

Systems of measuring the need for judicial personnel in Europe

(A brief survey among the members of EAJ/AEM), July 2015

The question to answer was:

“Do you in your respective country have any method or means of measuring the numerical need of judges and staff and to justify this need towards ministry of finance and parliament? If yes, could you please describe briefly?”

Country	System	Short description
Austria	yes	In Austria, some years ago like in Germany an average time to handle a certain type of case was fixed. This average time was the result of a six month study in which a large number of judges was involved. In theory the argumentation should be number of cases of a certain type multiplied by this average time for cases of this type results in the number of judges needed. But government and parliament are not bound to follow this Argumentation and are not very keen to do so.
Belgium	no	In Belgium, there are no general rules Each court determines how many cases will be treated by the judges. But, due to financial measures, the number of personnel of the court and judges are on the way to be deeply reduced with means more work for everybody and a bigger delay for the treatment of a case.
Bosnia and Herzegovina		High Judicial and Prosecutorial Council (HJPC) of Bosnia and Herzegovina is the body in our country which is competent to determine the number of judges, prosecutors and/or Deputy Chief Prosecutors of each court or prosecutor’s office within the Council’s competence, after consultation with the relevant Court President or Chief Prosecutor, relevant budgetary authority, and the relevant Ministry of Justice. To complete this task HJPC has issued a regulation by which are determined number of cases that each judge should solve in a year time. With this regulation and statistical data regarding the expected

		<p>affluence of cases for jurisdiction of particular court, HJPC calculate the number of judges and issue a decision for each court in Bosnia and Herzegovina. There is no specific rule that determine which period of time is taken under the consideration in order to estimate expected number of new cases, but usually it is a period of three years.</p> <p>As far as number of staff is concerned, it is determined in ratio with number of judges. For first instance courts this ratio is 3 of administrative staff per one judge, and on second instance and the Supreme court level it is 2,5 per one judge. Issuing of specific decision on number and structure of staff is in the competence of the president of the court, which decision is a subject of approval of competent Ministry of Justice (due to complex structure there are more ministries of justice).</p>
Bulgaria	yes	<p>In Bulgaria the authority responsible for this matter is the Supreme Judicial Council /SJC/. They decide on number of judges and staff in the courts based on the statistic data about caseload. In the moment is in process a project of measuring time, necessary for completing of each type of cases and on this basis establishing a court-map for the country. The Constitution provides that the Judiciary in Bulgaria has its own independent budget but in fact the SJC must negotiate every year with the MF and parliament and never receives the finances needed.</p>
Croatia	yes	<p>Decision on how many judges should be in particular court is authority of Minister of justice, but that ruling has to be based on number of incoming cases in a period of three years.</p> <p>Another Ministerial order which has to be taken in mind is Qualitative frame on number of cases which judges should solve in a year time. This Quantitative Frame is divided in different types of cases mostly defined on their complicity.</p> <p>Putting together incoming cases and so called norm for judges Minister of Justice comes to the conclusion how many judges should</p>

		<p>be in particular court.</p> <p>So complete number of judges in the county is sum of number of judges in particular courts.</p> <p>To be clear for more than 10 years new decision on number of judges has not been delivered because financial restrictions and organizational changes (merging courts) dictate circumstances that such decisions could not been delivered.</p> <p>In recent years new judges are elected only to replace those judges who left the court.</p>
Czech Republic	yes	<p>The determining of the number of judges and court staff is fully responsibility of the Ministry of Justice in the Czech Republic.</p> <p>Methodology for determining needs is based on the input of cases and modified by certain coefficients. It is very similar with funding of material costs. Financing for the long-term seems to be deficit, but it does not apply generally; for example, modern technology is in very high level for all courts and judges.</p>
France	yes	<p>En résumé, pour la situation française :</p> <p>Le Ministère dispose de divers logiciels informatiques permettant de déterminer le nombre d'affaires traitées, matière par matière, par chaque juridiction.</p> <p>Ensuite, le Ministère fait une moyenne nationale. Les juridictions qui sont sous cette moyenne peuvent espérer bénéficier de juges supplémentaires.</p> <p>Le Ministère de la Justice doit alors "négocier" avec le ministère de l'Economie et des Finances pour obtenir la création de postes supplémentaires.</p> <p>Lorsqu'une nouvelle loi crée de nouvelles charges pour les juridictions, parfois, le ministère de la justice demande également des créations de postes de juges supplémentaires.</p> <p>Cette méthode de calcul est très contestable. En effet, elle repose</p>

		<p>uniquement sur des statistiques, qui ne sont pas fiables et qui ne prennent pas en compte l'ensemble de l'activité des juges. Par ailleurs, le calcul est fait à partir des affaires traitées, c'est à dire des moyennes existantes, et non réellement en fonction de ce qui est nécessaire. Les juridictions qui sont au dessous de la moyenne peuvent avoir des juges supplémentaires, mais cela ne veut pas dire que les juridictions qui sont au dessus de cette moyenne parviennent à traiter les affaires correctement. Les juridictions au dessus de cette moyenne devraient aussi avoir plus de juges.</p> <p>Nous demandons (comme la démarche au Portugal) que le nombre de juges nécessaires soit calculé en fonction des affaires à traiter. Pour cela, nous demandons la création d'un nouvel outil de calcul sur le modèle suivant : déterminer le nombre d'affaires qu'un juge peut convenablement traiter par an, puis calculer le nombre de juges nécessaires dans chaque juridiction et déterminer ainsi les créations de postes et les recrutements qui doivent intervenir.</p> <p>Cette démarche a commencé depuis plusieurs années mais le Ministère de la Justice n'est pas très favorable. En effet, elle montre que 1000 juges (environ) devraient être recrutés (alors que nous sommes actuellement 7500 environ)....</p> <p>C'est un débat très important en France également.</p>
Germany	yes	<p>PEBB§Y: For all levels and types of personnel the need of time to handle/trial a case is set (in minutes) after a statistical evaluation of different types of cases and then divided by the annual working minutes of the respective personnel, the formula in brief is:</p> <p><u>Number of cases x (multiplied) by their value in minutes</u> : (divided) by the number of annual working minutes per judge/staff</p>
Greece	no	<p>In Greece the workload is measured through civil files that judges of every court are handling. Criminal cases seem not to be valuable for this measuring, as they are very many and every judge has his own</p>

	<p>rythm to adjudicate cases, that is to say that from judge to judge there are differences in output and the sole thing which is considered as worthy is whether the judge is in court to adjudicate or not.</p> <p>On the other hand there are significant differences from court to court, I mean about the numbers of civil cases which are adjudicated by every judge. It is clear that there are no specific criteria by which more judges are called to the court in order to fill in the blanks. In a way judges are obliged to work to their limits or even beyond them, to discipline the workload.</p> <p>Till the last year every court had its own regulation, which was voted by the general assembly of every court, which was designating the number of cases to be handled by every judge as a maximum. But after an amendment of the Code of Judicial Officers of the last year this competence was given to the Supreme Courts, which already changed some regulations of inferior courts raising these numbers. Our Union is working towards the direction of abolition of this provision, with no effect till now.</p> <p>Concerning the staffing, this is a very difficult period because of the economic crisis. There are no more recruitments of secretaries. Some vacancies are filled by transfers from other agencies, but not all. As it concerns to judges, the School of Magistracy is recruiting young judges after examinations. Their number depends on political decision of the Minister of Justice, which is in other words a governmental decision.</p> <p>Our efforts as an association are expressed towards the MoJ with letters and reports, which usually are escorted by visits to the Minister by the Presidency of the association. I think that the decision of the MoJ is depending especially at this period on the economic circumstances.</p> <p>So, my answer to your inquiry is briefly: No, there is no such a system.</p>
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Iceland	yes	<p>In Iceland, we are still relying on general statistics which only take into account to a very limited degree the volume/nature of the actual cases. Thus, in the budget procedure, we rely on information on types of cases (civil, criminal, etc.) and whether they are tried. These numbers will be broken down with regard to individual courts. Needless to say, this is an imperfect system.</p> <p>Within the district courts, cases are categorised (1-3) with regard to their size/estimated effort required. However, this is a very informal system and is only intended to distribute work-load evenly between judges. Certain judges, concerned with their case-load, have called for a more formal system in this regard. Our Judicial Council has been looking into the issue, but without any concrete conclusion.</p>
Israel	yes	<p>In 2012 the Israeli Courts Research Division created a case weight measurement tool within the Israeli judiciary. This tool enables the comparison of judicial workloads based on the average judicial time invested in different case types and not on the amount of cases; thus providing a more precise evaluation of the judicial workload (for more information see http://elyon1.court.gov.il/heb/Research%20Division/doc/Research8.ppt).</p> <p>Case weights can be used for many purposes, among them allocating judicial and non-judicial resources and proactively managing the courts, for example, by transferring cases from courts with high workloads to courts with lower workloads.</p> <p>Since the case weights portray time, they can also be used to calculate the average amount of hours a judge works solely on cases, without considering the time invested in tasks unrelated to specific cases, such as participation in conferences, judicial training, staff management, keeping up to date on new case laws, etc. By considering the amount of hours a judge should work, on both the case itself and on non-related tasks, we are able to provide the ministry of finance with the relevant number of judges needed and its justification.</p>

Luxembourg	no	<p>In Luxembourg the number of judges and prosecutors is fixed by a law.</p> <p>We have no specific method of measuring the numerical need of judges in our country toward the ministry of finance or/and parliament.</p> <p>The workload of judges is measured every year through the files handled and decisions (jugements et ordonnances) taken in the annual report. In relation with this annual report the president of the supreme court and the general prosecutor are asking via the ministry of justice the enlargement of number of judges.</p>
Macedonia	no	<p>Regarding your questions, our answer is that in the Republic of Macedonia, there are not any methods or ways to measure the need of judges and attorneys. There are systematic rules and they are made by the courts themselves for employees, although they depend of the question if the ministry of finance will grant them funds. In the Republic of Macedonia the State Commission of Judges decides the number of judges.</p>
Portugal	yes	<p>Let me send you a brief contribution about Portuguese experience in such a complex theme.</p> <p>In recent years (2010/2012) our High Judicial Council organized a study to define the workload for judges in order to define the number of judges in each court (most of them are now specialized). The staff was not contemplated in the study although there's normally a predefined number of clerks for each judge.</p> <p>The method was to assess the number of cases of each jurisdiction (in a total of 20 divided by themes - civil, criminal, commercial, family, labour, etc - and also by the dimension of cases - we have Central and Local Jurisdictions depending on the nature of the files and number of trial judges - 3 or 1) entered in the previous 3 to 5 years and the number of solved ones. This detailed information was provided by Court Presidents.</p> <p>Then, after auscultation of all judges (using questionnaires or asking for contributions) and also academy or other institutions connected</p>

	<p>with the judiciary (especially association of judges) it was possible to have reliable numbers (defining congestion rate, resolution rate, number of cases that each judge could handle, etc...).</p> <p>These numbers were used to define the number of judges for each court in a ongoing reform with a new management law and a new territorial organization.</p> <p>Since I have the opportunity to coordinate this work, three major lessons were learned by me:</p> <p>1) it's essential to involve all judges on the procedures; there will be always criticism but if judges are actually heard, the results should be more acceptable;</p> <p>2) there are huge differences between regions; even in a small country, like Portugal, it was amazing how different are the type of cases and the speediness if we are talking of rural or urban areas, interior or coastline or our islands. It was even decided to have different numbers depending on the region and type of cases existing in each territorial court.</p> <p>3) It's advisable to avoid rigid numbers - flexibility and constant adjustments are necessary with permanent monitoring and control from court presidents.</p> <p>The study can be find online, although only in Portuguese, here: http://csm.org.pt/ficheiros/estudos/contingentacaoprocessual.pdf</p> <p>As already underlined CEPEJ has also studies on this area comparing experiences of different countries.</p>
Slovenia	<p>In Slovenia the Supreme Court determines the number of judges and staff in each court. It depends on the number of cases in that particular court. The basis for determination of number of judges is the number of cases each judge is obliged to solve every year. This number is prescribed by Judicial Council (judicial norme). Because of crisis there's no possibility to employ new judges and staff. The number of judges reduces slowly.</p>
Spain	<p>In response to your query I'd like to inform you that the Judiciary Secretaries provide periodically statistics about the amount of work of</p>

		<p>the courts to the Internal Inspection Service at the Judiciary Council</p> <p>Afterwards, the Judiciary Council before hearings with judges associations and the Ministry of Justice provides charts and reports about the needs of the judges and the employees of the courts.</p> <p>Summons for entrance exams are periodically published to cover current and upcoming vacancies.</p> <p>Because of the budget those vacancies are shorter in number than what is really needed. Most frequently, judges have to put up with a higher level of work than the level established by the Judiciary Council.</p>
Sweden		<p>In Sweden the distribution of money to all courts is made through the central body <i>Swedish National Court Administration (SNCA)</i>. The money each court gets depends almost solely on the case load. There is a set number of cases that an ordinary judge in a district court is supposed to handle every year. The number of cases that a court has is divided by this number and you get how many judges you need.</p> <p>Of course there can be other aspects also but this is the most important tool. When a court wants more money to recruit more judges, the court must show why – to the SNCA. Other factors that can be taken into account are things like what the caseload <i>looks like</i> – many big commercial or small private cases and also how experienced the rest of the staff is.</p> <p>But most of all – the caseload is the most important factor.</p>
Switzerland	yes	<p>I was discussing your question with the deputy secretary general of the Swiss Supreme Court, Jacques Bühler, who is also the president of the CEPEJ SATURN Centre for judicial time management.</p> <p>He told me that CEPEJ is collecting the kind of information your asking for for several years now and they are able to compare data like judges or law clerks per inhabitant regarding the instance, workload per judge, average time of proceedings etc. for lots of</p>

		<p>countries.</p> <p>Regarding Switzerland there is a database of the University of Lausanne for comparison of public administration for several years and about a year ago the conference of presidents of the Supreme Courts of the Cantons decided to use this database for the judiciary also (including prosecutors). Up to know it's a closed database not accessible to the public. You can generate all kind of information useful to compare the numerical need of judges and staff of courts and prosecutors offices.</p> <p>The decision about number of judges usually is up to the respective parliament, most often the number is fixed in a law. Regarding clerks it depends (as so often in Switzerland) from the Cantons; sometimes there is a global budget for the judiciary and the judiciary has the competence to hire personal according to its needs, sometimes it's the executive that is competent to make decisions regarding all personal including for the judiciary.</p>
Turkey	yes	<p>Basically there are four steps to get new personnel as either judges or court staff.</p> <ol style="list-style-type: none"> 1. Determine the number pursuant to the need based on principally case load and the number of retired or resigned judges. The same process applies to the process of employment of court staff. This work is done by reporter judges working in Ministry of Justice. 2. Persuade the ministry of finance to put the number of judges and staff needed in to the preparation report to the annual budget. 3. Go and attend to the annual budget meetings in the planning and budget commission in the parliament. Discuss and persuade the members of the parliament working in the commission. Then, have the need written in the annual budget act. If the plenary session approves the act, the ministry of justice has the establishment. 4. Ministry of justice can use the personnel in that year. <p>There is always political motive especially in admitting judges and</p>

		prosecutors to the profession.

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