the restrictions on reasoning
- Requirement of transcription of oral judgments in civil cases and oral verdicts in criminal cases
- Use of jury's to decide civil cases and criminal cases

## **15. Clarity of judgments**

- Existence of a requirement to use clear and simple language
- Nature of the legal basis of the requirement of reasoning
- **Primary recipients for whom reasons are written:**
  - o Litigants
  - o Public in general
  - o Other judges (such as appeal courts or Supreme Court
  - o Evaluation authorities
- Existence of guidelines on the clarity of judgments
- The authority that has promulgated the guidelines

## **16. Concise judgments**

- Existence of requirements that lead to long judicial decisions (i.a. requirement to address all arguments and/or factual disputes) in civil and in criminal cases at first instance and appeal courts
- Nature of the legal basis of these requirements
- Existence of requirements that lead to short judicial decisions in civil and in criminal cases at first instance and appeal courts
- Nature of the legal basis of these requirements
- **Motivation of judges that in practice lead to long judicial decisions**
  - o An effort for career purposes
  - o Concern for criticism from appeal



- Lack of experience as a judge
  - Overly Academic approach
  - Estimation of the average size of a judgment in a civil case about breach of contract regarding the delivery of goods in which the lawyers raise many issues about evidence
  - Estimation of the average size of a verdict in a criminal case about a murder in which the lawyer raises many factual and procedural issues.
- 17. Effective judgments**
- Specific nature of judgments to be enforceable
- 18. Assessment of the quality of judicial decisions**
- Existence of a mechanism to address the individual quality of judicial decisions by examining a sample of judgments in first instance and appeal courts or
  - Framework within which this mechanism is applied:
    - Evaluation or performance review of judges
    - Peer review among judges, the outcomes (at the individual level) of which are not available to management or inspection
  - The responsible authority for the mechanism
  - Scope of the assessment:
    - Craftsmanship of the judge and/or
    - Merits of the judicial decisions
  - **Meaningfulness of the assessment mechanism**
  - Alternative mechanisms to assess the quality of judicial decisions:
    - Use of appeal rates to assess the quality of judicial decisions
    - Inclusion in customer satisfaction reports
    - In-depth studies about specific aspects of judicial decisions such as readability

## INDICATORS OF PUBLIC ACCESS TO THE LAW OF GUIDE SOCIETY

### 19. Access to case law

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

### 20. Opening up to the public

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

### 21. New technologies to improve access to justice:

- Availability of on-line dispute resolution mechanisms or the development of such mechanisms.

In Appendix 2 the indicators are presented in detail in the form of a questionnaire to measure the indicators to be filled in by Councils and other governing bodies. In this Appendix it is also indicated for each indicator what is good and bad practice. This is done in the form of scoring rules, as was done before for the indicators on independence and accountability. Determining what is (less) good and what is (less) bad is to some extent an arbitrary process. Differences in legal culture and different approaches to what is important in judicial procedures lead to different valuations.

The indicators are a first attempt (1.0) and need to be developed further. To this end a pilot study was conducted in three countries to try out the indicators and experience whether these are measurable and meaningful in practice. The next section describes the outcomes.

## 8. Outcomes of the Quality Pilot Study

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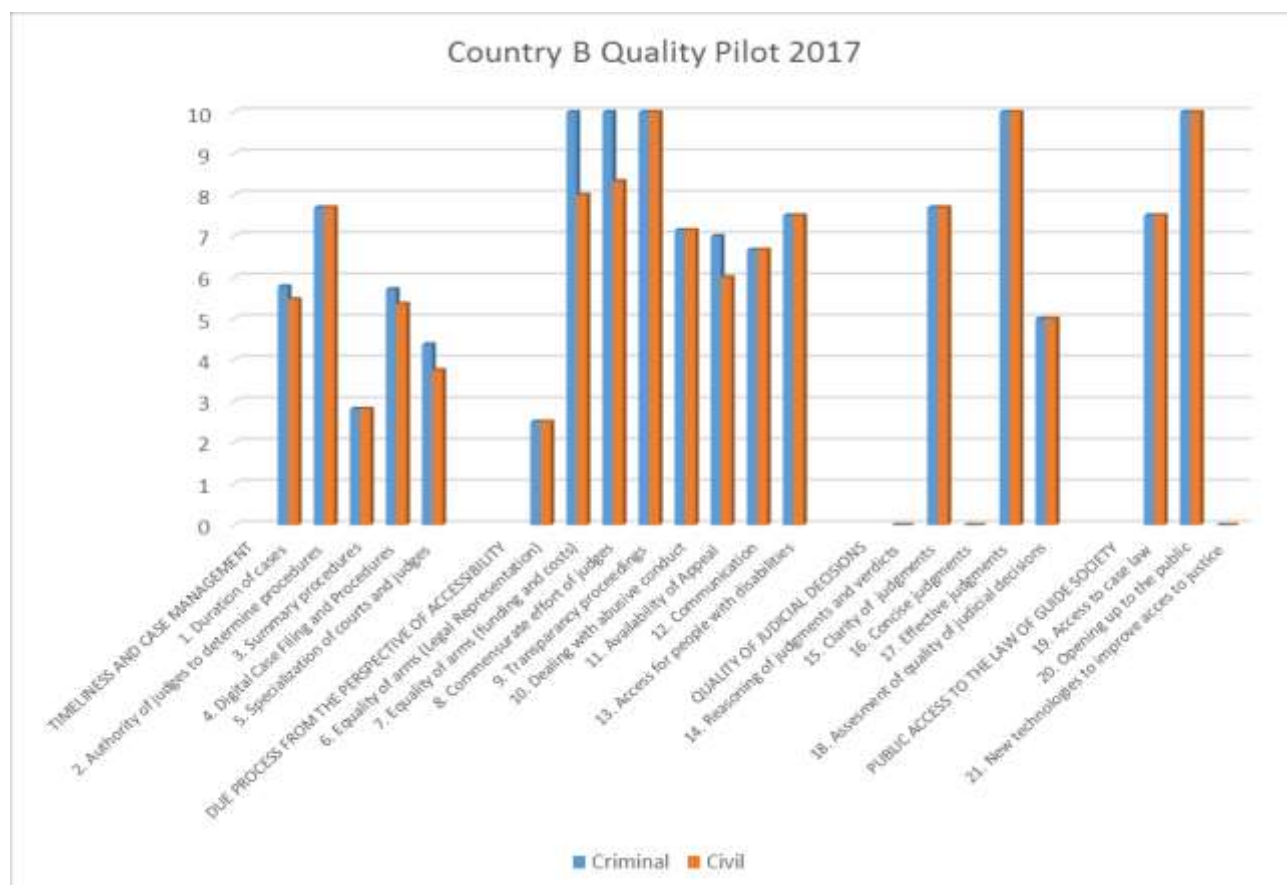
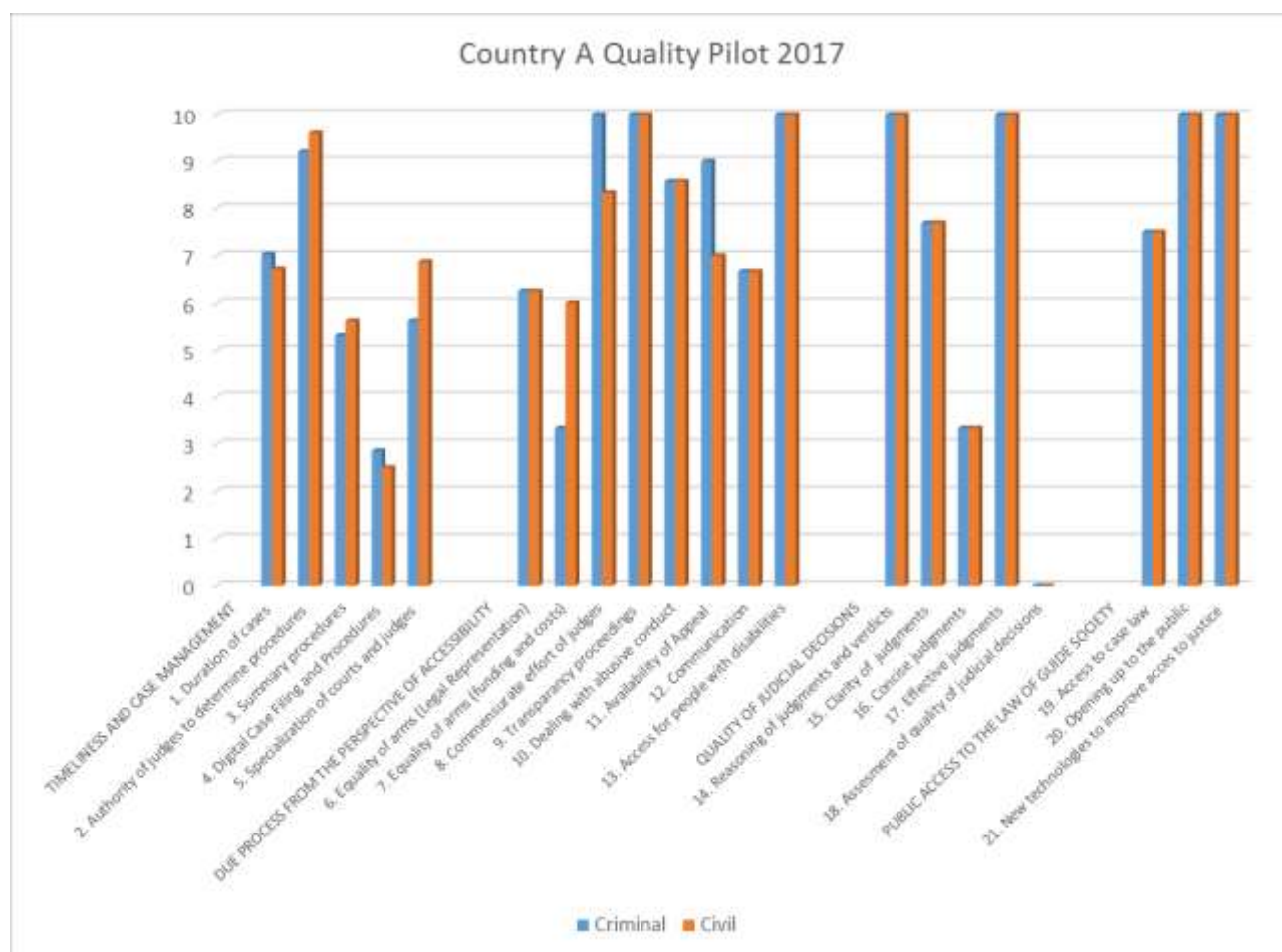
### 8.1 Outcomes of the Quality Pilot Study in three countries

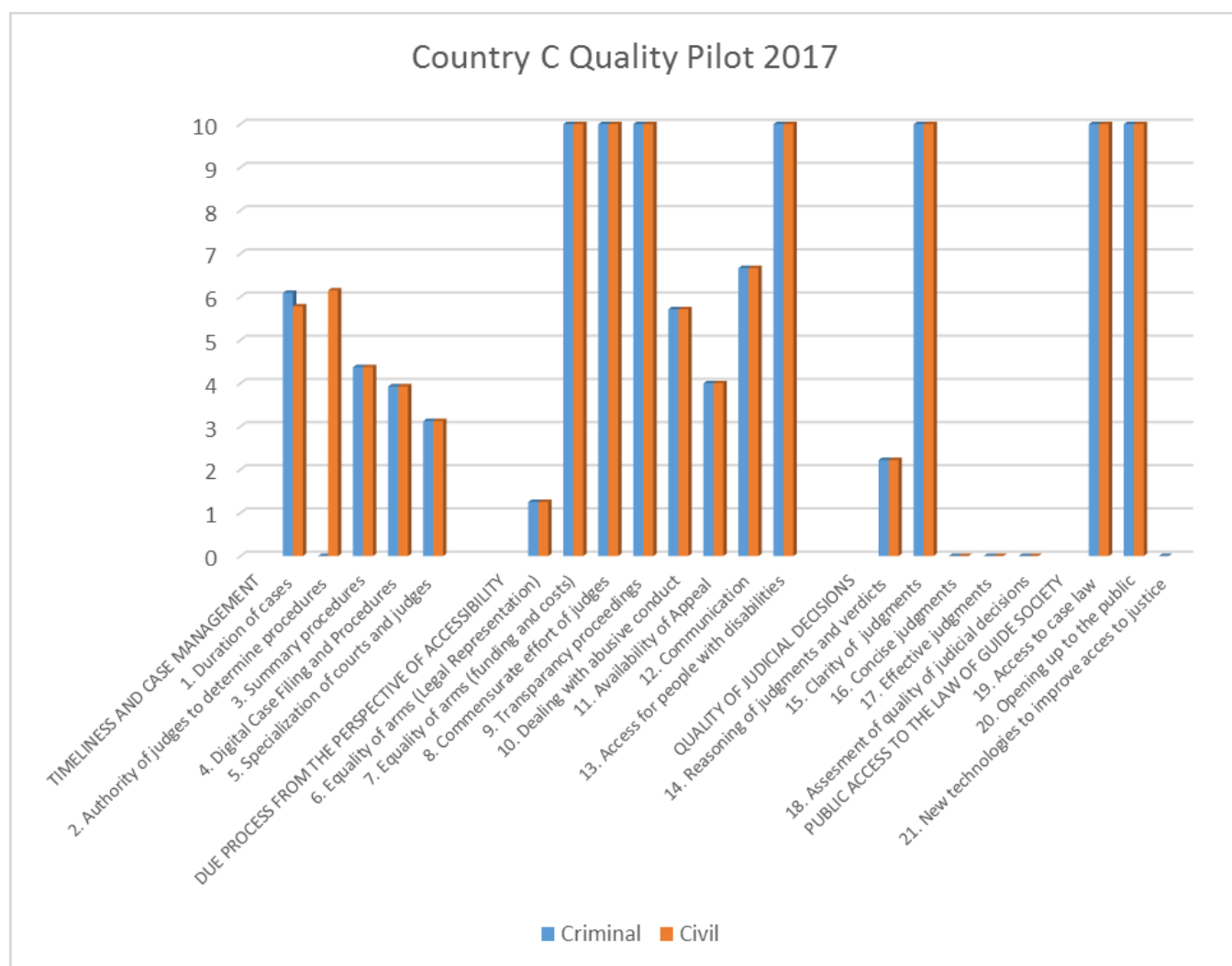
The outcomes of the indicators are presented in the figures below for each country separately.

The questionnaire has been tested by three councils: Slovakia, Spain and England and Wales. The outcomes are presented in the figures below. In these figures the four areas of quality are distinguished and for each area the indicators are represented. As the questionnaire allows for the possibility that scores differ for civil and criminal law in many indicators, outcomes for these two fields of law are given separately. As the aim of the pilot is to test the methodology and not to evaluate the quality of justice of the three pilot countries, the councils are not identified in the figures.

The experiences of the pilot councils and outcomes lead to some observations:

- It is feasible to measure performance indicators about quality in this way. The questionnaire raised questions, but these questions were addressed and resolved in dialogue with the secretary of the project team.
- The questionnaire is extensive and requires substantial effort to reach meaningful answers, in particular since it is intended that the answers reflect the opinions of the judges.
- The differences between civil and criminal cases are generally small. Of course, this finding cannot be generalized for all countries, but, given the large size of the questionnaire, it is open for discussion whether or not the distinction should be maintained.
- The outcomes regarding the quality of judicial decisions are unbalanced. All three countries score zero on one or more of the indicators in this area. These low scores are partly caused by sub indicators to which negative scores are attached. The balance between positive and negative aspects then becomes important, and this has not been discussed yet.
- At the other extreme, some of the indicators get maximum scores in all three countries. This may be because the indicators are trivial (indicator about transparent procedures) or because these are not specific enough (opening up to the public).





The sub-indicators which make up the indicators are interesting in their own right. For instance, with regard to timeliness from a subjective perspective, the question was asked to what degree the measures distinguished actually contribute to timeliness and detract or contribute to other major (quality) objectives.

The table below shows the results for the three pilot countries. Specialisation stands out as particularly effective, while standards do not seem to contribute much. Also, IT does not seem to be very relevant when it comes to these objectives. The sample of three councils is too small to draw definite conclusions, and it would be very informative to get an ENCJ-wide overview of perceptions.

### Contribution of measures to objectives

	Timeliness			Access to justice			Quality decisions			Efficiency			T
	A	B	C	A	B	C	A	B	C	A	B	C	
Standards for duration	+	0	0	+	+	+	+	0	-	+	+	0	6+
Authority of judges	++	+	0	+	+	0	+	+	0	++	+	0	10+
Summary procedures	+	+	++	0	+	+	0	0	0	+	+	+	9+
Digital filing and procedures	0	0	+	0	+	+	0	0	0	+	+	-	4+
Specialisation	++	+	+	++	+	+	++	++	+	++	+	+	17+

On the basis of the pilot, it is concluded that the approach to develop performance indicators for quality is useful and interesting. Indicators for quality are more complicated than those for independence and accountability, because international/European standards are less frequent and precise, and the differences between legal systems and cultures play a larger role. Still, there is much in common and the outcomes give much to consider. The outcomes can give impetus and priorities for change. Also, ideas for the direction of change can be derived from the experiences of other judiciaries that are made visible in this way.

The set of indicators is definitely not final. It needs further development, especially in the area of the quality of judicial decisions. Also, it would be important to standardize to some degree the way the questionnaire is answered, and in particular how the judges are involved.

## 8.2 Comments and clarifications about principles

The questionnaire has given rise to specific observations about the principles that underlie some of the indicators that need to be addressed in the next version. Substantial issues that were raised in the pilot study are discussed here briefly.

### Standards about the duration of cases:

It was remarked that binding rules are not consistent with judicial independence. To avoid any misunderstanding, it must be made absolutely clear that references to ‘standards’ in this context is not intended to suggest that a judge is constrained in any specific case.<sup>9</sup>

<sup>9</sup> This also applies to question 1.5 under A about the status of standards: a prescription is not-binding in the sense discussed above.

Accordingly, a case should last as long as is needed to adjudicate it properly, and a judge can not be bound by any average duration 'standard'; it will ultimately depend on the particular demands associated with the particular case.

Provided that this is clearly understood, there is no inconsistency with judicial independence and the existence of 'standards' in this sense is considered to be positive. Indications that judges see it this way can be derived from the survey among judges about independence (see section 5.5, influence of management and colleagues).

The same participant commented that standards can be too short to allow for the proper adjudication of cases, and that the questionnaire (questions 1.7 and 1.8 under A) does not allow for this possibility, the implication being that shorter is always better. While the starting point of the project team is that the issue in nearly all judiciaries is that cases take much too long, it still would make sense to add into the survey the option that standards are too short.

Finally, under this heading it should be noted that generally the duration of case which is the topic of this area of quality is a different matter from the time available to a judge to adjudicate upon a case. In most instances the time that a judge works on a case is a small fraction of the duration of the case. The available processing time depends foremost on budgets and staffing. This implies that a judge may have insufficient time to adjudicate cases properly, while cases take ages, and vice versa. Therefore, indicators 1 (standards for duration of cases) and 8 (sufficiency of time to hear and decide a case) deal with different issues.

#### **Authority of judges to determine procedures:**

It was argued that such authority implies that in exceptional cases judges can determine the procedure against the pleas of parties and that this can only be the case when all procedural safeguards for the parties are available to them. Before disregarding the parties' submissions or taking other court measures to determine the procedure, courts must, indeed, ensure that such measures comport with due process, particularly with the right to be heard.

#### **Procedures in non-official languages:**

The question was raised whether it is a good practice to offer procedures in non-official languages used by national minorities, as this would force other parties and judges to use these languages. This was, of course, not the intention of the question, and an elaboration is in order.

#### **Assessment of quality of judicial decisions:**

The assessment of the quality of judicial decisions outside the appeal process must find a suitable balance between the demands of quality and independence. It may be necessary to develop more detailed guidelines to establish what is good practice - especially, the distinction between the merit of the case (content of the decision) and the craftsmanship or professional quality of the decision.

In addition to these remarks, useful suggestions have been made to improve the phrasing of the questionnaire that can be easily accommodated.

### **8.3 Next steps**

The next step is to carry out a critical review of the indicators and the way these are measured and scored in order to refine the indicators. Also, this should lead to more precise definitions and explanations to improve the uniformity of the interpretation of the questions. In addition, it has to be discussed how the questionnaire would preferably be answered, allowing for input from the judges.

Once this has been done, the indicators can be implemented by all members and observers of the ENCJ. At a more abstract level, Councils of the Judiciary need to assert their responsibility for standards about quality of justice, for the sake of quality but also because of the links and sometimes trade-off between quality, independence and accountability. Of course, this responsibility can only be put into practice in close co-operation with the judges.



## 9. Final observations

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The ENCJ has devoted much effort to make visible how judicial systems actually function in key respects, in particular independence and accountability and now also quality. This is a daunting task, given the differences in legal systems and legal cultures across Europe. Still, the essential principles and values of judiciaries are the same, and in essence also the activities that take place in the courts. These efforts of the ENCJ are not driven by data gathering for its own sake or curiosity, but by the desire of members and, increasingly, the observers to improve their judicial systems by building on strengths and addressing weaknesses. The resulting country profiles - so far limited to independence and accountability - must be used with circumspection, due to the unavoidable arbitrariness of some categorizations and scorings. It has been attempted to make the indicators objectively measurable, but that is not always possible. Also, determining what is good and what is less good practice is based on shared values and ideas within the ENCJ, and as such is not absolute science. Still, the profiles need to be taken seriously to set priorities for change.

The extension of the indicators to quality of justice is an important step for a number of reasons. In the first place, because independence, accountability and quality are linked and need to be considered together. In many instances these concepts will re-enforce each other, but in some cases there will be a trade-off. This trade-off is a responsibility of Councils of the Judiciary. In the second place, whilst independence and accountability are not goals in themselves, quality of justice is. For the Judiciary to play its role in society, quality and its evolution in relation to the changing demands of society require permanent attention. It is essential for the ENCJ to address these matters, building on the reports it has made before such as those on judicial reform.

Quality raises many complications, especially in reconciling different aspects of quality or reaching a balance. As a consequence, the development of performance indicators on quality will take time and, as in the case of independence and accountability, will be a multi-year project. This project is well worth the effort, if the members and observers use the outcomes, in particular country profiles, to improve their judicial systems.

In this undertaking, voice has been given to the judges of Europe by asking them about how they perceive their independence. This is important to bring the judicial perspective to the attention of society, but also to strengthen the connection between Councils for the Judiciary and the judges for whom they are working.

## 10. Annex 1 Questionnaire I&A 2016-2017



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

Questionnaire indicators independence and accountability of the Judiciary  
Version adopted by GA Warsaw 2016

Please fill in your country of origin: [Click or tap here to enter text.](#)

### INDEPENDENCE INDICATORS

#### *Objective Indicators*

#### *Objective independence of the Judiciary as a whole*

#### **1. Legal basis of the independence of the Judiciary as a whole**

**1a. Is the independence of the Judiciary or the judge formally guaranteed<sup>10</sup>?**

☐ Yes

☐ No

**1b. If the answer to 1a. is yes, is this done in/by:**

---

<sup>10</sup> See question 1b.

- ☐ The Constitution or equivalent documents<sup>11</sup>
- ☐ Law<sup>12</sup>
- ☐ Constitutional court

**1c. Are judges formally bound only by law?**

- ☐ Yes
- ☐ No

**1d. If the answer to 1c. is yes, is this guaranteed in/by:**

- ☐ The Constitution or equivalent texts
- ☐ Law
- ☐ Jurisprudence

**1e. Is the mechanism to fix the salary of judges determined by law?**

- ☐ Yes
- ☐ No

**1f. If the answer to 1e is yes, is this guaranteed in:**

- ☐ The Constitution or equivalent texts
- ☐ Law

**1g. Is there a formal mechanism to adjust the salaries of judges to keep pace with the average development of salaries in the country and/or with inflation?**

- ☐ Yes
- ☐ No

**1h. Is the involvement of the Judiciary in law and judicial reform<sup>13</sup> formally guaranteed?**

- ☐ Yes
- ☐ No

**1i. If the answer to 1h. is yes, is this done in:**

- ☐ The Constitution or equivalent documents
- ☐ Law
- ☐ Constitutional court

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<sup>11</sup> Equivalence means here specifically that the position of the Judiciary cannot be changed by simple majority.

<sup>12</sup> That can be changed by simple majority.

<sup>13</sup> The objective of a judicial reform process should be to improve the quality of justice and the efficacy of the Judiciary, while strengthening and protecting the independence of the Judiciary, accompanied by measures to make more effective its responsibility and accountability. See the ENCJ Report on Judicial Reform 2011-2012.

**1j. If the answer to 1h. is yes, does the Judiciary have:**

- ☐ The right to put forward a formal proposal to change a law
- ☐ The right to advise on legislative proposals

**1k. Is the Judiciary involved in the formation and the implementation of judicial reform?**

- ☐ Yes
- ☐ No

**1l. Has the Judiciary initiated judicial reform?**

- ☐ Yes
- ☐ No

## **2. Organizational autonomy of the Judiciary**

**2a. Does your country have a Council for the Judiciary<sup>14</sup>?**

- ☐ Yes
- ☐ No

**2b. Is the position of the Council for the Judiciary formally guaranteed?**

- ☐ In the Constitution or equivalent documents
- ☐ Law
- ☐ No

**2c. Is the Council organized in accordance with ENCJ Guidelines concerning:**

- At least 50% of the members of the Council are judges<sup>15</sup> ☐ Yes ☐ No
- At least 50% of the members of the Council are judges  
who are chosen by peers ☐ Yes ☐ No
- Minister of Justice is not a member of the Council ☐ Yes ☐ No
- The Council controls its own finances independently of  
both the legislative and executive branches<sup>16</sup> ☐ Yes ☐ No

---

<sup>14</sup> See article 6 ENCJ Statutes. National institute which is independent of the executive and legislature, or which is autonomous and which ensures the final responsibility for the support of the Judiciary in the independent delivery of justice.

<sup>15</sup> Only in case of a Council representing judges and prosecutors, please read magistrates.

<sup>16</sup> The finances of the Council for the Judiciary refer to the budget of the Council itself and not to the budget of the Judiciary as a whole.

- The Council controls its own activities independently of

both the legislative and executive branches

☐ Yes ☐ No

**2d. Is the Council responsible<sup>17</sup> for the following:**

- The appointment and promotion of magistrates ☐ Yes ☐ No
- The training of magistrates ☐ Yes ☐ No
- Judicial discipline ☐ Yes ☐ No
- Judicial ethics ☐ Yes ☐ No
- Complaints against the Judiciary ☐ Yes ☐ No
- The performance management of the Judiciary ☐ Yes ☐ No
- The administration of courts ☐ Yes ☐ No
- The financing of the courts ☐ Yes ☐ No
- Proposing legislation concerning the courts and the Judiciary<sup>18</sup> ☐ Yes ☐ No

**2e. If the answer to question 2a. is no or if the Council is not responsible in the following areas do judges have decisive influence on decisions in the following areas?**

- The appointment and promotion of magistrates ☐ Yes ☐ No
- The training of magistrates ☐ Yes ☐ No
- Judicial discipline ☐ Yes ☐ No
- Judicial ethics ☐ Yes ☐ No
- Complaints against the Judiciary ☐ Yes ☐ No
- The performance management of the Judiciary ☐ Yes ☐ No
- The administration of courts ☐ Yes ☐ No
- The financing of the courts ☐ Yes ☐ No

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<sup>17</sup> Responsible implies that the Council executes these tasks. But it can also mean that the Council has delegated these tasks to a separate body.

<sup>18</sup> To the Parliament or the Ministry of Justice.

- Proposing legislation concerning the courts and the Judiciary<sup>19</sup> ☐ Yes ☐ No

### 3. Funding of the Judiciary

#### 3a. Is the funding of the Judiciary sufficient as to allow the courts:

[several answers possible]

- ☐ To handle their caseload
- ☐ To engage experts/translators/etc. in cases when necessary if fees paid by court
- ☐ To keep the knowledge and skills of judges up to date
- ☐ To keep the knowledge and skills of court staff up to date
- ☐ To facilitate judges and other personnel in matters of IT-systems, buildings etc.

#### 3b. Who makes the decisions?

[Please insert an "x" into the box that corresponds to the situation in your country.]

- a) Involvement in the preparation of the "budget allocated to courts"
- b) Formal proposal on the budget allocated to courts
- c) Adoption of the budget allocated to courts
- d) Control of the budget allocated to courts
- e) Evaluation/audit of the budget allocated to courts

	a)	b)	c)	d)	e)
<b>The Judiciary</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The executive<sup>20</sup></b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The legislature</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>19</sup> To the Parliament or the Ministry of Justice.

<sup>20</sup> Such as the Minister of Justice

**3c. In case the government does not allocate sufficient funds, may the Judiciary address the parliament?**

- ☐ Yes
- ☐ No

**3d. Is the funding of the Judiciary based upon transparent and objective criteria?**

- ☐ Yes
- ☐ No

**3e. If the answer to 3d is yes, is the funding based on:**

**[several answers possible – highest score counts]**

- ☐ Actual costs<sup>21</sup> (e.g. number of judges and court staff)
- ☐ Workload of courts
- ☐ Fixed percentage of government expenditure or GDP
- ☐ Other (specify): ...

**3f. Where have these criteria been defined**

- ☐ In well-established practice
- ☐ In law
- ☐ Other (specify)

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<sup>21</sup> Figure based upon historic or realized costs.

#### 4. Court management<sup>22</sup>

##### 4a. Which authorities can take the following decisions?

[Please insert an “x” into the box that corresponds to the situation in your country.]

- a) General management of a court
- b) Appointment of court staff (other than judges)
- c) Redeployment of judges to address temporary workload issues
- d) Other human resource management decisions on court staff
- e) Decisions regarding the implementation and use of Information and Communication Technology in courts
- f) Decisions regarding court buildings
- g) Decisions regarding court security
- h) Decisions regarding outreach activities<sup>23</sup>

	a)	b)	c)	d)	e)	f)	g)	h)
<b>The Judiciary</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The executive</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The legislature</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>22</sup> Court management also refers to non-budgetary decisions with impact on the functioning of the courts.

<sup>23</sup> This includes all communication and promotional activities aimed to inform society about the Judiciary.



## Objective independence of the judge

### 5. Human resource decisions about judges

#### 5a. Selection, appointment and dismissal of judges and court presidents

Which authorities or bodies have the power to deliver the following decisions in the Judiciary?

[Please insert an “x” into the box that corresponds to the situation in your country.]

- a) Proposal of candidates<sup>24</sup> for the appointment as judges (not supreme court judges)
- b) Decision<sup>25</sup> on the appointment of a judge
- c) Proposal for the dismissal of a judge
- d) Decision on the dismissal of a judge
- e) Proposal of candidates for the appointment as court presidents
- f) Decision on the appointment of a court president
- g) Proposal for the dismissal of a court president
- h) Decision on the dismissal of a court president

	a)	b)	c)	d)	e)	f)	g)	h)
<b>The Judiciary</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The executive</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The legislature</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>24</sup> The final proposal of candidate(s) which is transmitted to the body that appoints/elects them.

<sup>25</sup> In the context of this question a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

**5b. Selection, appointment and dismissal of Supreme Court judges and the President of the Supreme Court**

[Please insert an “x” into the box that corresponds to the situation in your country.]

- i) Proposal of candidates for the appointment as Supreme Court judges
- j) Decision<sup>26</sup> on the appointment of a Supreme Court judge
- k) Proposal for the dismissal of a Supreme Court judge
- l) Decision on the dismissal of a Supreme Court judge
- m) Proposal of the candidate(s) for the appointment of the President of the Supreme Court
- n) Decision on the appointment of the President of the Supreme Court
- o) Proposal for the dismissal of the President of the Supreme Court
- p) Decision on the dismissal of the President of the Supreme Court

	i)	j)	k)	l)	m)	n)	o)	p)
<b>The Judiciary</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The executive</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The legislature</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**5c. Is the appointment of judges in compliance with the ENCJ guidelines?**

- Is the appointment process open to public scrutiny and fully and properly documented ☐ Yes ☐ No
- Is the appointment process undertaken according to published criteria ☐ Yes ☐ No
- Is the appointment of judges solely based on merit ☐ Yes ☐ No
- Is there in place a written policy designed to encourage diversity in the range of persons available for appointment ☐ Yes ☐ No
- Does the appointment process provide for an independent

<sup>26</sup> In the context of this question a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

complaint procedure

☐ Yes ☐ No

**5d. Evaluation, promotion<sup>27</sup> and training of judges.**

[Please insert an “x” into the box that corresponds to the situation in your country.]

- a) Decision<sup>28</sup> on the evaluation of a judge
- b) Evaluation of the performance management of courts
- c) Decision on the promotion of a judge
- d) Adoption of ethical standards
- e) Application of ethical standards
- f) Decision on the program/content of training for judges

	a)	b)	c)	d)	e)	f)
The Judiciary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The executive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The legislature	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**5e. Is the promotion<sup>29</sup> of judges in compliance with the ENCJ standards?**

- Is the promotion process open to public scrutiny and fully and properly documented ☐ Yes ☐ No
- Is the promotion process undertaken according to published criteria ☐ Yes ☐ No
- Is the promotion of judges is solely based on merit ☐ Yes ☐ No
- Is there in place a written policy designed to encourage diversity in the range of persons available for promotion ☐ Yes ☐ No
- Does the promotion process provide for an independent complaint procedure ☐ Yes ☐ No

<sup>27</sup> Promotion of judges in the sense of this sub-question and sub-question 5e also covers applications by judges to a new judicial position within the judicial system.

<sup>28</sup> In the context of this question 5d) a decision includes a binding proposal addressed to the body which formally makes the relevant decision.

<sup>29</sup> Promotion of judges in the sense of this sub-question and sub-question 5d also covers applications by judges to new judicial position within the judicial system.

## 6. Disciplinary measures

### 6a) Are disciplinary measures against judges in accordance with ENCJ standards, namely

- Is there a list of types of judicial conducts/ethics the breach of which would be unacceptable? ☐ Yes ☐ No
- Is there a time limit for the conducting of the investigation, the making of a decision and the imposition of any sanction? ☐ Yes ☐ No
- Is the name of the judge withheld prior to any sanction being imposed? ☐ Yes ☐ No
- Does a judge have the right to be legally represented or assisted by a person of her/his choosing? ☐ Yes ☐ No
- Is there is a right of appeal by way of judicial review or cassation appeal? ☐ Yes ☐ No

### 6b) Which is the competent body to make the following decisions in the context of disciplinary procedures against judges?:

- (a) Proposal for the appointment of a member of the disciplinary body for judges
- (b) Decision on the appointment of a member of the disciplinary body for judges
- (c) Investigation of a complaint against a judge
- (d) Proposal for a disciplinary decision regarding a judge
- (e) Disciplinary decision regarding a judge
- (f) Decision on the follow-up to a complaint against the Judiciary/a judge

	a)	b)	c)	d)	e)	f)
The Judiciary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The executive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The legislature	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## 7. Non-transferability of judges<sup>30</sup>

**7a. Can a judge be transferred (temporarily or permanently) to another judicial office (to other judicial duties, court or location) without his/her consent?**

- ☐ Yes (If you have answered yes, continue at question 7c)
- ☐ No

**7b. If no, is the non-transferability guaranteed in:**

- ☐ The Constitution or equivalent text
- ☐ Law
- ☐ Jurisprudence

**7c. If yes, which authority or body decides on a (temporary or permanent) transfer of a judge without his/her consent?**

- ☐ The Judiciary
- ☐ The executive
- ☐ The legislature

**7d. For what reasons can a judge be transferred (temporarily or permanently) without his/her consent? [several answers possible]**

For organizational reasons such as:

- ☐ Closure of a court
- ☐ Redeployment of resources on the basis of workload
- ☐ For other reasons (specify): [Click or tap here to enter text.](#)

**7e. At what level are these reasons prescribed?**

- ☐ In law
- ☐ Other (specify): [Click or tap here to enter text.](#)

**7f. In case a judge is transferred (temporarily or permanently) without his/her consent is he/she guaranteed an equivalent post (in terms of a position, salary...)?**

- ☐ Yes
- ☐ No

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<sup>30</sup> Not including neither a measure following disciplinary proceedings nor the situations of withdrawal, recusal and/or challenge of judges and of reallocation of cases.

**7g. Can a judge appeal if he/she is transferred (temporarily or permanently) without his/her consent?**

- ☐ Yes
- ☐ No

**7h. If yes, which authority or body decides on such an appeal?**

- ☐ The Judiciary
- ☐ The executive
- ☐ The legislature
- ☐ Other (specify)

**7i. Can a judge be taken off a case without his/her consent?**

- ☐ Yes
- ☐ No

## **8. Internal independence**

**8a. In your system, can higher ranked judges change a verdict of a lower ranked judge (outside of an appeal system, the precedent doctrine or a preliminary ruling system)?**

- ☐ Yes
- ☐ No

**8b. What kind of decisions can higher ranked judges deliver on their own initiative to ensure the uniformity or consistency of judicial decisions (outside of an appeal system or the precedent doctrine)?**

- ☐ None
- ☐ Non-binding guidelines
- ☐ Binding guidelines

**8c. Can judges at the same level develop guidelines to ensure uniformity or consistency of judicial decisions?**

- ☐ None
- ☐ Non-binding guidelines
- ☐ Binding guidelines

**8d. Can the management of the court exert pressure in individual cases on the way judges handle their cases with respect to the uniformity/consistency?**

- ☐ Yes  
☐ No

**8e. Can the management of the court exert pressure in individual cases on the way judges handle their cases with respect to the timeliness/efficiency of judicial decisions?**

- ☐ Yes  
☐ No

### *Subjective independence*

#### **9. Independence as perceived by society**

*Please don't answer these questions. The data will be filled in by the secretary of the project group for each member and observer.*

**9a. Perceived independence according to Flash Eurobarometer 435 Perceived independence of the national justice systems in the EU among the general public and Flash Eurobarometer 436 - Perceived independence of the national justice systems in the EU among companies**

**Data:** [Click or tap here to enter text.](#)

Percentage of respondents that rate very good or fairly good.

**9b. Perceived independence according to the World Economic Forum Competitiveness Report 2015-2016, item 1.06. Score on 7-point scale .**[Click or tap here to enter text.](#)

**Data:**

**9c. Perceived independence according to the World Justice Rule of Law Index 2015, item 1.2. Percentage of respondents**

**Data:** [Click or tap here to enter text.](#)

**Total score:**[Click or tap here to enter text.](#)

#### **10. Trust in Judiciary**

**10a. Are national opinion surveys available of the past three years in which the trust in the Judiciary is compared with the executive (national government) and legislature (national parliament)?**

- ☐ Yes  
☐ No

**10b. If yes, is the Judiciary:**

- ☐ Ranked higher than the executive and legislature<sup>31</sup>;
- ☐ Ranked approximately equal to the executive and legislature?
- ☐ Ranked below the executive and legislature?

**11. Perceived Judicial corruption**

*Please don't answer this question. The data will be filled in by the secretary of the project group for each member and observer.*

**11a. Perceived Judicial corruption according to EU Anti-Corruption report 2014 is. Percentage of respondents that believe corruption is widespread.**

**12. Independence as perceived by the clients of the courts**

**12a. Are national client satisfaction surveys available of the past three years which contain a question with respect to the perceived independence of the Judiciary?**

- ☐ Yes
- ☐ No

**12b. If yes, please state the percentage of respondents that rate the perceived independence very good or fairly good**[Click or tap here to enter text.](#)

**13. Independence as perceived by judges**

*Please don't answer these questions if your country participated in the ENCJ Survey among professional judges about their independence. The data will be filled in by the secretary of the project group for each member and observer: question 14 of the survey.*[Click or tap here to enter text.](#)

**13a. Are surveys available of the past three years which contain questions with respect to external and internal pressures judges experience during their daily work?**

- ☐ Yes
- ☐ No

**13b. If yes, please state the percentage of respondents that rate the perceived independence very good or fairly good**[Click or tap here to enter text.](#)

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<sup>31</sup> The other two branches of government are Parliament and Executive.



## ACCOUNTABILITY INDICATORS

### *Objective accountability of the Judiciary as a whole*

#### 1. Allocation of cases

##### 1a. Is there a well-defined mechanism for the allocation of cases?

- ☐ Yes
- ☐ No

##### 1b. If yes, where have these criteria been defined? [several answers possible]

- ☐ In well-established practice of the court
- ☐ In an act adopted by the court
- ☐ In implementing regulations
- ☐ In law
- ☐ Other (specify): [Click or tap here to enter text.](#)

##### 1c. What are the criteria for the allocation of cases?

- ☐ Random-based
- ☐ Specialization
- ☐ Experience
- ☐ Workload
- ☐ Other (specify):

##### 1d. Who assigns the cases to judges at the courts?

##### [several answers possible]

- ☐ President of the court assigns cases
- ☐ A member of the court staff assigns cases (e.g. listing officer)
- ☐ A special chamber of the court assigns cases
- ☐ The cases are assigned randomly (e.g. through a computerized system)
- ☐ Other (specify): [Click or tap here to enter text.](#)

##### 1e. Is the allocation of cases subject to supervision within the Judiciary?

- ☐ Yes  
☐ No

**1f. Is the method of allocation of cases publicly accessible?**

- ☐ Yes  
☐ No

**1g. Are the parties entitled to be informed about the allocation of the case prior to the start of the hearing of the case?**

- ☐ Yes  
☐ No

**1h. Is the mechanism of allocation being applied uniformly within the country?**

- ☐ Yes  
☐ No

**1i. Is the motivation for any derogation recorded?**

- ☐ Yes  
☐ No

## **2. Complaints procedure**

**2a. Does the Judiciary or do the individual courts have a complaint procedure?**

- ☐ Yes  
☐ No

**2b. If the answer on 2a. is yes, does this procedure provide for external participation in the complaint procedure<sup>32</sup>:**

- ☐ Yes  
☐ No

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<sup>32</sup> External participation in the complaints procedure refers to the participation of representatives of civil society in the said procedure.

**2c. Is it admissible to complain about: [several answers possible]**

- ☐ Behaviour of the judge
- ☐ Timeliness
- ☐ Administrative mistakes
- ☐ Other (specify): [Click or tap here to enter text.](#)

**2d. Is an appeal against a decision on a complaint possible?**

- ☐ Yes
- ☐ No

**3. Periodic reporting on the Judiciary**

**3a. Is an annual report published on how the Judiciary has discharged its functions?**

- ☐ Yes
- ☐ No

**3b. If the answer to 3a is yes, who publishes the report?**

- ☐ The Judiciary
- ☐ The Executive

**3c. If the answer on 3a. is yes, does this report include data on:**

**[several answers possible]**

- ☐ The number of completed cases?
- ☐ Duration of cases?
- ☐ Disciplinary measures
- ☐ (Successful) complaints
- ☐ (Successful) requests for recusal

**3d. Are the courts periodically and publicly benchmarked with respect to their performance, e.g. timeliness?**

- ☐ Yes
- ☐ No

**4. Relations with the press**

**4a. Do officials (communication officers or press judges) of the courts explain judicial decisions to the media?**

☐ Yes

☐ No

**4b. Has the Judiciary established press guidelines?**

☐ Yes

☐ No

**4c. Does the Judiciary give authorization to broadcast court cases that draw particular public interest on television?**

☐ Yes

☐ No

## **5. External review**

**5a. Is the performance of the courts regularly reviewed or evaluated by external bodies?**

☐ Yes

☐ No

**5b. Who can commission an external review of the Judiciary?**

**[several answers possible]**

☐ The Judiciary

☐ The executive

☐ The legislature

## ***Objective accountability of the judge***

### **6. Code or guidelines of judicial ethics**

**6a. Does the Judiciary have a code or guidelines of judicial ethics?**

- ☐ Yes
- ☐ No

**6b. If the answer to 6a. is yes, is it available to the public?**

- ☐ Yes
- ☐ No

**6c. Is judicial training on judicial ethics available?**

- ☐ Yes
- ☐ No

**6d. Is there a body with responsibility to provide judges with guidance or advice on ethical issues?**

- ☐ Yes
- ☐ No

### **7. Withdrawal and recusal**

**7a. Is a judge obliged to withdraw from adjudicating a case if the judge believes that impartiality is in question or compromised or that there is a reasonable perception of bias?**

- ☐ Yes
- ☐ No

**7b. If yes, what is the source of the obligation to withdraw from adjudicating a case?**

**[one answer possible]**

- ☐ A well-established practice of judges
- ☐ Set in an act adopted by a court
- ☐ Set in an act adopted by the Council for the Judiciary
- ☐ Set in an act adopted by the Minister of justice
- ☐ Set in law
- ☐ Other (specify):

**7c. If a judge disrespects the obligation to withdraw from adjudicating a case, which sanctions could the judge be subjected to?**

**[several answers possible]**

- ☐ Oral warning
- ☐ Written warning
- ☐ Suspension
- ☐ Disciplinary dismissal
- ☐ None

**7d. Which authority or body takes the first decision on a request for recusal by a party who considers that a judge is partial / biased? [several answers possible]**

- ☐ The Judiciary
- ☐ The executive
- ☐ Other (specify): [Click or tap here to enter text.](#)

**7e. Is an appeal against a decision on a request for recusal possible?**

- ☐ Yes
- ☐ No

**7f. If yes, which authority or body decides on such an appeal?**

- ☐ The Judiciary
- ☐ The executive
- ☐ Other (specify): [Click or tap here to enter text.](#)

## **8. Admissibility of accessory functions and disclosure of interests**

**8a. Are judges allowed to have other functions?**

- ☐ Yes
- ☐ No (If you have answered no, continue at question 8f)

**8b. Is an authorisation for the exercise of accessory functions by judges necessary?**

- ☐ Yes
- ☐ No

**8c. If the answer to 8b. is yes, who gives authorisation?**

- ☐ The Judiciary
- ☐ The Executive
- ☐ The Legislature

**8d. If 8a is yes, is there a register of the other jobs and/or functions judges have?**

- ☐ Yes
- ☐ No

**8e. If the answer to 8d is yes is this register public?**

- ☐ Yes
- ☐ No

**8f. Is there a register which discloses financial interests judges may have?**

- ☐ Yes, please specify the minimum amount which needs to be disclosed: [Click or tap here to enter text.](#)
- ☐ No

**8g. If the answer to 8f is yes, is this register public?**

- ☐ Yes
- ☐ No

## **9. Understandable proceedings**

**9a. Are judges obliged to assist parties and court users in understanding the proceedings?**

- ☐ Yes
- ☐ No

**9b. In providing the assistance referred to in question 9a, are judges required to have particular regard for any of the following categories of court users?:**

- ☐ Children
- ☐ Youth
- ☐ Disabled people (physically/mentally)
- ☐ Victims
- ☐ Those for whom the national language is not their mother tongue
- ☐ Self-represented litigants

**9c. Do judges get training in how to: [several answers possible]**

- ☐ Conduct hearings in an understandable manner to court users?
- ☐ Explain the proceedings in an understandable manner to court users?
- ☐ Explain the decisions in an understandable manner to court users?
- ☐ Conduct hearings/explain the proceedings/explain the decisions in an understandable manner, in particular in relation to the categories identified in question 9b)?

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1. Allocation of cases	1a-1b	1c	1d	1e	1f	1g	1h	1i										17	score17x10
	Law=3 Act=2 PradReg/Other=1	Random/specialization	Random=4 Special Chamber=1 Staff=2 Other=1 President=0	Yes=1 No=0	Yes=1 No=0	Yes=1 No=0	Yes=1 No=0	Yes=1 No=0											
2. Complaints procedure	2a-2d																	7	score7x10
	Yes=1 No=0 Max=7																		
3. Periodic reporting	3a-3d																		
	Yes=1 No=0 Max=18																	18	score18x10
4. Relation with press	4a-4c																	3	score3x10
	Yes=1 No=0 Max=3																		
5. External review	5a	5b																5	score5x10
	Yes=1 No=0 Max=4	Judiciary=2 Legislature=1 Executive=1																	
6. Code of judicial ethics	6a-6b	6c	6d															4	score4x10
	Yes=1 No=0 Max=2	Yes=1 No=0	Yes=1 No=0																
7. Withdrawal and recusal	7a	7b	7c	7d	7e-7f													15	score15x10
	Yes=1 No=0	Law=5 Council Act=4 Court Act=3 Practice/Dir=2 Maj act=1	Max=4 Oral W=1 Written W=1 Suspension=1 Disc dismissal=1	Judiciary=2 Other=1 Executive=0	Judiciary=3 Other=2 Executive=1														
8. Accessory functions/disclosure	8a	8b&8c	8d	8e	8f	8g												20	score20x10
	No=10 Yes=0	Yes=1 No=0 max=3	Yes=1 No=0	Yes=1 No=0	Yes=1 No=0	Yes=1 No=0													
9. Understandable proceedings	9a-9b	9b	9c																
	Yes=1 No=0 max=6	Yes=1 No=0 max=3	Yes=1 No=0 max=4																
																		11	score11x10

## 12. Annex 3 Data Members and Observers I&A Questionnaire 2016-2017

Questionnaire 2017	Netherlands	Belgium	Bulgaria	Croatia	Denmark	Eng Wal	France	Hungary	Ireland	Italy	Latvia	Lithuania	Poland	Portugal	Romania	Scotland	Slovakia	Slovenia	Spain
Members																			
Legal basis of independence	7.4	7.1	7.9	7.3	5.4	5.6	6.0	8.9	6.5	7.9	6.3	5.4	7.5	5.2	7.3	5.6	8.4	7.9	7.3
Council for the Judiciary	8.2	9.4	10.0	9.4	9.4	6.5	7.6	10.0	4.1	9.4	3.5	10.0	6.5	6.5	8.8	5.9	8.2	10.0	8.8
Funding for the Judiciary	8.5	4.3	6.1	5.1	9.0	7.9	7.5	8.3	5.9	4.3	7.0	6.2	2.5	2.6	4.2	7.5	4.7	5.1	4.1
Court Management	10.0	3.8	8.8	5.0	10.0	3.8	8.1	10.0	10.0	2.5	3.8	8.1	4.4	1.9	5.6	4.4	5.0	7.5	3.1
HR decision about Judges	6.9	7.4	9.2	8.8	8.2	7.3	7.8	8.7	2.1	10.0	5.7	5.7	8.5	8.4	8.6	6.7	7.1	7.9	10.0
Disciplinary measures	9.0	9.0	10.0	10.0	7.2	10.0	9.2	9.0	0.0	9.2	9.6	10.0	9.6	10.0	9.6	10.0	9.2	9.6	10.0
Non-transferability of judges	8.9	7.0	9.0	9.0	10.0	8.0	10.0	9.0	4.0	10.0	7.0	2.6	9.5	10.0	10.0	5.5	9.5	10.0	10.0
Internal Independence	7.9	8.9	8.2	3.6	8.9	8.9	8.9	7.1	9.6	8.9	7.9	10.0	8.9	10.0	7.9	7.9	7.9	6.8	8.9
Perceived by society	8.5	7.3	3.4	4.0	9.0	8.2	6.7	4.3	8.4	4.9	4.8	5.4	5.2	5.9	6.0	8.2	2.7	4.5	5.1
Trust in Judiciary	10.0	10.0	0.0	6.7	10.0	10.0	0.0	10.0	0.0	10.0	10.0	10.0	10.0	3.3	10.0	10.0	0.0	10.0	10.0
Perceived judicial corruption	7.0	5.0	1.0	1.0	9.0	7.0	7.0	7.0	7.0	5.0	3.0	1.0	5.0	1.0	1.0	7.0	1.0	1.0	3.0
Perceived by clients	7.8	0.0	0.0	0.0	10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Perceived by judges	9.1	8.2	6.6	7.0	9.8	9.3	7.6	0.0	9.1	8.1	6.7	7.3	7.7	7.9	8.1	9.3	7.7	7.4	7.5
Allocation of cases	4.1	4.7	9.4	8.2	6.5	5.9	7.1	8.2	4.1	7.1	7.1	7.6	6.5	8.2	8.2	6.5	8.2	7.1	8.2
Complaints procedure	7.1	7.1	8.6	4.3	8.6	8.6	7.1	7.1	5.7	8.6	8.6	7.1	8.6	8.6	10.0	8.6	7.1	8.6	7.1
Periodic reporting	10.0	4.4	8.9	2.2	10.0	9.7	9.4	3.9	0.0	8.9	3.6	3.3	3.3	0.0	10.0	9.2	8.3	8.9	9.4
Relation with press	10.0	6.7	10.0	10.0	10.0	10.0	10.0	6.7	0.0	6.7	10.0	6.7	10.0	0.0	6.7	10.0	3.3	3.3	10.0
External review	6.0	10.0	10.0	4.0	4.0	8.0	4.0	6.0	0.0	8.0	10.0	4.0	8.0	4.0	6.0	10.0	8.0	0.0	6.0
Code of judicial ethics	10.0	10.0	10.0	7.5	7.5	10.0	10.0	10.0	0.0	7.5	10.0	10.0	10.0	2.5	10.0	10.0	10.0	10.0	10.0
Withdrawal and recusal	6.7	10.0	8.7	7.3	10.0	10.0	10.0	6.7	5.3	9.3	8.7	7.3	8.7	7.3	10.0	10.0	6.7	8.7	8.7
Accessory functions/disclosure	5.0	1.0	5.0	10.0	5.0	3.0	6.5	5.5	5.0	4.0	8.0	3.0	8.0	5.0	5.0	3.0	7.0	5.5	5.0
Understandable proceedings	10.0	6.1	8.1	8.9	10.0	10.0	10.0	10.0	6.7	8.9	5.3	10.0	10.0	0.0	10.0	10.0	9.4	7.2	9.2

Questionnaire 2017						
Observers		Austria	Finland	Germany	Norway	Sweden
Legal basis of independence		7,5	6,2	8,4	5,4	5,7
Council for the Judiciary		7,8	7,8	10,0	8,2	4,4
Funding for the Judiciary		5,7	4,1	8,2	8,2	6,7
Court Management		3,1	5,0	5,6	8,8	5,6
HR decision about judges		5,3	3,3	7,5	4,4	5,2
Disciplinary measures		8,0	2,9	5,7	7,2	3,4
Non-transferability of judges		9,0	4,0	10,0	9,5	8,0
Internal Independence		10,0	7,9	10,0	8,9	6,8
Perceived by society		7,8	8,9	7,9	9,3	8,2
Trust in Judiciary		10,0	0,0	0,0	10,0	10,0
Perceived judicial corruption		7,0	9,0	8,5	0,0	9,0
Perceived by clients		0,0	0,0	7,8	0,0	0,0
Perceived by judges		8,9	9,4	8,5	9,2	8,6
Allocation of cases		8,8	4,1	8,8	2,9	7,1
Complaints procedure		5,7	7,1	8,6	5,7	0,0
Periodic reporting		0,0	7,8	3,1	9,2	2,2
Relation with press		6,7	3,3	6,7	10,0	6,7
External review		10,0	0,0	0,0	0,0	4,0
Code of judicial ethics		7,5	7,5	7,5	10,0	7,5
Withdrawal and recusal		10,0	8,1	10,0	8,0	8,0
Accessory functions/disclosure		0,0	7,5	6,5	9,5	3,5
Understandable proceedings		10,0	4,2	10,0	9,4	3,3

## 13. Annex 4 Questionnaire Quality 2016-2017

**General remark: This questionnaire is filled in by representatives of the Council or equivalent body, but the answers should reflect the opinion in the courts.**

### A. Timeliness and case management

#### Indicator A1: standards for the duration of cases

1.1 Are standards<sup>33</sup> - either formal or informal - for the duration of cases at first instance courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.2 If the answer to 1.1 is yes, do standards apply to the overall procedure (from beginning to end), to specific phases of procedures such as the time between hearing and decision, or to both?

	Criminal cases	Civil Cases
The overall procedure	<input type="checkbox"/>	<input type="checkbox"/>
Specific phases of procedures	<input type="checkbox"/>	<input type="checkbox"/>

1.3 Are standards<sup>34</sup> - either formal or informal - for the duration of cases in place at appeal courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.4 If the answer to 1.3 is yes, do standards apply to the overall procedure (from beginning to end), to specific phases of procedures such as for the time between hearing and decision, or both?

	Criminal cases	Civil Cases
The overall procedure	<input type="checkbox"/>	<input type="checkbox"/>
Specific phases of procedures	<input type="checkbox"/>	<input type="checkbox"/>

1.5 What is the status of the standards?

	Criminal cases	Civil Cases
Prescription	<input type="checkbox"/>	<input type="checkbox"/>
Target	<input type="checkbox"/>	<input type="checkbox"/>
Recommendation	<input type="checkbox"/>	<input type="checkbox"/>
Aspiration	<input type="checkbox"/>	<input type="checkbox"/>

1.6 What is the source of the standards?

	Criminal cases	Civil Cases
Law	<input type="checkbox"/>	<input type="checkbox"/>

<sup>33</sup> Standard in used here in the sense of norm. A standard can be implemented in diverse ways, ranging from law to custom.

<sup>34</sup> Standard in used here in the sense of norm. A standard can be implemented in diverse ways, ranging from law to custom.

Regulations of the Judiciary as a whole	<input type="checkbox"/>	<input type="checkbox"/>
Court regulations	<input type="checkbox"/>	<input type="checkbox"/>
Professional practice	<input type="checkbox"/>	<input type="checkbox"/>

1.7 Are standards ambitious at the first instance courts?

	Criminal cases	Civil Cases
can be easily achieved	<input type="checkbox"/>	<input type="checkbox"/>
require some effort	<input type="checkbox"/>	<input type="checkbox"/>
require real effort	<input type="checkbox"/>	<input type="checkbox"/>
require hard effort	<input type="checkbox"/>	<input type="checkbox"/>

1.8 Are standards ambitious at the appeal courts?

	Criminal cases	Civil Cases
can be easily achieved	<input type="checkbox"/>	<input type="checkbox"/>
require some effort	<input type="checkbox"/>	<input type="checkbox"/>
require real effort	<input type="checkbox"/>	<input type="checkbox"/>
require hard effort	<input type="checkbox"/>	<input type="checkbox"/>

1.9 Are standards realized in practice in first instance courts?

	Criminal cases	Civil Cases
All courts	<input type="checkbox"/>	<input type="checkbox"/>
Most courts	<input type="checkbox"/>	<input type="checkbox"/>
Some courts	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

1.10 If the standards are not fully realized, is this caused by a lack of human resources or budgets?

	Criminal cases	Civil Cases
Human resources	<input type="checkbox"/>	<input type="checkbox"/>
Budget	<input type="checkbox"/>	<input type="checkbox"/>

1.11 Are standards realized in practice in appeal courts?

	Criminal cases	Civil Cases
All courts	<input type="checkbox"/>	<input type="checkbox"/>
Most courts	<input type="checkbox"/>	<input type="checkbox"/>
Some courts	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

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1.12 If the standards are not fully realized, is this caused by a lack of human resources or budgets?

	Criminal cases	Civil Cases
Human resources	<input type="checkbox"/>	<input type="checkbox"/>
Budget	<input type="checkbox"/>	<input type="checkbox"/>

1.13 Is information about the realization of timeliness standards accessible to the public?

	Criminal cases	Civil Cases
Available on website	<input type="checkbox"/>	<input type="checkbox"/>
Available upon request	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.14 Are court management practices available to facilitate implementation?

	Criminal cases	Civil Cases
All courts	<input type="checkbox"/>	<input type="checkbox"/>
Most courts	<input type="checkbox"/>	<input type="checkbox"/>
Some courts	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

1.15 What happens in case judges do not meet the standards?

	Criminal cases	Civil Cases
Discussion between court management and judge to comply or explain	<input type="checkbox"/>	<input type="checkbox"/>
Administrative measures (For example: reducing case load, re-allocating resources)	<input type="checkbox"/>	<input type="checkbox"/>
Disciplinary measures	<input type="checkbox"/>	<input type="checkbox"/>

1.16 What is the overall<sup>35</sup> impact of standards in practice on the following in criminal and civil cases?

<b>Criminal cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>35</sup> To simplify no distinction is made between first instance and appeal courts in this question.

<b>Civil cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Indicator A2: authority of judges to determine procedures**

2.1 Do judges at first instance courts have the authority to determine the procedure in a case (to fit the procedure to the case), whether or not after hearing parties?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

2.2 Is this authority actually used in relevant cases in first instance courts?

	Criminal cases	Civil Cases
Most of the time	<input type="checkbox"/>	<input type="checkbox"/>
Regularly	<input type="checkbox"/>	<input type="checkbox"/>
Occasionally	<input type="checkbox"/>	<input type="checkbox"/>
On a rare exception	<input type="checkbox"/>	<input type="checkbox"/>
Never	<input type="checkbox"/>	<input type="checkbox"/>

2.3 Do judges at first instance courts have the authority to enforce the determined procedure if a party does not conform?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

2.4 Do judges at appeal courts have the authority to determine the procedure in a case (to fit the procedure to the case), whether or not after hearing parties?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

2.5 Is this authority actually used in relevant cases in appeal courts?

	Criminal cases	Civil Cases
Most of the time	<input type="checkbox"/>	<input type="checkbox"/>
Regularly	<input type="checkbox"/>	<input type="checkbox"/>

Occasionally	<input type="checkbox"/>	<input type="checkbox"/>
On a rare exception	<input type="checkbox"/>	<input type="checkbox"/>
Never	<input type="checkbox"/>	<input type="checkbox"/>

2.6 Do judges at the appeal courts have the authority to enforce the determined procedure if a party does not conform?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

2.7 What is the overall<sup>36</sup> impact of the authority of judges to determine procedures in criminal and civil cases?

<b>Criminal Cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to Justice	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Quality of decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Efficiency	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Civil cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to Justice	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Quality of decisions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Efficiency	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Indicator A3: summary / simplified procedures<sup>37</sup>

3.1 Are summary or simplified procedures available in first instance courts?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

<sup>36</sup> To simplify no distinction is made between first instance and appeal courts in this question.

<sup>37</sup> As indicated by Opinion no 6 of the CCJE, there are major differences in terminology in this area. Not all states understand the concept of summary, simplified and accelerated procedures in the same sense. Please answer this question according to your system, with a short-cut or fast-track procedure in mind.



### 3.2 Do limitations apply to these procedures in first instance courts?

- time pressure required

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

- Petty crime or low value of the case required

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

- exclusion of specific cases

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

### 3.3 Are summary procedures used in practice in first instance courts?

	Criminal cases	Civil Cases
Regularly	<input type="checkbox"/>	<input type="checkbox"/>
Occasionally	<input type="checkbox"/>	<input type="checkbox"/>
On a rare exception	<input type="checkbox"/>	<input type="checkbox"/>
Never	<input type="checkbox"/>	<input type="checkbox"/>

### 3.4 Are summary procedures available in appeal courts?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

### 3.5 Do limitations apply to these procedures in appeal courts?

- time pressure required

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

- petty crime or low value of the case

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

- exclusion of specific cases

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

### 3.6 Are summary procedures used in practice in appeal courts?

	Criminal cases	Civil Cases
Regularly	<input type="checkbox"/>	<input type="checkbox"/>
Occasionally	<input type="checkbox"/>	<input type="checkbox"/>
On a rare exception	<input type="checkbox"/>	<input type="checkbox"/>
Never	<input type="checkbox"/>	<input type="checkbox"/>

### 3.7 What is the overall<sup>38</sup> impact of summary procedures in criminal and civil cases?

<b>Criminal cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civil cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Indicator A4: digital case filing and digital procedures

#### 4.1 Can cases be digitally filed in first instance courts?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
No digital filing	<input type="checkbox"/>	<input type="checkbox"/>

#### 4.2 Can cases be digitally filed in appeal courts?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>

<sup>38</sup> To simplify no distinction is made between first instance and appeal courts in this question.

Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
No digital filing	<input type="checkbox"/>	<input type="checkbox"/>

4.3 Can procedures be conducted digitally in the sense that all communications are digital, except for the hearing?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
No digital filing	<input type="checkbox"/>	<input type="checkbox"/>

4.4 Can litigants inform themselves digitally about the progression of their cases?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
No digital filing	<input type="checkbox"/>	<input type="checkbox"/>

4.5 What is the impact of digital filing and procedures in criminal and civil cases in first instance courts?:

<b>Criminal cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civil cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.6 What is the impact of digital filing and procedures in criminal and civil cases in appeal courts?

<b>Criminal cases</b>	Very positive	Positive	Neutral	Negative	Very negative
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Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civil cases</b>	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### Indicator A5: Specialization of courts and judges

##### 5.1 Do specialized courts exist at first instance level?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

##### 5.2 Do specialized chambers exist within first instance courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

##### 5.3 Do specialized rules of procedure exist for cases handled by specialized first instance courts/chambers?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

##### 5.4 Do specialized courts exist at appeal level?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

##### 5.5 Do specialized chambers exist within appeal courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

##### 5.6 Do specialized rules of procedure exist for cases handled by specialized appeal courts/chambers?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>

No	<input type="checkbox"/>	<input type="checkbox"/>
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5.7 Does specialization in first instance courts have impact on:

	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5.8 Does specialization in appeal courts have impact on:

	Very positive	Positive	Neutral	Negative	Very negative
Duration of cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## B. Due process from the perspective of accessibility

### Indicator B1: Legal representation

1.1 In civil and criminal cases, do parties have the legal option **not** to be represented by a lawyer?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.2 If so, does this situation occur in practice?

	Criminal cases	Civil Cases
Often	<input type="checkbox"/>	<input type="checkbox"/>
Not often	<input type="checkbox"/>	<input type="checkbox"/>

1.3 In civil and criminal cases, are mechanisms in place in case one party is represented by a lawyer and the other party is not?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.4 If the answer to 1.3 is yes:

(i) can the court order legal representation?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

(ii) can the court offer legal representation?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.5 If not or if a party chooses not to be represented despite an order or offer being made by the court, is the judge entitled to take active steps to avoid that parties are being disadvantaged by the difference in knowledge and experience when hearing the case?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.6 In civil and criminal cases, how common is it that the judge steps in to avoid that parties are being disadvantaged?

	Criminal cases	Civil Cases
Often	<input type="checkbox"/>	<input type="checkbox"/>
Occasionally	<input type="checkbox"/>	<input type="checkbox"/>
Never	<input type="checkbox"/>	<input type="checkbox"/>

#### Indicator B2: Equality of arms (funding and costs)

2.1 Is there a system under which public funding can be provided to litigants without means to pay for litigation themselves?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

2.2 If the answer to question 2.1 is yes, is the public funding sufficient for:

	Criminal cases	Civil Cases
All litigants who need it	<input type="checkbox"/>	<input type="checkbox"/>
Most litigants who need it	<input type="checkbox"/>	<input type="checkbox"/>
Some litigants who need it	<input type="checkbox"/>	<input type="checkbox"/>

2.3 Does an unsuccessful litigant in a civil case generally have to pay the costs of the successful party?

- ☐ In full
- ☐ Partly
- ☐ No

#### Indicator B3: Commensurate effort of judges (do complex cases get appropriate attention?)

3.1 Are rules or regulations in place to decide whether a case is decided by a single judge or a panel of judges in first instance courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

3.2 Is the judge able to spend the time that he thinks is necessary on a case in first instance courts?

<b>Criminal cases</b>	Yes	No
Regular case	<input type="checkbox"/>	<input type="checkbox"/>
Complex case	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civil cases</b>	Yes	No
Regular case	<input type="checkbox"/>	<input type="checkbox"/>
Complex case	<input type="checkbox"/>	<input type="checkbox"/>

3.3 Are rules or regulations in place to decide whether a case is decided by a single judge or a panel of judges in appeal courts?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

3.4 Is the judge able to spend the time that he thinks is necessary on a case in appeal courts?

<b>Criminal cases</b>	Yes	No
Regular case	<input type="checkbox"/>	<input type="checkbox"/>
Complex case	<input type="checkbox"/>	<input type="checkbox"/>
<b>Civil cases</b>	Yes	No
Regular case	<input type="checkbox"/>	<input type="checkbox"/>
Complex case	<input type="checkbox"/>	<input type="checkbox"/>

#### Indicator B4: Transparency

4.1 Generally do all litigants in a case have access to all documents presented to the court?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### Indicator B5: Dealing with abusive conduct

5.1 Is the judge able to take action to prevent abusive conduct by parties and/or their lawyers?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

5.2 If the answer to 6.1 is yes, can the judge do any of the following (please indicate) as many as are applicable):

	Criminal cases	Civil Cases
Stop or stay the proceedings	<input type="checkbox"/>	<input type="checkbox"/>

Speed up the proceedings	<input type="checkbox"/>	<input type="checkbox"/>
Makes adverse costs orders	<input type="checkbox"/>	<input type="checkbox"/>
Impose fines	<input type="checkbox"/>	<input type="checkbox"/>
Report to a disciplinary body	<input type="checkbox"/>	<input type="checkbox"/>

### Indicator B6: Availability of appeal

#### 6.1 Can an unsuccessful litigant bring an appeal?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

#### 6.2 Is there a requirement for permission to appeal?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

#### 6.3 Is it possible to appeal on the facts (and so not only on the law)?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### 6.4 If an appeal is brought, is the court able to suspend the execution of the decision of the first instance court, depending on the case at hand?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

### Indicator B7: Communication

#### 7.1 Are procedures available in all official languages?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### 7.2 Are procedures available in non-official languages that are used by national minorities?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### 7.3 Does the court provide translation facilities when necessary?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>



No	<input type="checkbox"/>	<input type="checkbox"/>
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#### Indicator B8: Access for people with disabilities

8.1 Are special procedural arrangements available for people with disabilities?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

8.2 Are special physical arrangements available for people with disabilities?

- ☐ Yes  
☐ No

8.3 Is information about the courts and justice system available for people with disabilities? (i.a. website for vision impaired)

- ☐ Yes  
☐ No

8.4 Are judges trained in dealing with people with disabilities?

- ☐ Yes  
☐ No

### C. Quality of judicial decisions

#### Indicator C1: Reasoning of judgements and verdicts

1.1 In civil and criminal cases, are judgments or verdicts dealing with substantive issues reasoned either orally or in written form?

	Criminal cases	Civil Cases
All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

1.2 If so, is this requirement based on (material) law, court regulations, practice?

	Criminal cases	Civil Cases
Law	<input type="checkbox"/>	<input type="checkbox"/>
Appeal court rulings (material law)	<input type="checkbox"/>	<input type="checkbox"/>
Regulations of the Judiciary as a whole		
Court regulation	<input type="checkbox"/>	<input type="checkbox"/>
Practice	<input type="checkbox"/>	<input type="checkbox"/>

1.3 In civil and criminal cases, is reasoning restricted ?

	Criminal cases	Civil Cases
--	----------------	-------------

All types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Most types of cases	<input type="checkbox"/>	<input type="checkbox"/>
Some types of cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

1.4 If so, is this requirement based on (material) law, court regulations, practice?

	Criminal cases	Civil Cases
Law	<input type="checkbox"/>	<input type="checkbox"/>
Appeal court rulings (material law)	<input type="checkbox"/>	<input type="checkbox"/>
Regulations of the Judiciary as a whole		
Court regulation	<input type="checkbox"/>	<input type="checkbox"/>
Practice	<input type="checkbox"/>	<input type="checkbox"/>

1.5 Are judgements or verdicts in civil and criminal cases that are given orally (i.e. not in writing) transcribed?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

## Indicator C2: Clarity of verdicts and judgments

2.1 Is clear and simple language required by law, regulations or practice?

	Criminal cases	Civil Cases
Law	<input type="checkbox"/>	<input type="checkbox"/>
Regulations of the Judiciary as a whole	<input type="checkbox"/>	<input type="checkbox"/>
Court regulations	<input type="checkbox"/>	<input type="checkbox"/>
Professional practice	<input type="checkbox"/>	<input type="checkbox"/>

2.2 If so, is this put into practice?

	Criminal cases	Civil Cases
All cases	<input type="checkbox"/>	<input type="checkbox"/>
Most cases	<input type="checkbox"/>	<input type="checkbox"/>
Some cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

2.3 For whom are reasons primarily written?

	Criminal cases	Civil Cases
Litigants	<input type="checkbox"/>	<input type="checkbox"/>
Public in general	<input type="checkbox"/>	<input type="checkbox"/>

Other judges (such as appeal courts, Supreme Court)	<input type="checkbox"/>	<input type="checkbox"/>
Evaluation authorities	<input type="checkbox"/>	<input type="checkbox"/>

#### 2.4 Are guidelines available on the clarity of judgements?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### 2.5 If yes, by ...

	Criminal cases	Civil Cases
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>
Council for the Judiciary	<input type="checkbox"/>	<input type="checkbox"/>
Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>
Other judges	<input type="checkbox"/>	<input type="checkbox"/>

#### 2.6 Are there guidelines available to enable judgements to be accessible by disabled people?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

### Indicator C3: Concise judgments

#### 3.1 [Please insert an "x" into the box if the answer is YES.]

- a) Do requirements exist that lead to unnecessarily long judicial decisions? (e.g. requirement to address all arguments)
- b) Do requirements exist that lead to short judicial decisions

	a	b
First instance, civil law	<input type="checkbox"/>	<input type="checkbox"/>
First instance, criminal law	<input type="checkbox"/>	<input type="checkbox"/>
Appeal, civil law	<input type="checkbox"/>	<input type="checkbox"/>
Appeal, criminal law	<input type="checkbox"/>	<input type="checkbox"/>

#### 3.2 Besides the requirements such as they are, do any of the following also in practice lead to long judicial decisions?

- ☐ Enhancement of career
- ☐ Concern for criticism from appeal
- ☐ Lack of experience as a judge

- ☐ Overly academic approach
- ☐ 'Copy paste' from previous or other decisions

3.3. Estimate the average length of a judgment and verdict in both civil and criminal cases.  
*[Please tick the box that corresponds with the estimated average size\* in the table below]*

Civil case: about breach of contract regarding the delivery of goods in which the lawyers raise many issues about evidence.

Criminal case: about a murder in which the lawyer raises many factual and procedural issues.

\*One page equals 350 words.

	0-5 pages	5-20 pages	20-40 pages	40-60 pages	60-80 pages	80- 100 pages	100+ pages
First instance, civil law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
First instance, criminal law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appeal, civil law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Appeal, criminal law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### **Indicator C4: Effective judgments**

4.1 Are judgements in civil cases specific enough to be enforceable?

- ☐ Yes
- ☐ No

#### **Indicator C5: Assessment of quality of judgments and verdicts**

5.1 Is there a mechanism (outside the appeal process) to assess the individual quality of judgments?

- ☐ Yes
- ☐ No

5.2 If the answer to 5.1 is yes, does this mechanism apply to first instance and appeal courts?

- ☐ First instance
- ☐ Appeal

5.3 If the answer to 5.1 is yes, does the mechanism involve a sample of judgments?

- ☐ Yes
- ☐ No

5.4 Does the mechanism involve peer review?

- ☐ Yes
- ☐ No

5.5 Scope of assessment: craftsmanship, merits of judgments.

- ☐ Craftsmanship

☐ Merit of judgments

5.6 Is the assessment meaningful (for example, are not all judgments automatically seen as good?)

☐ Yes

☐ No

5.7 Are appeal rates used as proxy for quality of judgments and verdicts?

☐ Yes

☐ No

5.8 Is the quality of judgments and verdicts part of customer satisfaction surveys of the courts, if any?

☐ Yes

☐ No

5.9 Is the quality of judgments evaluated by other methods, such as studies about specific aspects of judgments such as readability?

☐ Yes

☐ No

#### **D. Providing public access to the law to guide society**

##### **Indicator D1: Access to case law**

1.1 Are judicial decisions published<sup>39</sup>?

	Criminal cases	Civil Cases
All cases	<input type="checkbox"/>	<input type="checkbox"/>
Most cases	<input type="checkbox"/>	<input type="checkbox"/>
Some cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

1.2 Are summaries of judicial decisions published?

	Criminal cases	Civil Cases
All cases	<input type="checkbox"/>	<input type="checkbox"/>
Most cases	<input type="checkbox"/>	<input type="checkbox"/>
Some cases	<input type="checkbox"/>	<input type="checkbox"/>
None	<input type="checkbox"/>	<input type="checkbox"/>

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

	Criminal cases	Civil Cases
--	----------------	-------------

Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

1.4 Is statistical information about the outcomes of cases made available by the courts for the public?

	Criminal cases	Civil Cases
Yes	<input type="checkbox"/>	<input type="checkbox"/>
No	<input type="checkbox"/>	<input type="checkbox"/>

#### **Indicator D2: Opening up to the public**

2.1 Is the public informed through official sources (e.g. publications, websites, etc) about core judicial values such as independence, impartiality, application of the law?

- ☐ Yes  
☐ No

2.2 Is the public encouraged to visit the courts and see judges at work?

- ☐ Yes  
☐ No

#### **Indicator D3: new technologies to improve access to justice**

3.1 Are on-line dispute resolution mechanisms available or being developed provided by the courts?

- ☐ Yes  
☐ No

## **14. Annex 5 Scoring Rules Questionnaire Quality 2016- 2017**

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Country:																	max	Formula
Duration of cases	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16		
	yes = 1 2	overall = 2	yes = 1	overall = 2	prescription = 4	Law = 4 Regulation ns whole	hard = 4	hard = 4	All = 9		All = 9		Website = 2	All = 3	Admin. Measure positive = s = 1 2	very positive =		
	no = 0 1	specific = 1		specific = 1	Target = 3 Recommendation = ns court 2	Regulation ns court 2	real = 3	real = 3	Most = 6 HR = -1	Budget = - 1	Most = 6 HR = -1	Budget = - 1	Request = 1	Most = 2 s = 1 2	displ. measures neutral = 0		62 / 62*10	
					Aspiration practice n = 1	Prof. practice = 1	easy = 1	easy = 1	None = 0		None = 0		None = 0			negative = -2 very negative = -4		
	2.1	2.2	2.3	2.4	2.5	2.6	2.7											
Authority of judges to determine procedures	All = 3 time = 4 regularly	most of time = 4 yes = 2		All = 3	most of time = 4 regularly	yes = 2	very positive = 2											26 / 26*10
	Most = 2 = 3	regularly		no = 0 Most = 2 = 3	regularly	no = 0	positive = 1											
	Some = 1 on a rare exc = 1	occasio nally = 2		Some = 1 nally = 2	occasio nally = 2		neutral = 0											
	None = 0	on a rare exc = 1		None = 0	on a rare exc = 1		negative = -1											
Summary / simplified procedures	3.1	3.2	3.3	3.4	3.5	3.6	3.7											
				0	never = 0		very negative = -2											
	All = 3 No = 2	regularly = 3	All = 3	yes = 2	regularly = 3	very positive = 2												32 / 32*10
	Most = 2	yes = 0 2	occasio nally =	Most = 2 no = 0	occasio nally = 2	positive = 1												
	Some = 1	on a rare exc = 1	Some = 1	exc = 1	on a rare exc = 1	neutral = 0												
	None = 0	never = 0	None = 0		never = 0	negative = -1												
							very negative = -2											







Clarity of verdicts and judgments	2.1	2.2	2.3	2.4	2.5	2.6														13 /13 * 10
	Law =4 Regulations whole = 3	All = 3	Litigants = 3	yes = 1	Council = 1 Supreme = 1	Yes = 1 No = 0														
	Regulations court = 2	Most = 2	public = 2	no = 0	Other = 1															
	Prof. practice = 1	Some = 1	Other judges = 1		Other = 1															
Concise judgments	3.1	3.2	3.3																	12 /12*10
	Yes = 1		0-20 = 2																	
	no = 0	Yes = -1	20 - 40 = 1																	
Effective judgments		No = 0	40 - 100 = 0																	1 /1*10
	4.1																			
	Yes = 1 No = 0																			
Assessment of quality of judgments and verdicts	5.1	5.2	5.3	5.4	5.5	5.6	5.7	5.8	5.9											14 /14*10
	Yes = 1	Yes = 1	Yes = 1	Yes = 2	Craftman ships = 2	Yes = 2	Yes = 0	Yes = 2	Yes = 2											
	No = 0	No = 0	No = 0	no = 0	merit = 0	no = 0	no = -2	no = 0	no = 0											
Access to case law	1.1	1.2	1.3																	8 /8*10
	All = 3	All = 3	Yes = 1																	
	Most = 2	Most = 2	No = 0																	
Opening up to the public	Some = 1	Some = 1																		
	None = 0	None = 0																		
	2.1	2.2																		2 /2*10
New technologies to improve access to justice	Yes = 1	Yes = 1																		
	No = 0	No = 0																		
	3.1																			1 /1*10
	Yes = 1																			
	No = 0																			

## 15. Annex 6 Survey Data 2016-2017

**1a. During the last two years I have been under inappropriate pressure to take a decision in a case or part of a case in a specific way.**

Question 1a	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	11	2	32
Austria	648	24	10	614
Belgium	217	12	8	197
Bulgaria	250	8	6	236
Croatia	119	14	7	98
Czech Republic	990	45	22	923
Denmark	200	3	1	196
Estonia	82	6	0	76
Finland	238	9	1	228
France	265	17	10	238
Germany	3.017	109	51	2.857
Ireland	60	3	1	56
Italy	416	30	10	376
Latvia	224	24	23	177
Lithuania	147	18	16	113
Montenegro	8	0	1	7
Netherlands	575	20	7	548
Norway	340	10	0	330
Poland	696	49	25	622
Portugal	175	5	4	166
Romania	334	10	4	320
Serbia	153	8	13	132
Slovakia	250	15	10	225
Slovenia	152	13	6	133
Spain	718	72	35	611
Sweden	488	35	12	441
United Kingdom	905	48	8	849
Total	11.712	618	293	10.801

**1a. During the last two years I have been under inappropriate pressure to take a decision in a case or part of a case in a specific way. 1b. If you agree or strongly agree, did this occur:**

Question 1a+1b	Response	Regularly	Occasionally	Very rarely	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	0	5	6	2	32
Austria	648	3	5	16	10	614
Belgium	216	2	5	4	8	197
Bulgaria	249	1	2	4	6	236
Croatia	118	1	3	9	7	98

Czech Republic	986	3	13	25	22	923
Denmark	200	0	1	2	1	196
Estonia	82	1	3	2	0	76
Finland	237	0	3	5	1	228
France	264	1	8	7	10	238
Germany	3.016	23	48	37	51	2.857
Ireland	60	0	2	1	1	56
Italy	413	3	16	8	10	376
Latvia	224	2	13	9	23	177
Lithuania	146	1	5	11	16	113
Montenegro	8	0	0	0	1	7
Netherlands	572	1	4	12	7	548
Norway	340	0	2	8	0	330
Poland	695	8	15	25	25	622
Portugal	175	2	2	1	4	166
Romania	334	2	4	4	4	320
Serbia	154	1	7	1	13	132
Slovakia	248	1	3	9	10	225
Slovenia	152	1	7	5	6	133
Spain	717	13	35	23	35	611
Sweden	489	1	13	22	12	441
United Kingdom	901	8	21	15	8	849
Total	11.689	79	245	271	293	10.801

**1.c If you agree or strongly agree with 1.1, by whom? Possibilities offered: Parties and their lawyers, Government, Parliament, other Judges (including an association of judges), Court Management (including the Court President), Council for the Judiciary, Supreme court, Constitutional court, Media, Social Media. 3 Most given answers per country:**

	No.1	No.2	No.3
Albania	Parties and their lawyers	Media	Government
Austria	Court Management (including a Court President)	Media, Parties and their lawyers	Other Judges (including an association of judges) Council for the Judiciary , Council for the Judiciary / High council of justice, Government, Media, Other Judges (including an association of judges)
Belgium	Court Management (including a Court President)	Parties and their lawyers Court Management (including a Court President), Parties and their lawyers	Government
Bulgaria	Other Judges (including an association of judges)	Court Management (including a Court President)	Other Judges (including an association of judges)
Croatia	Parties and their lawyers	Court Management (including a Court President), Media	Other Judges (including an association of judges)
Czech Republic	Parties and their lawyers	Court Management (including a Court President), Media	Other Judges (including an association of judges)
Denmark	Court Management (including a Court President), Government, Media, Other Judges (including an association of judges), Parties and their lawyers	-	-
Estonia	Parties and their lawyers	Media	Supreme Court

Finland	Court Management (including a Court President), Parties and their lawyers	Media, Other Judges (including an association of judges), Parliament	-
France	Court Management (including a Court President)	Parties and their lawyers	Other Judges (including an association of judges)
Germany	Court Management (including a Court President)	Parties and their lawyers	Other Judges (including an association of judges)
Ireland	Media, Social Media	Government, Parliament	-
Italy	Parties and their lawyers	Court Management (including a Court President)	Other Judges (including an association of judges)
Latvia	Media	Parties and their lawyers	Court Management (including a Court President), Government
Lithuania	Court Management (including a Court President)	Media	Parties and their lawyers
Montenegro	-	-	-
Netherlands	Court Management (including a Court President), Other Judges (including an association of judges)	Council for the Judiciary , Council for the Judiciary / High council of justice, Parties and their lawyers	Government, Media, Social Media
Norway	Parties and their lawyers	Court Management (including a Court President), Other Judges (including an association of judges)	Media
Poland	Court Management (including a Court President)	Media, Parties and their lawyers	Government
Portugal	Parties and their lawyers	Court Management (including a Court President)	Council for the Judiciary
Romania	Council for the Judiciary	Media, Parties and their lawyers, Supreme Court	Constitutional Court, Government, Social Media
Serbia	Other Judges (including an association of judges), Parties and their lawyers	Court Management (including a Court President)	Council for the Judiciary , Media
Slovakia	Parties and their lawyers	Media	Court Management (including a Court President)
Slovenia	Media, Other Judges (including an association of judges)	Parties and their lawyers	Court Management (including a Court President)
Spain	Parties and their lawyers	Media	Court Management (including a Court President)
Sweden	Parties and their lawyers	Court Management (including a Court President)	Media
United Kingdom	Court Management (including a Court President)	Government	Other Judges (including an association of judges)
Average	-	-	-
Total	Court Management (including a Court President)	Parties and their lawyers	Media

**2a. In my country I believe that during the last two years individual judges have accepted bribes as an inducement to decide case(s) in a specific way.**

<b>Question 2a</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	10	21	14
Austria	648	7	60	581
Belgium	217	3	31	183
Bulgaria	250	72	119	59
Czech Republic	990	172	406	412
Denmark	200	1	0	199
Estonia	82	1	17	64
Finland	238	0	3	235
France	265	10	47	208
Germany	3.017	41	293	2.683
Ireland	60	0	0	60
Italy	416	59	152	205
Latvia	224	67	121	36
Lithuania	147	16	67	64
Montenegro	8	3	3	2
Netherlands	575	1	10	564
Norway	340	2	21	317
Poland	696	19	66	611
Portugal	175	11	33	131
Romania	334	107	135	92
Serbia	153	31	67	55
Slovakia	250	9	88	153
Slovenia	152	26	0	126
Spain	718	57	194	467
Sweden	488	1	8	479
United Kingdom	905	3	6	896
Total	11.712	751	2.020	8.941

**2a. In my country I believe that during the last two years individual judges have accepted bribes as an inducement to decide case(s) in a specific way. 2b. If you agree or strongly agree, did this occur:**

<b>Question 2a+2b</b>	<b>Response</b>	<b>Regularly</b>	<b>Occasionally</b>	<b>On a rare exception</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	1	7	2	21	14
Austria	648	0	3	4	60	581
Belgium	217	0	2	1	31	183
Bulgaria	246	7	36	25	119	59
Croatia	119	2	10	10	52	45
Czech Republic	990	7	29	136	406	412
Denmark	199	0	0	0	0	199
Estonia	82	0	0	1	17	64

Finland	238	0	0	0	3	235
France	265	0	4	6	47	208
Germany	3.016	3	5	32	293	2.683
Ireland	60	0	0	0	0	60
Italy	416	1	25	33	152	205
Latvia	223	1	19	46	121	36
Lithuania	146	0	8	7	67	64
Montenegro	8	0	2	1	3	2
Netherlands	574	0	0	0	10	564
Norway	340	0	2	0	21	317
Poland	694	5	6	6	66	611
Portugal	175	1	5	5	33	131
Romania	333	7	46	53	135	92
Serbia	152	3	14	13	67	55
Slovakia	250	1	6	2	88	153
Slovenia	152	0	4	22	0	126
Spain	717	13	22	21	194	467
Sweden	488	0	0	1	8	479
United Kingdom	903	0	0	1	6	896
Total	11.696	52	255	428	2.020	8.941

**3a. During the last two years I have been affected by a threat of, or actual, disciplinary or other action because of how I have decided a case.**

<b>Question 3a</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	3	3	39
Austria	648	26	18	604
Belgium	217	15	3	199
Bulgaria	250	17	12	221
Croatia	119	10	2	107
Czech Republic	990	21	15	954
Denmark	200	2	2	196
Estonia	82	4	5	73
Finland	238	10	2	226
France	265	15	3	247
Germany	3.017	53	40	2.924
Ireland	60	6	0	54
Italy	416	44	10	362
Latvia	224	40	21	163
Lithuania	147	28	9	110
Montenegro	8	0	0	8
Netherlands	575	26	4	545
Norway	340	12	1	327
Poland	696	98	23	575
Portugal	175	11	6	158
Romania	334	47	10	277
Serbia	153	10	2	141

Slovakia	250	6	9	235
Slovenia	152	8	9	135
Spain	718	72	45	601
Sweden	488	10	8	470
United Kingdom	905	23	5	877
Total	11.712	617	267	10.828

**3b. During the last two years my decisions or actions have been directly affected by a claim, or a threat of a claim, for personal liability.**

<b>Question 3b</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	2	8	35
Austria	648	72	18	558
Belgium	217	18	4	195
Bulgaria	250	8	15	227
Croatia	119	21	10	88
Czech Republic	990	26	10	954
Denmark	200	2	0	198
Estonia	82	4	3	75
Finland	238	16	2	220
France	265	32	12	221
Germany	3.017	111	82	2.824
Ireland	60	3	0	57
Italy	416	62	29	325
Latvia	224	15	19	190
Lithuania	147	3	4	140
Montenegro	8	0	1	7
Netherlands	575	1	1	573
Norway	340	0	3	337
Poland	696	113	39	544
Portugal	175	12	12	151
Romania	334	31	11	292
Serbia	153	11	6	136
Slovakia	250	11	14	225
Slovenia	152	8	6	138
Spain	718	106	42	570
Sweden	488	12	8	468
United Kingdom	905	13	5	887
Total	11.712	713	364	10.635

**4. I believe during the last two years cases have been allocated to judges other than in accordance with established rules or procedures in order to influence the outcome of the particular case.**

<b>Question 4</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
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Albania	45	6	14	25
Austria	648	15	61	572
Belgium	217	15	38	164
Bulgaria	250	41	61	148
Croatia	119	12	25	82
Czech Republic	990	64	189	737
Denmark	200	1	1	198
Estonia	82	7	11	64
Finland	238	6	10	222
France	265	45	59	161
Germany	3.017	55	174	2.788
Ireland	60	0	2	58
Italy	416	26	56	334
Latvia	224	39	68	117
Lithuania	147	5	34	108
Montenegro	8	1	3	4
Netherlands	575	11	33	531
Norway	340	8	16	316
Poland	696	42	69	585
Portugal	175	25	32	118
Romania	334	8	31	295
Serbia	153	13	30	110
Slovakia	250	7	24	219
Slovenia	152	3	27	122
Spain	718	130	185	403
Sweden	488	30	34	424
United Kingdom	905	18	41	846
Total	11.712	633	1.328	9.751

**5a. I believe judges in my country have been appointed other than on the basis of ability and experience during the last two years.**

<b>Question 5a</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	16	12	17
Austria	648	143	163	342
Belgium	217	65	56	96
Bulgaria	250	88	78	84
Croatia	119	51	38	30
Czech Republic	990	188	369	433
Denmark	200	2	9	189
Estonia	82	10	13	59
Finland	238	29	17	192
France	265	135	63	67
Germany	3.017	549	691	1.777
Ireland	60	18	13	29
Italy	416	56	47	313
Latvia	224	39	75	110

Lithuania	147	44	38	65
Montenegro	8	5	0	3
Netherlands	575	16	50	509
Norway	340	27	41	272
Poland	696	244	145	307
Portugal	175	54	31	90
Romania	334	29	37	268
Serbia	153	74	50	29
Slovakia	250	42	94	114
Slovenia	152	62	45	45
Spain	718	462	131	125
Sweden	488	88	71	329
United Kingdom	905	161	143	601
Total	11.712	2.697	2.520	6.495

**5b. I believe judges in my country have been promoted other than on the basis of ability and experience during the last two years.**

<b>Question 5b</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	19	11	15
Austria	648	219	224	205
Belgium	217	83	66	68
Bulgaria	250	112	74	64
Croatia	119	65	32	22
Czech Republic	990	315	410	265
Denmark	200	2	8	190
Estonia	82	13	22	47
Finland	238	30	22	186
France	265	170	68	27
Germany	3.017	1.452	884	681
Ireland	60	18	12	30
Italy	416	198	78	140
Latvia	224	80	84	60
Lithuania	147	56	43	48
Montenegro	8	5	1	2
Netherlands	575	56	138	381
Norway	340	28	51	261
Poland	696	304	158	234
Portugal	175	83	40	52
Romania	334	36	70	228
Serbia	153	79	47	27
Slovakia	250	67	92	91
Slovenia	152	73	43	36
Spain	718	558	99	61
Sweden	488	133	97	258
United Kingdom	905	156	169	580
Total	11.712	4.410	3.043	4.259

**6. I believe that in my country decisions or actions of individual judges have, during the last two years, been inappropriately influenced by the actual, or anticipated, actions of the media (i. e. press, television or radio).**

<b>Question 6</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	20	18	7
Austria	648	100	191	357
Belgium	217	37	73	107
Bulgaria	250	117	91	42
Croatia	119	73	17	29
Czech Republic	990	221	368	401
Denmark	200	2	12	186
Estonia	82	14	27	41
Finland	238	12	21	205
France	265	102	85	78
Germany	3.017	560	1.118	1.339
Ireland	60	6	6	48
Italy	416	265	60	91
Latvia	224	87	94	43
Lithuania	147	52	64	31
Montenegro	8	1	3	4
Netherlands	575	22	95	458
Norway	340	22	65	253
Poland	696	259	170	267
Portugal	175	70	51	54
Romania	334	80	132	122
Serbia	153	58	58	37
Slovakia	250	116	79	55
Slovenia	152	43	65	44
Spain	718	323	218	177
Sweden	488	39	107	342
United Kingdom	905	49	120	736
Total	11.712	2.750	3.408	5.554

**7. I believe that in my country decisions or actions of individual judges have, during the last two years, been inappropriately influenced by the actual, or anticipated, actions using social media (for example, Facebook, Twitter or LinkedIn).**

<b>Question 7</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	9	21	15
Austria	648	60	174	414
Belgium	217	10	74	133
Bulgaria	250	48	121	81
Croatia	119	45	33	41
Czech Republic	990	59	355	576

Denmark	200	0	7	193
Estonia	82	5	30	47
Finland	238	8	21	209
France	265	32	92	141
Germany	3.017	253	993	1.771
Ireland	60	3	8	49
Italy	416	186	125	105
Latvia	224	30	95	99
Lithuania	147	11	62	74
Montenegro	8	0	4	4
Netherlands	575	14	81	480
Norway	340	20	69	251
Poland	696	97	210	389
Portugal	175	27	64	84
Romania	334	21	121	192
Serbia	153	20	68	65
Slovakia	250	35	105	110
Slovenia	152	18	61	73
Spain	718	121	318	279
Sweden	488	16	97	375
United Kingdom	905	17	105	783
Total	11.712	1.165	3.514	7.033

**8a. During the last two years I believe that my independence as a judge has been respected by: [Government]**

<b>Question 8.1</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	17	7	21
Austria	648	492	107	49
Belgium	217	129	40	48
Bulgaria	250	38	78	134
Croatia	119	69	32	18
Czech Republic	990	555	231	204
Denmark	200	169	23	8
Estonia	82	45	15	22
Finland	238	218	8	12
France	265	176	48	41
Germany	3.017	2.376	410	231
Ireland	60	45	3	12
Italy	416	208	51	157
Latvia	224	72	75	77
Lithuania	147	56	48	43
Montenegro	8	5	1	2
Netherlands	575	485	53	37
Norway	340	324	11	5
Poland	696	118	66	512
Portugal	175	74	35	66

Romania	334	129	86	119
Serbia	153	94	39	20
Slovakia	250	139	69	42
Slovenia	152	99	26	27
Spain	718	414	105	199
Sweden	488	447	26	15
United Kingdom	905	364	154	387
Total	11.712	7.357	1.847	2.508

**8a. During the last two years I believe that my independence as a judge has been respected by: [Parliament]**

<b>Question 8.2</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	24	7	14
Austria	648	509	100	39
Belgium	217	155	30	32
Bulgaria	250	51	93	106
Croatia	119	73	27	19
Czech Republic	990	575	255	160
Denmark	200	171	19	10
Estonia	82	49	17	16
Finland	238	219	7	12
France	265	183	48	34
Germany	3.017	2.440	402	175
Ireland	60	34	11	15
Italy	416	225	56	135
Latvia	224	69	77	78
Lithuania	147	47	41	59
Montenegro	8	5	2	1
Netherlands	575	419	86	70
Norway	340	322	13	5
Poland	696	114	82	500
Portugal	175	83	38	54
Romania	334	134	81	119
Serbia	153	95	40	18
Slovakia	250	140	70	40
Slovenia	152	78	35	39
Spain	718	450	115	153
Sweden	488	447	29	12
United Kingdom	905	470	172	263
Total	11.712	7.581	1.953	2.178

**8a. During the last two years I believe that my independence as a judge has been respected by: [Court Management (Including the president of the court)]**

<b>Question 8.3</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	39	2	4
Austria	648	560	50	38
Belgium	217	191	8	18
Bulgaria	250	224	12	14
Croatia	119	95	13	11
Czech Republic	990	901	53	36
Denmark	200	194	6	0
Estonia	82	64	9	9
Finland	238	220	7	11
France	265	219	29	17
Germany	3.017	2.586	265	166
Ireland	60	48	7	5
Italy	416	353	21	42
Latvia	224	171	28	25
Lithuania	147	119	17	11
Montenegro	8	8	0	0
Netherlands	575	541	15	19
Norway	340	316	17	7
Poland	696	632	26	38
Portugal	175	116	21	38
Romania	334	286	29	19
Serbia	153	131	13	9
Slovakia	250	226	15	9
Slovenia	152	125	20	7
Spain	718	530	76	112
Sweden	488	428	21	39
United Kingdom	905	731	68	106
Total	11.712	10.054	848	810

**8a. During the last two years I believe that my independence as a judge has been respected by: [Council for the Judiciary]**

<b>Question 8.4</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	38	2	5
Austria	648	528	106	14
Belgium	217	187	22	8
Bulgaria	250	129	63	58
Croatia	119	95	18	6
Czech Republic	990	379	604	7
Denmark	200	195	4	1
Estonia	82	58	16	8
Finland	238	23	214	1
France	265	246	16	3
Germany	3.017	1.651	1.344	22

Ireland	60	21	38	1
Italy	416	348	31	37
Latvia	224	166	48	10
Lithuania	147	124	17	6
Montenegro	8	6	1	1
Netherlands	575	504	47	24
Norway	340	312	18	10
Poland	696	640	33	23
Portugal	175	111	24	40
Romania	334	230	71	33
Serbia	153	120	20	13
Slovakia	250	212	33	5
Slovenia	152	128	19	5
Spain	718	447	87	184
Sweden	488	410	44	34
United Kingdom	905	666	213	26
Total	11.712	7.974	3.153	585

**8a. During the last two years I believe that my independence as a judge has been respected by: [Supreme Court]**

<b>Question 8.5</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	37	7	1
Austria	648	616	30	2
Belgium	217	198	14	5
Bulgaria	250	203	36	11
Croatia	119	104	14	1
Czech Republic	990	873	96	21
Denmark	200	193	7	0
Estonia	82	64	10	8
Finland	238	222	13	3
France	265	248	14	3
Germany	3.017	2.727	255	35
Ireland	60	56	3	1
Italy	416	365	31	20
Latvia	224	175	35	14
Lithuania	147	132	12	3
Montenegro	8	6	1	1
Netherlands	575	552	18	5
Norway	340	332	7	1

Poland	696	649	30	17
Portugal	175	145	20	10
Romania	334	271	44	19
Serbia	153	118	27	8
Slovakia	250	211	34	5
Slovenia	152	136	12	4
Spain	718	604	79	35
Sweden	488	444	42	2
United Kingdom	905	803	85	17
Total	11.712	10.484	976	252

**8a. During the last two years I believe that my independence as a judge has been respected by: [Constitutional Court]**

<b>Question 8.6</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	43	0	2
Austria	648	612	36	0
Belgium	217	189	21	7
Bulgaria	250	160	80	10
Croatia	119	96	17	6
Czech Republic	990	836	111	43
Denmark	200	41	159	0
Estonia	0	0	0	0
Finland	238	29	209	0
France	265	230	29	6
Germany	3.017	2.723	247	47
Ireland	60	29	29	2
Italy	416	366	37	13
Latvia	224	154	61	9
Lithuania	147	137	9	1
Montenegro	8	5	2	1
Netherlands	575	163	410	2
Norway	1	1	0	0
Poland	696	583	63	50
Portugal	175	139	26	10
Romania	334	256	55	23
Serbia	153	113	34	6
Slovakia	250	201	41	8
Slovenia	152	115	26	11
Spain	718	566	107	45
Sweden	488	262	226	0
United Kingdom	905	449	446	10
Total	11.291	8.498	2.481	312



**8a. During the last two years I believe that my independence as a judge has been respected by: [Association of Judges]**

<b>Question 8.7</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	39	4	2
Austria	648	628	16	4
Belgium	217	188	22	7
Bulgaria	250	170	67	13
Croatia	119	99	14	6
Czech Republic	990	771	203	16
Denmark	200	192	8	0
Estonia	82	58	17	7
Finland	238	220	15	3
France	265	229	27	9
Germany	3.017	2.815	183	19
Ireland	60	56	2	2
Italy	416	335	50	31
Latvia	224	155	56	13
Lithuania	147	124	15	8
Montenegro	8	4	2	2
Netherlands	575	526	43	6
Norway	340	322	16	2
Poland	696	644	37	15
Portugal	175	141	26	8
Romania	334	282	33	19
Serbia	153	122	24	7
Slovakia	250	202	40	8
Slovenia	152	132	17	3
Spain	718	588	92	38
Sweden	488	404	78	6
United Kingdom	905	761	122	22
Total	11.712	10.207	1.229	276

**8a. During the last two years I believe that my independence as a judge has been respected by: [Media (i.e. press, television or radio)]**

<b>Question 8.8</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	11	13	21
Austria	648	262	229	157
Belgium	217	123	56	38
Bulgaria	250	39	65	146
Croatia	119	42	32	45
Czech Republic	990	374	367	249
Denmark	200	156	33	11

Estonia	82	37	20	25
Finland	238	203	25	10
France	265	85	78	102
Germany	3.017	1.241	1.069	707
Ireland	60	28	13	19
Italy	416	161	79	176
Latvia	224	41	78	105
Lithuania	147	12	39	96
Montenegro	8	2	3	3
Netherlands	575	317	159	99
Norway	340	285	39	16
Poland	696	123	141	432
Portugal	175	55	54	66
Romania	334	88	86	160
Serbia	153	60	59	34
Slovakia	250	53	101	96
Slovenia	152	43	35	74
Spain	718	299	153	266
Sweden	488	331	96	61
United Kingdom	905	191	181	533
Total	11.712	4.662	3.303	3.747

**8a. During the last two years I believe that my independence as a judge has been respected by: [Social Media (for example Facebook, Twitter or LinkedIn)]**

<b>Question 8.9</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	12	18	15
Austria	648	155	290	203
Belgium	217	106	73	38
Bulgaria	250	30	95	125
Croatia	119	38	46	35
Czech Republic	990	267	542	181
Denmark	200	102	86	12
Estonia	82	27	39	16
Finland	238	118	79	41
France	265	79	104	82
Germany	3.017	828	1.330	859
Ireland	60	12	28	20
Italy	416	124	143	149
Latvia	224	38	110	76
Lithuania	147	11	69	67
Montenegro	8	2	3	3
Netherlands	575	183	220	172
Norway	340	190	121	29
Poland	696	98	270	328

Portugal	175	48	65	62
Romania	0	0	0	0
Serbia	153	56	74	23
Slovakia	250	52	130	68
Slovenia	152	43	47	62
Spain	718	281	223	214
Sweden	488	226	162	100
United Kingdom	905	141	336	428
Total	11.378	3.267	4.703	3.408

**8b. I believe that in my country the Council for the Judiciary has the appropriate mechanisms and procedures in order to defend judicial independence effectively.**

<b>Question 8b</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	25	10	10
Austria	276	121	99	56
Belgium	217	80	77	60
Bulgaria	246	81	87	78
Croatia	119	40	40	39
Czech Republic	989	41	798	150
Denmark	200	138	41	21
Estonia	82	37	13	32
Finland	23	6	5	12
France	265	85	83	97
Germany	1.492	617	519	356
Ireland	21	10	2	9
Italy	416	244	38	134
Latvia	224	61	90	73
Lithuania	147	74	47	26
Montenegro	8	4	2	2
Netherlands	574	351	146	77
Norway	339	207	81	51
Poland	696	132	67	497
Portugal	175	59	29	87
Romania	302	82	86	134
Serbia	153	72	53	28
Slovakia	250	88	100	62
Slovenia	152	44	60	48
Spain	718	188	83	447
Sweden	0	0	0	0
United Kingdom	742	281	242	219
Total	8.871	3.168	2.898	2.805

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence : [Pay]**

<b>Question 9b - Option 1: Pay</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	10	12	23
Austria	648	26	212	410
Belgium	217	13	62	142
Bulgaria	250	63	74	113
Croatia	119	13	27	79
Czech Republic	990	35	231	724
Denmark	200	4	87	109
Estonia	82	8	14	60
Finland	238	7	51	180
France	265	14	82	169
Germany	3.017	297	799	1.921
Ireland	60	15	16	29
Italy	416	39	73	304
Latvia	224	82	43	99
Lithuania	147	28	16	103
Montenegro	8	6	1	1
Netherlands	575	9	223	343
Norway	340	7	62	271
Poland	696	51	170	475
Portugal	175	49	38	88
Romania	334	52	105	177
Serbia	153	42	43	68
Slovakia	250	14	55	181
Slovenia	152	29	24	99
Spain	718	210	125	383
Sweden	488	36	202	250
United Kingdom	905	120	119	666
Total	11.712	1.279	2.966	7.467

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence :  
[Pensions]**

<b>Question 9b - Option 2: Pensions</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	4	24	17
Austria	648	17	228	403
Belgium	217	26	34	157
Bulgaria	250	30	115	105
Croatia	119	14	35	70
Czech Republic	990	59	321	610
Denmark	200	2	89	109
Estonia	82	10	21	51
Finland	238	5	56	177
France	265	2	103	160
Germany	3.017	170	1.009	1.838

Ireland	60	15	22	23
Italy	416	35	97	284
Latvia	224	36	98	90
Lithuania	147	15	28	104
Montenegro	8	1	7	0
Netherlands	575	5	184	386
Norway	340	5	69	266
Poland	696	47	237	412
Portugal	175	22	80	73
Romania	334	20	161	153
Serbia	153	23	72	58
Slovakia	250	5	77	168
Slovenia	152	19	44	89
Spain	718	118	236	364
Sweden	488	8	232	248
United Kingdom	905	126	109	670
Total	11.712	839	3.788	7.085

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence :  
[Retirement age]**

<b>Question 9b - Option 3: Retirement age</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	5	19	21
Austria	648	12	249	387
Belgium	217	21	39	157
Bulgaria	250	29	110	111
Croatia	119	5	35	79
Czech Republic	990	19	341	630
Denmark	200	1	89	110
Estonia	82	2	29	51
Finland	238	5	43	190
France	265	2	92	171
Germany	3.017	143	974	1.900
Ireland	60	5	33	22
Italy	416	47	80	289
Latvia	224	34	96	94
Lithuania	147	8	28	111
Montenegro	8	2	5	1
Netherlands	575	6	175	394
Norway	340	5	69	266
Poland	696	94	179	423
Portugal	175	21	72	82
Romania	334	19	159	156
Serbia	153	24	68	61
Slovakia	250	11	71	168
Slovenia	152	17	49	86
Spain	718	88	220	410

Sweden	488	2	242	244
United Kingdom	905	59	329	517
Total	11.712	686	3.895	7.131

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence :  
[Caseload]**

<b>Question 9b - Option 4: Caseload</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	9	16	20
Austria	648	94	197	357
Belgium	217	38	38	141
Bulgaria	250	46	73	131
Croatia	119	14	32	73
Czech Republic	990	106	250	634
Denmark	200	7	70	123
Estonia	82	10	19	53
Finland	238	12	43	183
France	265	82	78	105
Germany	3.017	743	871	1.403
Ireland	60	4	26	30
Italy	416	95	59	262
Latvia	224	60	59	105
Lithuania	147	41	18	88
Montenegro	8	3	3	2
Netherlands	575	50	187	338
Norway	340	27	58	255
Poland	696	196	112	388
Portugal	175	36	53	86
Romania	334	103	92	139
Serbia	153	27	57	69
Slovakia	250	65	38	147
Slovenia	152	21	38	93
Spain	718	282	126	310
Sweden	488	39	182	267
United Kingdom	905	87	177	641
Total	11.712	2.297	2.972	6.443

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence :  
[Court resources]**

<b>Question 9b - Option 5: Court resources</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	11	15	19
Austria	648	88	205	355
Belgium	217	53	40	124

Bulgaria	250	55	72	123
Croatia	119	23	30	66
Czech Republic	990	97	254	639
Denmark	200	11	59	130
Estonia	82	10	19	53
Finland	238	17	36	185
France	265	97	74	94
Germany	3.017	542	963	1.512
Ireland	60	12	20	28
Italy	416	114	65	237
Latvia	224	46	75	103
Lithuania	147	32	27	88
Montenegro	8	4	2	2
Netherlands	575	28	229	318
Norway	340	34	62	244
Poland	696	143	169	384
Portugal	175	49	45	81
Romania	334	81	110	143
Serbia	153	29	59	65
Slovakia	250	31	73	146
Slovenia	152	32	42	78
Spain	718	286	133	299
Sweden	488	38	201	249
United Kingdom	905	122	146	637
Total	11.712	2.085	3.225	6.402

**9b. I believe that changes which occurred in my working conditions in relation to the following domains directly affected my independence : [I was moved to another function, section or court]**

<b>Question 9b - Option 6</b>	Response	Agree - Strongly agree	Not sure - Not applicable	Disagree - Strongly disagree
Albania	45	8	16	21
Austria	648	7	347	294
Belgium	217	10	91	116
Bulgaria	250	5	154	91
Croatia	119	14	53	52
Czech Republic	990	26	410	554
Denmark	200	0	121	79
Estonia	82	1	40	41
Finland	238	0	135	103
France	265	8	119	138
Germany	3.017	85	1.709	1.223
Ireland	60	1	42	17
Italy	416	21	175	220
Latvia	224	6	138	80
Lithuania	147	1	32	114
Montenegro	8	0	7	1
Netherlands	575	8	320	247

Norway	340	6	103	231
Poland	696	28	293	375
Portugal	175	6	100	69
Romania	334	8	175	151
Serbia	153	16	67	70
Slovakia	250	5	102	143
Slovenia	152	6	64	82
Spain	718	28	381	309
Sweden	488	11	284	193
United Kingdom	905	7	616	282
Total	11.712	322	6.094	5.296

**10. During the last two years I have had to take decisions in accordance with guidelines developed by judges of my rank.**

<b>Question 10</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	0	3	42
Austria	648	96	53	499
Belgium	217	32	14	171
Bulgaria	250	48	55	147
Croatia	119	36	10	73
Czech Republic	990	136	55	799
Denmark	200	18	44	138
Estonia	82	8	8	66
Finland	238	20	7	211
France	265	62	21	182
Germany	3.017	115	191	2.711
Ireland	60	17	9	34
Italy	416	162	29	225
Latvia	224	68	43	113
Lithuania	147	46	28	73
Montenegro	8	0	4	4
Netherlands	575	215	34	326
Norway	340	61	51	228
Poland	696	55	39	602
Portugal	175	17	16	142
Romania	334	47	19	268
Serbia	153	23	26	104
Slovakia	250	5	1	244
Slovenia	152	27	20	105
Spain	718	126	26	566
Sweden	488	71	51	366
United Kingdom	905	357	85	463
Total	11.712	1.868	942	8.902



**11. During the last two years the management of my court has exerted pressure on me to decide individual cases in a particular way.**

<b>Question 11</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	4	3	38
Austria	648	12	8	628
Belgium	217	10	8	199
Bulgaria	250	7	8	235
Croatia	119	6	4	109
Czech Republic	990	20	19	951
Denmark	200	1	6	193
Estonia	82	1	2	79
Finland	238	5	5	228
France	265	16	11	238
Germany	3.017	43	42	2.932
Ireland	60	0	0	60
Italy	416	26	10	380
Latvia	224	13	17	194
Lithuania	147	8	7	132
Montenegro	8	0	0	8
Netherlands	575	8	6	561
Norway	340	4	3	333
Poland	696	34	21	641
Portugal	175	3	15	157
Romania	334	6	5	323
Serbia	153	5	3	145
Slovakia	250	2	5	243
Slovenia	152	2	6	144
Spain	718	34	20	664
Sweden	488	13	16	459
United Kingdom	905	40	12	853
Total	11.712	323	262	11.127

**12. During the last two years the management of my court has exerted inappropriate pressure on me to decide individual cases within a particular time.**

<b>Question 12</b>	<b>Response</b>	<b>Agree - Strongly agree</b>	<b>Not sure - Not applicable</b>	<b>Disagree - Strongly disagree</b>
Albania	45	3	0	42
Austria	648	124	46	478
Belgium	217	16	10	191
Bulgaria	250	13	11	226
Croatia	119	42	9	68
Czech Republic	990	70	51	869
Denmark	200	5	14	181

Estonia	82	16	0	66
Finland	238	14	9	215
France	265	24	19	222
Germany	3.017	334	289	2.394
Ireland	60	1	3	56
Italy	416	83	13	320
Latvia	224	50	20	154
Lithuania	147	16	14	117
Montenegro	8	0	1	7
Netherlands	575	27	31	517
Norway	340	36	10	294
Poland	696	207	43	446
Portugal	175	21	19	135
Romania	334	29	7	298
Serbia	153	34	10	109
Slovakia	250	58	22	170
Slovenia	152	43	17	92
Spain	718	180	28	510
Sweden	488	57	29	402
United Kingdom	905	187	45	673
Total	11.712	1.690	770	9.252

13. On a scale of 0 - 10 the professional judges in my country are: .

Question 13	Resposns	Av	0	1	2	3	4	5	6	7	8	9	10
Albania	45	6,6	0	0	2	3	0	9	3	10	14	3	1
Austria	648	8,9	0	0	0	0	2	5	10	38	134	251	208
Belgium	217	8,2	0	0	3	0	1	1	7	34	77	67	27
Bulgaria	247	6,6	3	1	8	9	11	41	32	45	51	32	14
Croatia	118	7,0	1	1	2	6	6	18	5	19	29	19	12
Czech Republic	988	8,4	2	1	7	5	4	33	23	110	289	284	230
Denmark	200	9,8	1	0	0	0	0	0	0	1	3	23	172
Estonia	82	8,5	0	1	1	1	0	3	3	6	10	31	26
Finland	238	9,4	0	0	0	0	0	4	1	4	15	87	127
France	265	7,6	1	1	3	3	6	9	14	62	88	70	8
Germany	3.013	8,5	3	2	13	15	19	50	70	248	794	1.159	640
Ireland	60	9,1	0	1	0	0	0	1	0	3	7	18	30
Italy	413	8,1	2	4	5	4	4	8	22	49	125	122	68
Latvia	224	6,7	3	0	6	5	7	36	28	52	52	30	5
Lithuania	146	7,3	1	0	3	5	5	10	12	28	41	29	12
Montenegro	8	7,1	0	0	0	0	1	3	0	0	0	2	2
Netherlands	575	9,1	0	1	0	0	0	1	3	14	89	268	199
Norway	340	9,2	0	1	0	0	2	1	2	6	37	132	159
Poland	695	7,7	4	6	12	12	9	41	42	107	207	182	73
Portugal	175	7,9	1	0	1	4	2	6	9	29	56	39	28
Romania	333	8,1	5	1	4	3	1	14	9	45	91	95	65
Serbia	151	6,4	4	3	2	9	3	35	16	24	27	14	14
Slovakia	236	7,7	0	0	2	7	3	24	19	33	63	50	35
Slovenia	152	7,4	0	0	3	7	4	12	15	18	44	40	9
Spain	712	7,5	1	5	12	16	26	56	49	107	188	186	66
Sweden	487	8,6	1	1	4	9	3	12	8	33	95	185	136
United Kingdom	903	9,3	5	1	0	2	0	9	9	28	81	218	550
Total	11.671	8,3	38	31	93	125	119	442	411	1.153	2.707	3.636	2.916

## 14. On a scale of 0 - 10 as a judge I

Question 14	Respons	Av	0	1	2	3	4	5	6	7	8	9	10
Albania	45	8,1	1	2	0	1	0	2	1	1	8	17	12
Austria	647	9,3	0	0	0	0	1	3	8	19	69	189	358
Belgium	217	9,0	1	2	2	2	1	0	2	10	24	69	104
Bulgaria	249	8,4	6	1	2	3	2	11	10	18	39	59	98
Croatia	118	8,3	2	0	2	3	2	9	5	6	15	24	50
Czech Republic	986	9,2	3	6	3	3	2	16	9	30	105	240	569
Denmark	200	9,9	1	0	0	0	0	0	0	0	2	16	181
Estonia	82	9,0	1	0	0	1	0	3	3	4	6	14	50
Finland	238	9,6	0	0	0	1	1	1	0	2	10	51	172
France	265	8,6	2	0	1	1	4	7	9	18	56	88	79
Germany	3.013	8,9	5	2	7	14	19	30	55	174	496	991	1.220
Ireland	60	9,5	0	1	0	0	0	0	0	1	5	11	42
Italy	415	9,1	11	0	1	0	1	4	7	8	39	88	256
Latvia	224	7,4	1	2	3	9	5	21	18	42	41	50	32
Lithuania	146	8,2	1	0	3	2	5	7	6	11	30	35	46
Montenegro	8	8,5	0	0	0	0	0	2	0	0	0	2	4
Netherlands	575	9,3	1	0	0	0	1	0	4	11	56	234	268
Norway	340	9,5	1	0	1	0	2	0	1	3	26	88	218
Poland	695	8,5	8	7	9	9	3	29	22	47	99	185	277
Portugal	175	8,8	1	0	2	2	2	2	7	13	29	31	86
Romania	332	8,9	9	2	3	1	1	3	2	17	33	95	166
Serbia	153	8,5	4	0	0	2	0	17	4	6	16	31	73
Slovakia	245	8,9	0	1	0	3	2	5	5	14	34	63	118
Slovenia	152	8,3	0	0	1	3	4	11	6	11	22	46	48
Spain	715	8,7	3	4	9	6	7	24	20	56	94	170	322
Sweden	487	9,0	3	2	2	4	1	9	8	22	63	144	229
United Kingdom	904	9,2	5	1	1	3	1	8	16	43	80	200	546
Total	11.686	8,9	70	33	52	73	67	224	228	587	1.497	3.231	5.624