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2023 EU Justice Scoreboard

1. INTRODUCTION

Effective justice systems are essential for the application and enforcement of EU law and upholding the rule of law and other values the EU is founded on and which are common to the Member States. National courts act as EU courts when applying EU law. It is national courts in the first place that ensure that the rights and obligations set in EU law are enforced effectively (Article 19 of the Treaty on European Union (TEU)).

In addition, effective justice systems are also essential for mutual trust and for improving the investment climate and the sustainability of long-term growth. This is why improving the efficiency, quality and independence of national justice systems features among the priorities of the European Semester – the EU's annual cycle of economic policy coordination. The 2023 annual sustainable growth survey ([1]), which sets out the economic and employment policy priorities for the EU, confirms the link between effective justice systems and Member States' business environment, and an economy that works for people. Well-functioning and fully independent justice systems can have a positive impact on investment and are key for investment protection, and therefore contribute to productivity and competitiveness. They are also important for ensuring the effective cross-border enforcement of contracts, administrative decisions and dispute resolution, essential for the functioning of the single market ([2]).

In this context, the EU Justice Scoreboard gives an annual overview of indicators focusing on the essential parameters of effective justice systems:

- efficiency;
- quality;
- independence.

The 2023 Scoreboard further develops the indicators for all three aspects, including on accessibility to justice for persons at risk of discrimination and older persons, and again on the digitalisation of justice, which has played a crucial role in keeping the courts functioning during the COVID-19 pandemic and supporting their recovery in its aftermath, as well as more generally, to promote efficient and accessible justice systems ([3]). This edition of the Justice Scoreboard strengthens the business dimension on all three aspects by including new data on efficiency in the area of the fight against corruption ([4]), an updated chart on the legal safeguards in relation to administrative decisions and continues to present the data on the confidence in investment protection. Finally, the 2023 Scoreboard presents how the justice systems started their recovery from the effects of the COVID-19 pandemic on the efficiency of these systems.

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1 COM(2022) 780 final.

2 See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Identifying and addressing barriers to the Single Market, COM(2020)93, and accompanying SWD(2020)54.

3 See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Digitalisation of justice in the European Union: A toolbox of opportunities, COM(2020)710, and accompanying SWD(2020)540.

4 On 3 May 2023, the European Commission adopted an Anti-Corruption Package, including a proposal for a Directive on combating corruption by criminal law. Proposal for a Directive on combatting corruption COM (2023) 234 and Joint Communication on the fight against corruption JOIN(2023) 12 final.

– The Annual Rule of Law Cycle –

As announced in President von der Leyen's political guidelines, the Commission has established a comprehensive Annual Rule of Law Cycle to deepen its monitoring of the situation in Member States. The Rule of Law Cycle acts as a preventive tool, deepening dialogue and joint awareness of rule of law issues. At the centre of the new cycle is the annual Rule of Law Report, which provides a synthesis of significant developments – both positive and negative – in all Member States and the Union as a whole. The Reports, including its 2022 edition, published on 13 July 2022, draw on a variety of sources, including the EU Justice Scoreboard ([5]). Moreover, as announced by President von der Leyen in her 2021 State of the Union Speech, the 2022 Rule of Law Report includes recommendations to Member States. The 2023 EU Justice Scoreboard has also been further developed to reflect the need for additional comparative information identified during the preparation of the 2022 Rule of Law Report, so as to support forthcoming Rule of Law Reports, including in the area of the fight against corruption.

What is the EU Justice Scoreboard?

The EU Justice Scoreboard is an annual comparative information tool. Its purpose is to assist the EU and Member States improve the effectiveness of their national justice systems by providing objective, reliable and comparable data on a number of indicators relevant for the assessment of the (i) efficiency, (ii) quality and (iii) independence of justice systems in all Member States. It does not present an overall single ranking. Rather, it gives an overview of how all Member States' justice systems function, based on indicators that are of common interest and relevance for all Member States.

The Scoreboard does not promote any particular type of justice system and treats all Member States on an equal footing.

Efficiency, quality and independence are essential parameters of an effective justice system, whatever the model of the national justice system or the legal tradition on which it is based. Figures for these three parameters should be read together, as all three are often interlinked (initiatives aimed at improving one may affect another).

The Scoreboard mainly presents indicators concerning civil, commercial and administrative cases, as well as, subject to availability of data, certain criminal cases (i.e. cases concerning money laundering at first instance courts), in order to assist Member States in their efforts to create an environment which is more efficient, better for investments as well as business and citizen-friendly. The Scoreboard is a comparative tool which evolves in the course of dialogue with Member States and the European Parliament ([6]). Its objective is to identify the essential parameters of an effective justice system and to provide relevant annual data.

What is the methodology of the EU Justice Scoreboard?

The Scoreboard uses a range of information sources. The Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), with which the Commission has concluded a contract to carry out a specific annual study, provides much of the quantitative data. The data cover 2012-2021, and have been provided by Member States in accordance with the CEPEJ's methodology. The study also provides detailed comments and country-specific factsheets that give more context. They should be read together with the figures ([7]).

5 https://commission.europa.eu/publications/2022-rule-law-report-communication-and-country-chapters_en

6 E.g. European Parliament resolution of 29 May 2018 on the 2017 EU Justice Scoreboard (P8_TA(2018)0216).

7 https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_en

Data on the length of proceedings collected by the CEPEJ show the 'disposition time' – a calculated length of court proceedings (based on a ratio between pending and resolved cases). Data on courts' and administrative authorities' efficiency in applying EU law in specific areas show the average length of proceedings derived from the actual length of court cases. Note that the length of court proceedings may vary substantially between areas in a Member State, particularly in urban centres where commercial activities may lead to a higher caseload.

Other data sources, covering the period from 2012 to 2022, are: the group of contact persons on national justice systems ([8]), the European Network of Councils for the Judiciary (ENCJ) ([9]), the Network of the Presidents of the Supreme Judicial Courts of the EU (NPSJC) ([10]), the Association of the Councils of State and Supreme Administrative Jurisdictions of the EU (ACA-Europe) ([11]), the Council of Bar and Law Societies in Europe (CCBE) ([12]), the European Competition Network (ECN) ([13]), the Communications Committee (COCOM)([14]), the European Observatory on infringements of intellectual property rights([15]), the Consumer Protection Cooperation Network (CPC) ([16]), the Expert Group on Money Laundering and

[8] To help prepare the EU Justice Scoreboard and promote the exchange of best practice on the effectiveness of justice systems, the Commission asked Member States to designate two contact persons, one from the judiciary and one from the ministry of justice. This informal group meets regularly.

[9] The ENCJ brings together Member States' national institutions that are independent of the executive and legislature, and are responsible for supporting the judiciary in the independent delivery of justice: https://www.encj.eu/

[10] The NPSJC provides a forum that gives European institutions the opportunity to request the opinions of supreme courts, and brings them closer by encouraging discussion and the exchange of ideas: http://network-presidents.eu/

[11] ACA-Europe is composed of the Court of Justice of the EU and the Councils of State or the Supreme administrative jurisdictions of each EU Member State: http://www.juradmin.eu/index.php/en/

[12] CCBE represents European bars and law societies in their common interests before European and other international institutions. It regularly acts as a liaison between its members and the European institutions, international organisations, and other legal organisations around the world: https://www.ccbe.eu/

[13] The ECN has been established as a forum for discussion and cooperation between European competition authorities in cases where Articles 101 and 102 of the Treaty on the Functioning of the EU (TFEU) are applied. The ECN is the framework for the close cooperation mechanisms of Council Regulation (EC) No 1/2003 . Through the ECN, the Commission and the national competition authorities in all EU Member States cooperate with each other: http://ec.europa.eu/competition/ecn/index_en.html

[14] The COCOM is composed of EU Member State representatives. Its main role is to provide an opinion on the draft measures that the Commission intends to adopt on digital market issues: https://ec.europa.eu/digital-single-market/en/communications-committee

[15] The European Observatory on Infringements of Intellectual Property Rights is a network of experts and specialist stakeholders. It is composed of public and private sector representatives, who collaborate in active working groups: https://euipo.europa.eu/ohimportal/en/web/observatory/home

[16] The CPC is a network of national authorities responsible for enforcing EU consumer protection laws in EU and EEA countries: http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/consumer_protection_cooperation_network/index_en.htm

Terrorist Financing (EGMLTF) ([17]), Eurostat ([18]), and the European Judicial Training Network (EJTN) ([19]), and the national contact points in the fight against corruption ([20]).

Over the years, the Scoreboard methodology has been further developed and refined in close cooperation with the group of Member States' contact persons on national justice systems, particularly through a questionnaire (updated annually) and by collecting data on certain aspects of the functioning of justice systems.

The availability of data, in particular for indicators on the efficiency of justice systems, continues to improve. This is because many Member States have invested in their capacity to produce better judicial statistics. Where difficulties in gathering or providing data persist, this is either due to insufficient statistical capacity, or because the national categories for which data are collected do not correspond exactly to the ones used for the Scoreboard. Only in very few cases is the data gap due to a lack of contributions from national authorities. The Commission continues to encourage Member States to further reduce this data gap.

How does the EU Justice Scoreboard feed into the European Semester and how is it related to the Recovery and Resilience Facility (RRF)?

The Scoreboard provides elements for assessing the efficiency, quality and independence of national justice systems. In doing so, it aims to help Member States make their national justice systems more effective. By comparing information on Member States' justice systems, the Scoreboard makes it easier to identify best practice and shortcomings and to keep track of challenges and progress made. In the context of the European Semester, country-specific assessments are carried out through a bilateral dialogue with the national authorities and the stakeholders concerned. Where the shortcomings identified have macroeconomic significance, the European Semester analysis may lead to the Commission proposing to the Council to adopt country-specific recommendations to improve the national justice systems in individual Member States ([21]). The RRF has made available more than EUR 737 billion in loans and non-repayable financial support, of which each Member State would need to allocate a minimum of 20% to the digital transition and a minimum of 37% to measures contributing to climate objectives. So far, the reforms and investments proposed by Member States have exceeded these targets, with an estimated digital expenditure at 26% and climate expenditure at about 40%. The RRF offers an opportunity to address country-specific recommendations related to national justice systems and to accelerate national efforts to complete the digital transformation of justice systems. Payments to Member States under the performance-based RRF are contingent on the fulfilment of milestones and targets. So far, 6,000 milestones and targets were introduced, of which about two-thirds are investments and one third are reforms. In this context, the Commission therefore had to assess whether the Member States' recovery and resilience plans (RRPs) are expected to contribute to

[17] The EGMLTF meets regularly to share views and help the Commission define policy and draft new anti-money laundering and counter-terrorist financing legislation: http://ec.europa.eu/justice/civil/financial-crime/index_en.htm

[18] Eurostat is the statistical office of the EU: http://ec.europa.eu/eurostat/about/overview

[19] The EJTN is the principal platform and promoter for the training and exchange of knowledge of the European judiciary: https://www.ejtn.eu/en/

[20] The Commission maintains an informal group of contact persons dealing with the fight against corruption. See also https://home-affairs.ec.europa.eu/policies/internal-security/corruption/how-eu-helps-member-states-fight-corruption_en.

[21] In the context of the European Semester, the Council, on the basis of the Commission's proposal, addressed country-specific recommendations on their justice systems to seven Member States in 2019 (HR, IT, CY, HU, MT, PT and SK) and eight Member States in 2020 (HR, IT, CY, HU, MT, PL, PT and SK). The Commission also monitors judicial reforms in BG and RO under the Cooperation and Verification Mechanism. There were no country-specific recommendations in 2021 due to the ongoing RRF processes. In 2022, there were two Member States (PL and HU) with country specific recommendations related to judicial independence.

effectively addressing all or a significant number of challenges identified in the relevant country-specific recommendations or challenges identified in other relevant Commission documents adopted in the context of the European Semester ([22]). Following payment requests by the Member States and positive assessments by the Commission on the satisfactory fulfilment of the respective milestones and targets, a total of EUR 144.08 billion in RRF grants and loans have been disbursed to the Member States in the last years. However, to this date, the fulfilment of 92% of milestones and targets has not yet been assessed by the Commission.

Why are effective justice systems important for an investment- friendly business environment?

Effective justice systems that uphold the rule of law have a positive economic impact, which is particularly relevant in the context of the European Semester and the RRF. Where and when judicial systems guarantee the enforcement of rights, creditors are more likely to lend, businesses have higher confidence and are dissuaded from opportunistic behaviour, transaction costs are reduced and innovative businesses are more likely to invest. In fact, an effective justice system is vital for sustained economic growth. It can improve the business climate, foster innovation, attract foreign direct investment, secure tax revenues and support economic growth. The benefits of well-functioning national justice systems for the economy are confirmed by a wide range of studies and academic literature, including from the International Monetary Fund (IMF) ([23]), the European Central Bank (ECB) ([24]), the European Network of Councils for the Judiciary ([25]), the Organization for Economic Cooperation and Development (OECD) ([26]), the World Economic Forum ([27]), and the World Bank ([28]).

A study has found a strong correlation between a reduction in the length of court proceedings (measured in disposition time ([29])) and the growth rate of the number of companies ([30]), and that a higher percentage – by 1% – of companies perceiving the justice system as independent correlates with higher firms' turnover and greater productivity growth ([31]).

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22 Article 19(3)(b) and Article 24(3) and (5) of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

23 IMF, Regional Economic Outlook, November 2017, *Europe: Europe Hitting its Stride*, p. xviii, pp. 40, 70: https://www.imf.org/~/media/Files/Publications/REO/EUR/2017/November/eur-booked-print.ashx?la=en

24 ECB, 'Structural policies in the euro area', June 2018, ECB Occasional Paper Series No 210: https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op210.en.pdf?3db9355b1d1599799aa0e475e5624651

25 European Network of Councils for the Judiciary and the Montaigne Centre for the Rule of Law and Administration of Justice of Utrecht University, 'Economic value of the judiciary – A pilot study for five countries on volume, value and duration of large commercial cases', June 2021: https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017-p/Reports/Economic%20value%20of%20te%20judiciary%20-%20pilot%20study.pdf

26 See e.g. 'What makes civil justice effective?' OECD Economics Department Policy Notes, No. 18, June 2013 and 'The Economics of Civil Justice: New Cross-Country Data and Empirics', OECD Economics Department Working Papers, No. 1060.

27 World Economic Forum, 'The Global Competitiveness Report 2019', October 2019: https://www.weforum.org/reports/global-competitiveness-report-2019

28 World Bank, 'World Development Report 2017: Governance and the Law, Chapter 3: The role of law', pp. 83, 140: http://www.worldbank.org/en/publication/wdr2017

29 The 'disposition time' indicator is the number of unresolved cases divided by the number of resolved cases at the end of a year multiplied by 365 (days). It is a standard indicator developed by the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ): http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp

30 Vincenzo Bove and Leandro Elia, 'The judicial system and economic development across EU Member States', JRC Technical Report, EUR 28440 EN, Publications Office of the EU, Luxembourg, 2017: http://publications.jrc.ec.europa.eu/repository/bitstream/JRC104594/jrc104594__2017_the_judicial_system_and_economic_development_across_eu_member_states.pdf

31 *Idem.*

Several surveys have also highlighted the importance of the effectiveness of national justice systems for companies. For example, in one survey, 93% of large companies replied that they systematically and continuously review the rule of law conditions (including court independence) in the countries they invest in ([32]). In another survey, over half of small and medium-sized enterprises (SMEs) replied that the cost and excessive length of judicial proceedings, respectively, were the main reasons for not starting court proceedings over the infringement of intellectual property rights (IPR) ([33]). The Commission's Communications on *Identifying and addressing barriers to the single market* ([34]) and the *Single market enforcement action plan* ([35]) also provide insights into the importance of effective justice systems for the functioning of the single market, in particular for businesses.

How does the Commission support the implementation of good justice reforms through technical support?

Member States can draw on the Commission's technical support available through the Directorate-General for Structural Reform Support (DG REFORM) under the Technical Support Instrument (TSI) ([36]), with a total budget of EUR 864.4 million for 2021 to 2027. Since 2021, the TSI has been supporting projects directly linked to the effectiveness of justice, such as the digitalisation of justice, reforms of judicial maps or better access to justice. The TSI also complements other instruments, namely the RRF, since it can support Member States in the implementation of their recovery and resilience plans. The RRPs include actions, among others, related to making justice more effective: digitalising justice, reducing backlogs, and improving the management of courts and cases.

How does the Justice programme support the effectiveness of justice systems?

With a total budget of around EUR 305 million for the period 2021-2027, the Justice programme supports the further development of the European area of Justice based on the rule of law including the independence, quality and efficiency of the justice system, based on mutual recognition and mutual trust, and on judicial cooperation. In 2022, around EUR 42.5 million were provided to fund projects and other activities under the three specific objectives of the programme:

- EUR 11.4 million were provided to promote judicial cooperation in civil and criminal matters and to contribute to the effective and coherent application and enforcement of EU instruments as well as to support to Member States for their connection to the ECRIS-TCN system,

[32] The Economist Intelligence Unit, 'Risk and Return – Foreign Direct Investment and the Rule of Law', 2015 http://www.biicl.org/documents/625_d4_fdi_main_report.pdf, p. 22.

[33] EU Intellectual Property Office (EUIPO), Intellectual Property (IP) SME Scoreboard 2016: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/sme_scoreboard_study_2016/Executive-summary_en.pdf

[34] COM(2020)93 and SWD(2020)54.

[35] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Long term action plan for better implementation and enforcement of single market rules*, COM(2020)94, in particular actions 4, 6 and 18.

[36] https://ec.europa.eu/info/funding-tenders/funding-opportunities/funding-programmes/overview-funding-programmes/structural-reform-support-programme-srsp_en
The TSI regulation was adopted in March 2021. According to its Article 5 the aim is to support: "….institutional reform and efficient and service-oriented functioning of public administration and e-government, simplification of rules and procedures, auditing, enhancing capacity to absorb Union funds, promotion of administrative cooperation, **effective rule of law, reform of the justice systems**, capacity building of competition and antitrust authorities, strengthening of financial supervision and reinforcement of the fight against fraud, corruption and money laundering" (emphasis added).

- EUR 16.6 million were provided in support to training of justice professionals on EU civil, criminal and fundamental rights law, legal systems of the Member States and the rule of law,
- EUR 14.5 million were provided to promote access to justice (including e-Justice), victims' rights and the rights of persons suspected or accused of crime as well as to support the development and use of digital tools and the maintenance and extension of the e-Justice portal (in complementarity with the Digital Europe Programme).

Why does the Commission monitor the digitalisation of national justice systems?

Digitalisation of justice is the key to increasing the effectiveness of justice systems and a highly efficient tool for enhancing and facilitating access to justice. The COVID-19 pandemic has brought to the forefront the need for Member States to accelerate modernisation reforms in this area.

Since 2013, the EU Justice Scoreboard has included certain comparative information on the digitalisation of justice across the Member States, for example in the areas of online access to judgments or online claim submission and follow-up.

The Commission's Communication on *Digitalisation of justice in the European Union – A toolbox of opportunities* ([37]), adopted in December 2020, presents a strategy aimed at improving access to justice and the effectiveness of justice systems using technology. As outlined in the Communication, a number of additional indicators were included in the EU Justice Scoreboard as of 2021. The purpose is to ensure comprehensive and timely in-depth monitoring of progress areas and challenges encountered by Member States in their efforts towards the digitalisation of their justice systems.

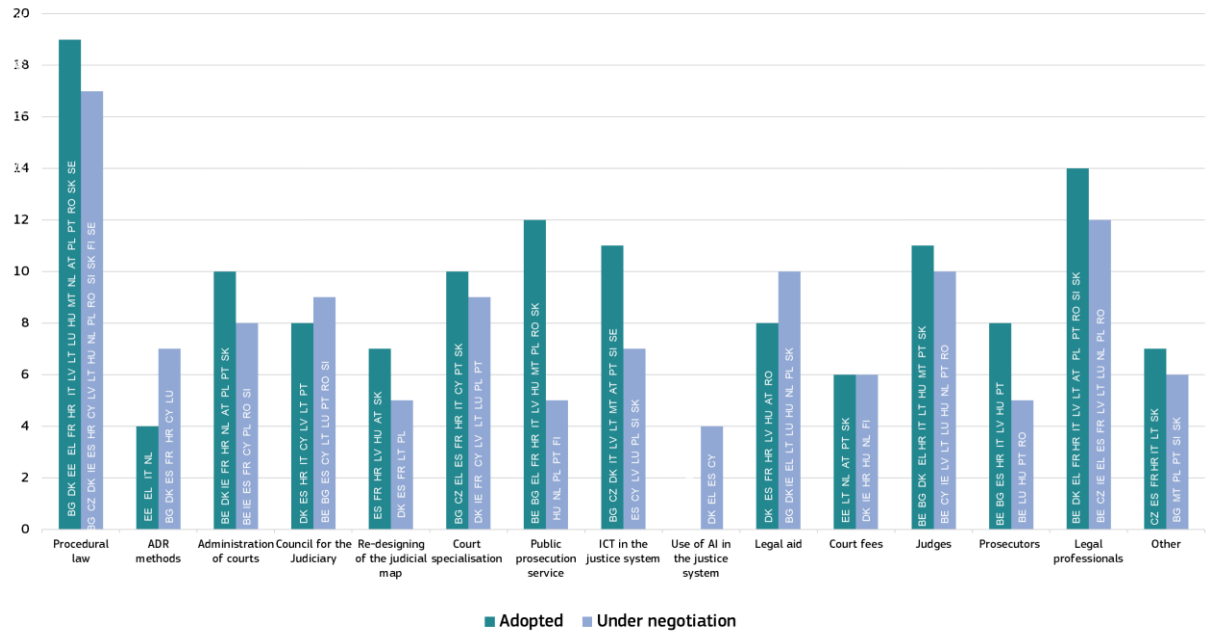
2. CONTEXT: DEVELOPMENTS IN JUSTICE REFORMS IN 2022

In 2022, a large number of Member States continued their efforts to further improve the effectiveness of their justice systems. Figure 1 presents an updated overview of adopted and planned measures across several areas of justice systems in Member States engaged in reforming their justice systems.

Figure 1: Legislative and regulatory activity concerning justice systems in 2022 *(adopted measures/initiatives under negotiation in each Member State) (source: European Commission ([38]))*

[37] COM(2020) 710 final.

[38] This information has been collected in cooperation with the group of contact persons on national justice systems for 26 Member States. DE explained that a number of judicial reforms were under way, but that the scope and scale of the reform process can vary within the 16 federal states.



In 2022, procedural law continued to be an area of particular focus in many Member States, with a significant amount of ongoing or planned legislative activity. Reforms concerning the status of judges, the rules for legal professionals, as well as rules for public prosecution service, also saw significant activity. Following the process of introducing legislation for the use of information and communication technologies (ICT) in a number of Member States in 2021, a large number of the proposed legislation has been adopted in 2022. The momentum from preceding years for measures concerning the administration of courts continued in 2022. Four Member States are planning to use artificial intelligence in their justice systems, however, no legislation was adopted in 2022. The overview confirms the observation that justice reforms require time – sometimes several years – from their announcement, until the adoption of the legislative and regulatory measures and their implementation on the ground.

3. KEY FINDINGS OF THE 2023 EU JUSTICE SCOREBOARD

Efficiency, quality and independence are the main parameters of an effective justice system, for all three of which the Scoreboard presents indicators.

3.1. Efficiency of justice systems

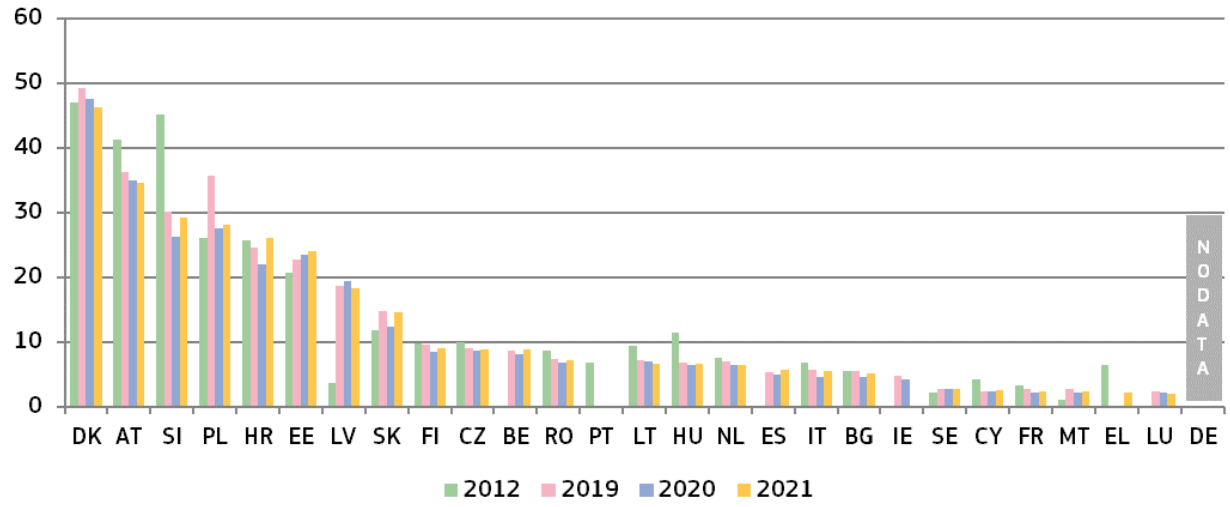
The Scoreboard presents indicators for the efficiency of proceedings in the broad areas of civil, commercial and administrative cases and in specific areas where administrative authorities and courts apply EU law ([39]).

The efficiency related indicators in 2021, in particular the number of incoming cases, clearance rate and disposition time, show the first signs of recovery from the impact of the COVID-19 pandemic, which affected Member States in different ways (e.g. in terms of timing or severity) ([40]).

3.1.1. Developments in caseload

The caseload of national justice systems decreased notable in three Member States, compared to the previous year, while increasing in four or remaining stable in 14. Overall, it continues to vary considerably between Member States (Figure 2). This is testament to how important it is to remain attentive to caseload developments to ensure the effectiveness of justice systems.

Figure 2: Number of incoming civil, commercial, administrative and other cases in 2012, 2019 – 2021 (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study ([41]))*



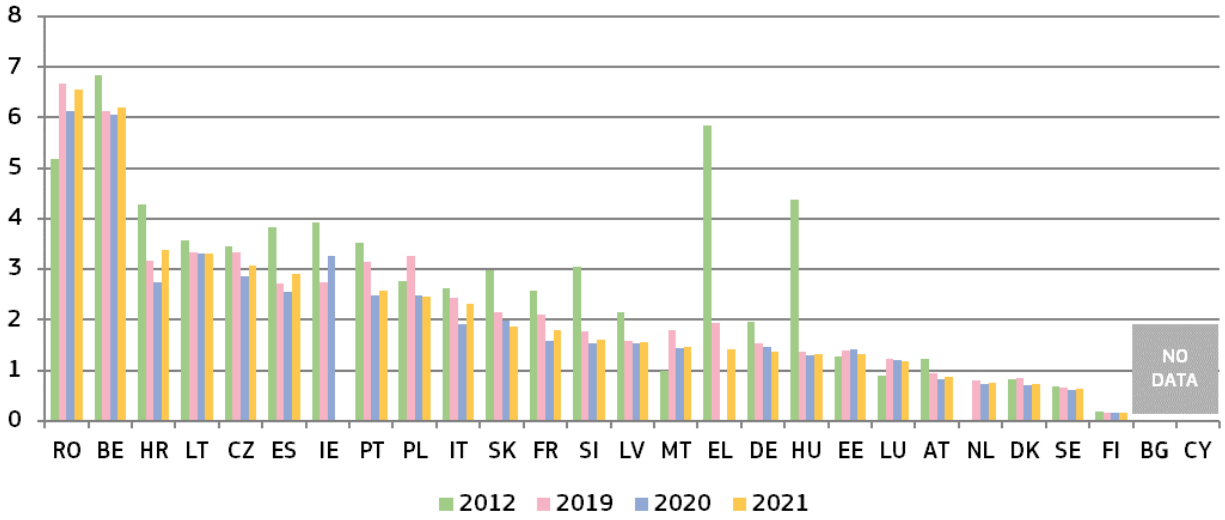
[39] The enforcement of court decisions is also important for the efficiency of a justice system. However, comparable data are not widely available.

[40] In IT, the temporary slowdown of judicial activity due to strict restrictive measures to address the COVID-19 pandemic affected the disposition time. More details on the individual Member States' situation are presented in 2021 study on the functioning of judicial systems in the EU Member States – country profiles, carried out by the CEPEJ Secretariat for the Commission: https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en.

[41] 2021 study on the functioning of judicial systems in the EU Member States, carried out by the CEPEJ Secretariat for the Commission: https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en

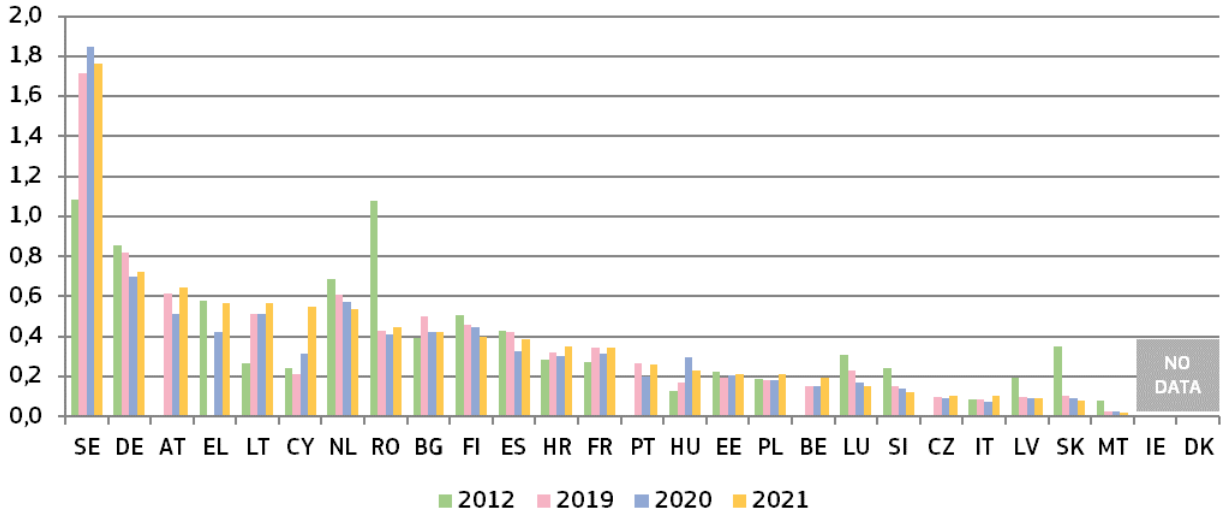
(*) Under the CEPEJ methodology, this category includes all civil and commercial litigious and non-litigious cases, non-litigious land and business registry cases, other registry cases, other non-litigious cases, administrative law cases and other non-criminal cases.

Figure 3: Number of incoming civil and commercial litigious cases in 2012, 2019 – 2021 (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study)*



*(*) Under the CEPEJ methodology, litigious civil/commercial cases concern disputes between parties, e.g. disputes about contracts. Non-litigious civil/commercial cases concern uncontested proceedings, e.g. uncontested payment orders. Methodology changes in **EL** and **SK**. Data for **NL** include non-litigious cases.*

Figure 4: Number of incoming administrative cases in 2012, 2019 – 2021 (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study)*



*(*) Under the CEPEJ methodology, administrative law cases concern disputes between individuals and local, regional or national authorities. **DK** and **IE** do not record administrative cases separately. Removal from judicial procedure of some administrative procedures occurred in **RO** in 2018. Methodology changes in **EL**, **SK** and **SE**. In **SE**, migration cases have been included under administrative cases (retroactively applied for 2017).*

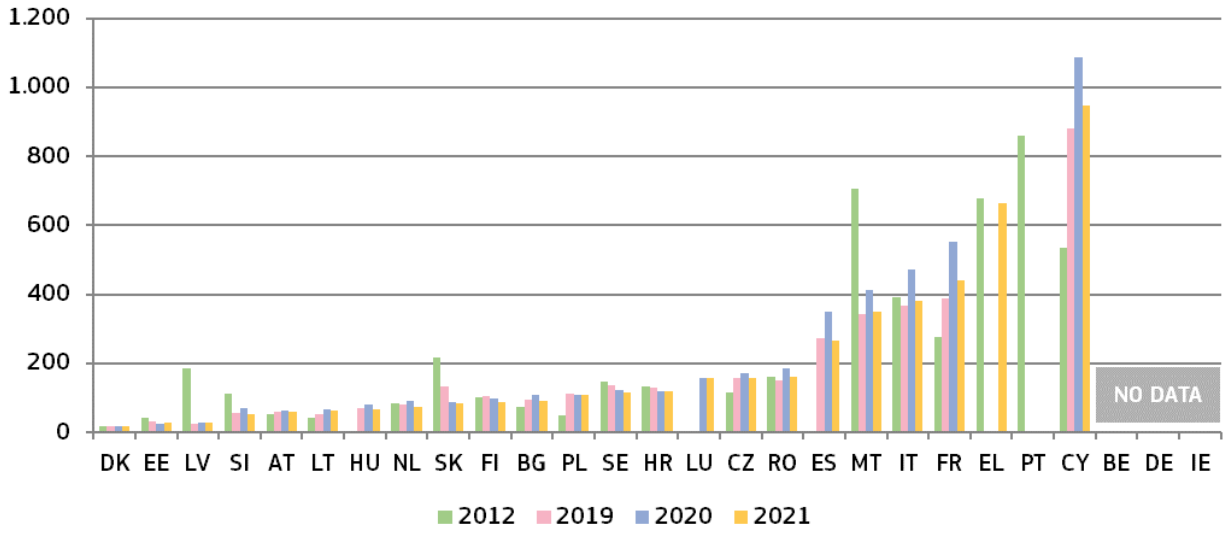
3.1.2. General data on efficiency

The indicators on the efficiency of proceedings in the broad areas of civil, commercial and administrative cases are: (i) estimated length of proceedings (disposition time), (ii) clearance rate, and (iii) number of pending cases.

– Estimated length of proceedings –

The length of proceedings indicates the estimated time (in days) needed to resolve a case in court, meaning the time taken by the court to reach a decision at first instance. The 'disposition time' indicator is the number of unresolved cases divided by the number of resolved cases at the end of a year multiplied by 365 (days) ([42]). It is a calculated quantity that indicates the estimated minimum time that a court would need to resolve a case while maintaining the current working conditions. The higher the value, the higher is the probability that it takes the court longer to reach a decision. Figures mostly concern proceedings at first instance courts and compare, where available, data for 2012, 2019, 2020 and 2021 ([43]). Figures 7 and 9 show the disposition time in 2021 in civil and commercial litigious cases, and administrative cases at all court instances.

Figure 5: Estimated time needed to resolve civil, commercial, administrative and other cases in 2012, 2019 – 2021 (*) *(1st instance/in days) (source: CEPEJ study)*

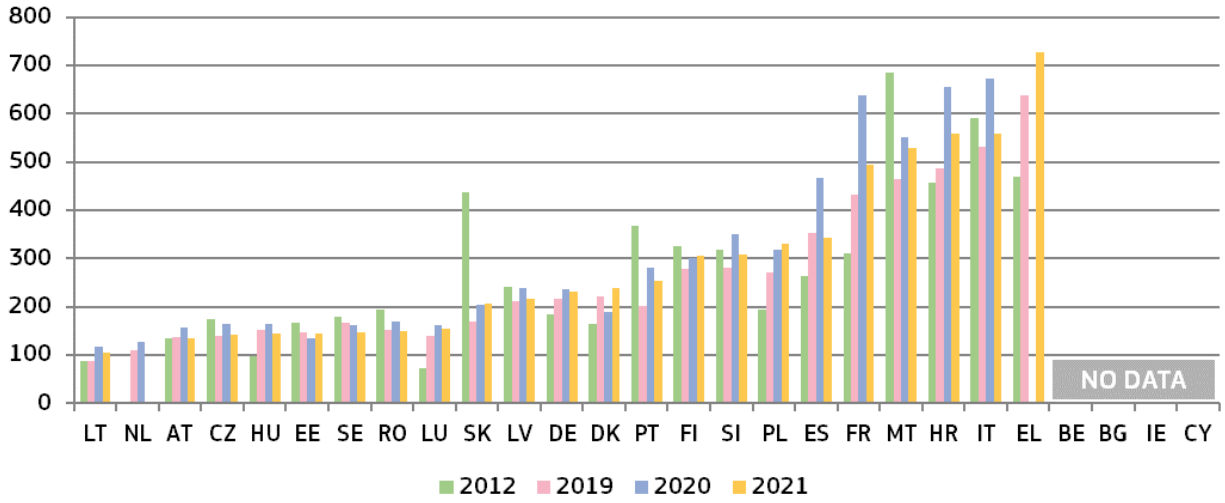


*(*) Under the CEPEJ methodology, this category includes all civil and commercial litigious and non-litigious cases, non-litigious land and business registry cases, other registry cases, other non-litigious cases, administrative law cases and other non-criminal cases. Methodology changes in **SK**. Pending cases include all instances in **CZ** and, until 2016, in **SK**. **LV**: the sharp decrease is due to court system reform, error checks and data clean-ups of the information system.*

[42] Length of proceedings, clearance rate and number of pending cases are standard indicators defined by CEPEJ: http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_en.asp

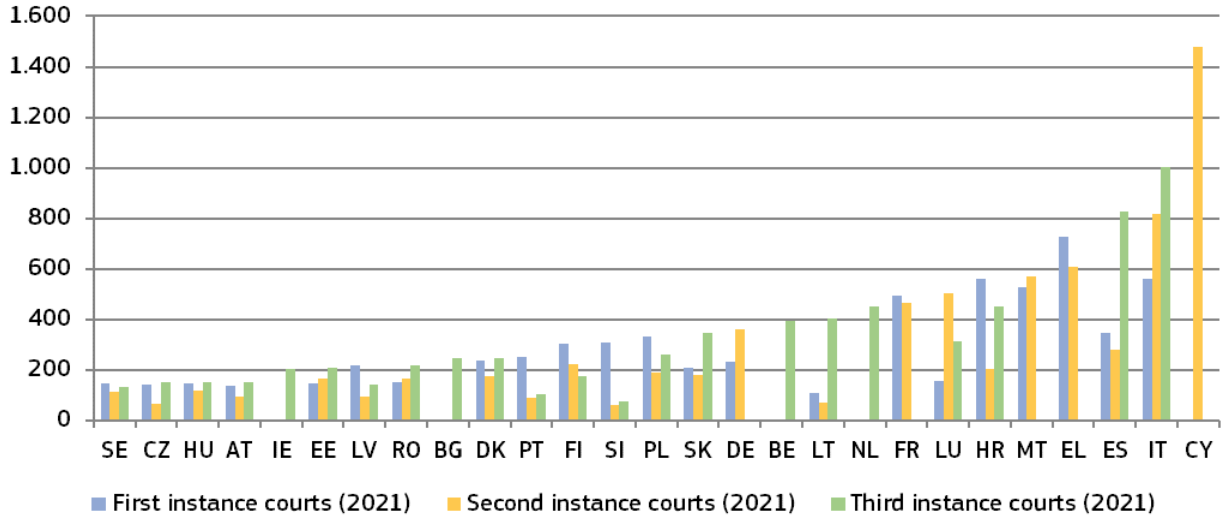
[43] The years were chosen to keep the eight-year perspective with 2012 as a baseline, while at the same time not overcrowding the figures. Data for 2010, 2013, 2014, 2015, 2016, 2017 and 2018 are available in the CEPEJ report.

Figure 6: Estimated time needed to resolve litigious civil and commercial cases at first instance in 2012, 2019 – 2021 (*) *(1st instance/in days) (source: CEPEJ study)*



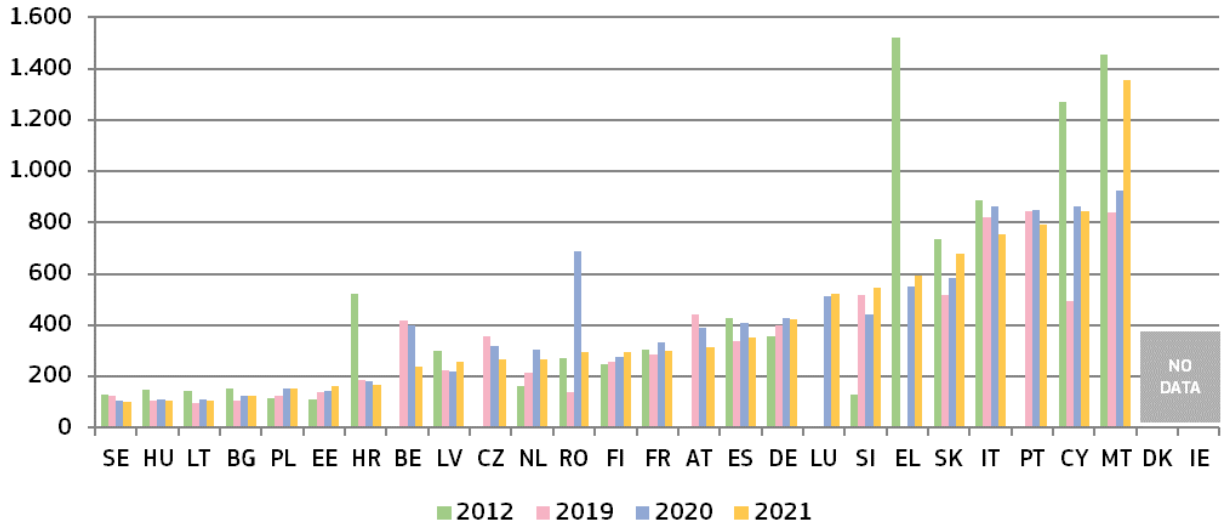
*(*) Under the CEPEJ methodology, litigious civil/commercial cases concern disputes between parties, e.g. disputes about contracts. Non-litigious civil/commercial cases concern uncontested proceedings, e.g. uncontested payment orders. Methodology changes in **EL** and **SK**. Pending cases include all instances in **CZ** and, up to 2016, in **SK**. **IT**: the temporary slowdown of judicial activity due to strict restrictive measures to address the COVID-19 pandemic affected the disposition time. Data for **NL** include non-litigious cases.*

Figure 7: Estimated time needed to resolve litigious civil and commercial cases at all court instances in 2021 (*) *(1st, 2nd and 3rd instance/in days) (source: CEPEJ study)*



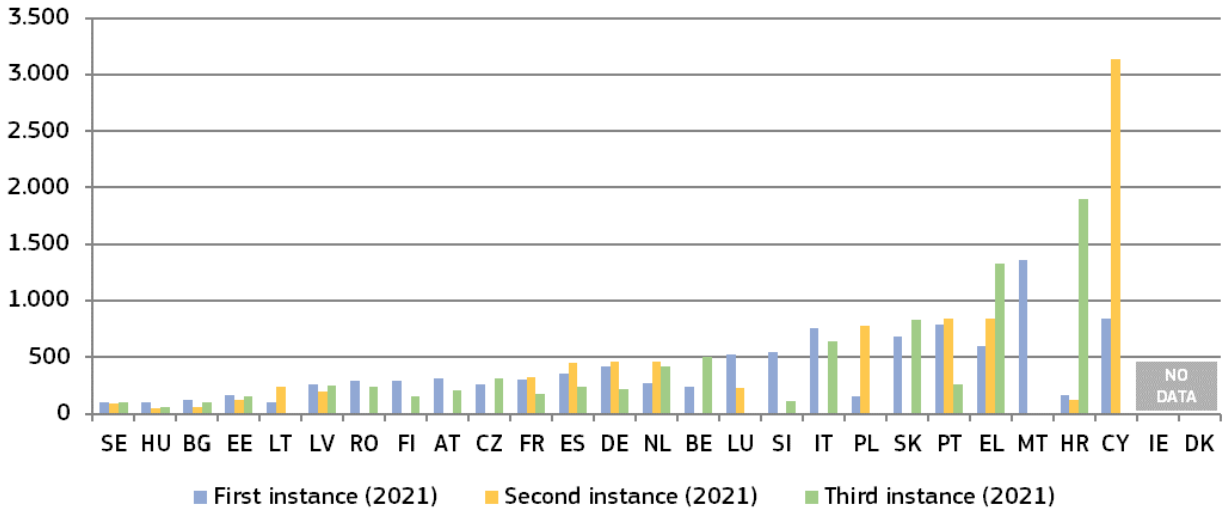
*(*) The order is determined by the court instance with the longest proceedings in each Member State. No data are available for first and second instance courts in **BE** and **BG**, for second instance courts in **NL,** for second and third instance courts in **AT** or for third instance courts in **DE** and **HR**. There is no third instance court in **DE** and **MT**. **IT**: The temporary slowdown of judicial activity due to strict restrictive measures to address the COVID-19 pandemic affected the disposition time. Access to a third instance court may be limited in some Member States.*

Figure 8: Estimated time needed to resolve <u>administrative cases at first instance in 2012, 2019 – 2021</u> (*) *(1st instance/in days) (source: CEPEJ study)*



*(*) Administrative law cases concern disputes between individuals and local, regional or national authorities, under the CEPEJ methodology. Methodology changes in **EL** and **SK**. Pending cases include courts of all instances in **CZ** and, until 2016, in **SK**. **DK** and **IE** do not record administrative cases separately. **CY**: in 2018, the number of resolved cases increased because cases were tried together, 2 724 consolidated cases were withdrawn and an administrative court was set up in 2015.*

Figure 9: Estimated time needed to resolve <u>administrative cases</u> <u>at all court instances in 2021</u> (*) *(1st and, where applicable, 2nd and 3rd instance/in days) (source: CEPEJ study)*

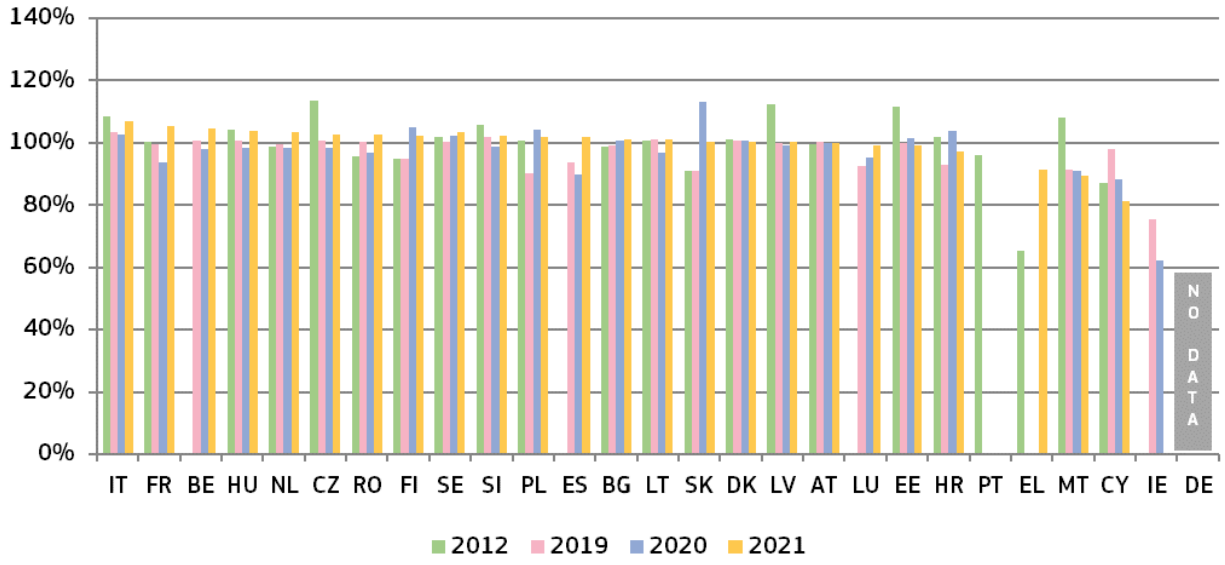


*(*) The order is determined by the court instance with the longest proceedings in each Member State. No data available for second instance courts in **BE**, **CZ**, **HU**, **MT**, **AT**, **RO**, **SI**, **SK** and **FI**, for third instance courts in **CY**, **LT**, **LU**, **MT** and **PL**. The supreme, or other highest court, is the only appeal instance in **CZ**, **IT**, **CY**, **AT**, **SI** and **FI**. There is no third instance court for these types of cases in **LT**, **LU** and **MT**. The highest Administrative Court is the first and only instance for certain cases in **BE**. Access to third instance courts may be limited in some Member States. **DK** and **IE** do not record administrative cases separately.*

– Clearance rate –

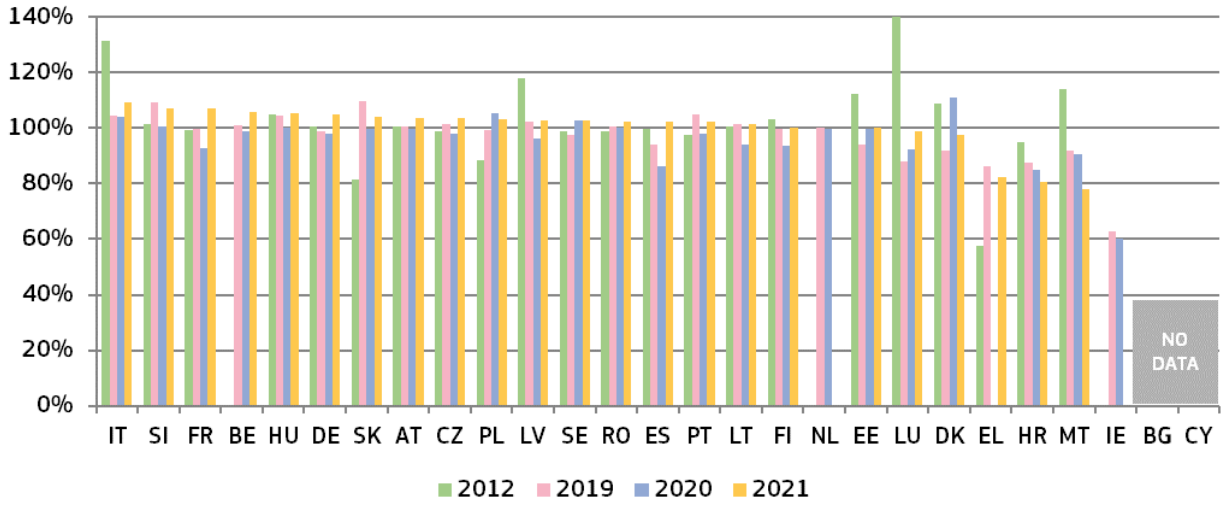
The clearance rate is the ratio of the number of resolved cases over the number of incoming cases. It measures whether a court is keeping up with its incoming caseload. When the clearance rate is around 100% or higher, it means the judicial system is able to resolve at least as many cases as come in. When the clearance rate is below 100%, it means that the courts are resolving fewer cases than the number of incoming cases.

Figure 10: Rate of resolving civil, commercial, administrative and other cases in 2012, 2019 – 2021 (*) *(1st instance/in % — values higher than 100% indicate that more cases are resolved than come in, while values below 100% indicate that fewer cases are resolved than come in) (source: CEPEJ study)*



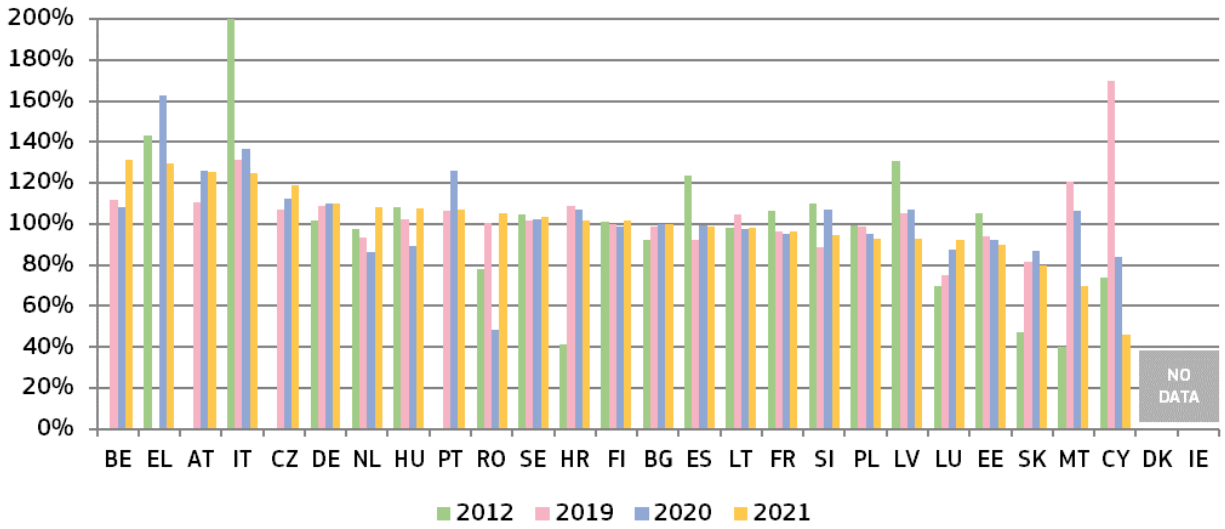
*(*) Under the CEPEJ methodology, this category includes all civil and commercial litigious and non-litigious cases, non-litigious land and business registry cases, other registry cases, other non-litigious cases, administrative law cases and other non-criminal cases. Methodology changes in **SK**. **IE:** the number of resolved cases is expected to be underreported due to the methodology. **IT**: different classification of civil cases introduced in 2013.*

Figure 11: Rate of resolving <u>litigious civil and commercial cases in 2012, 2019 – 2021</u> (*) *(1st instance/in %) (source: CEPEJ study)*



*(*) Methodology changes in **EL** and **SK**. **IE:** the number of resolved cases is expected to be underreported due to the methodology. **IT**: different classification of civil cases introduced in 2013. Data for **NL** include non-litigious cases.*

Figure 12: Rate of resolving <u>administrative cases in 2012, 2019 – 2021</u> (*) *(1st instance/in %) (source: CEPEJ study)*

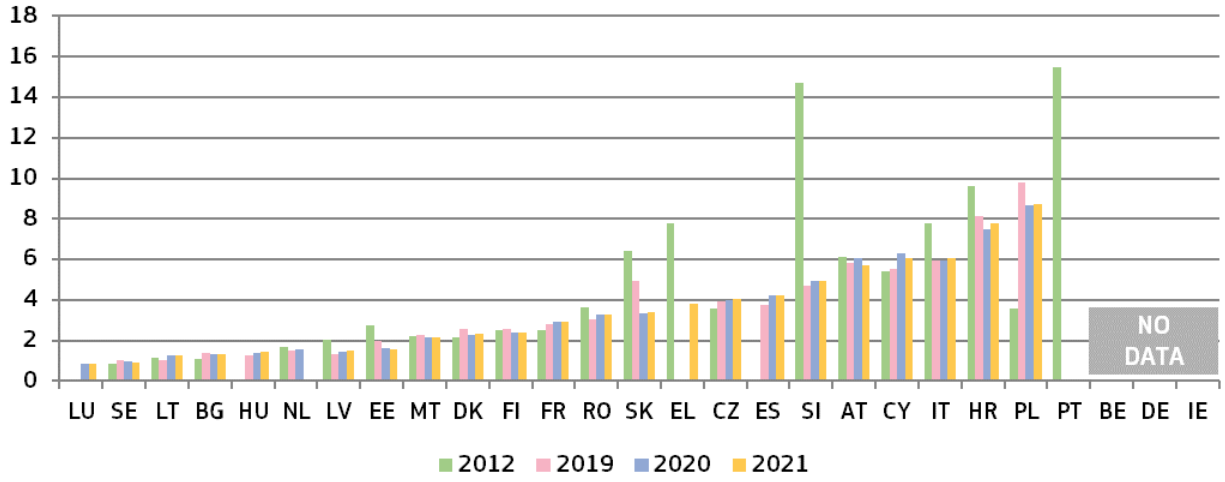


*(*) Past values for some Member States have been reduced for presentation purposes (**CY** in 2018 = 219%; **IT** in 2012=279.8%); Methodology changes in **EL** and **SK**. **DK** and **IE** do not record administrative cases separately. In **CY**, the number of resolved cases has increased because cases were tried together, 2 724 consolidated cases were withdrawn and an administrative court was set up in 2015.*

– Pending cases –

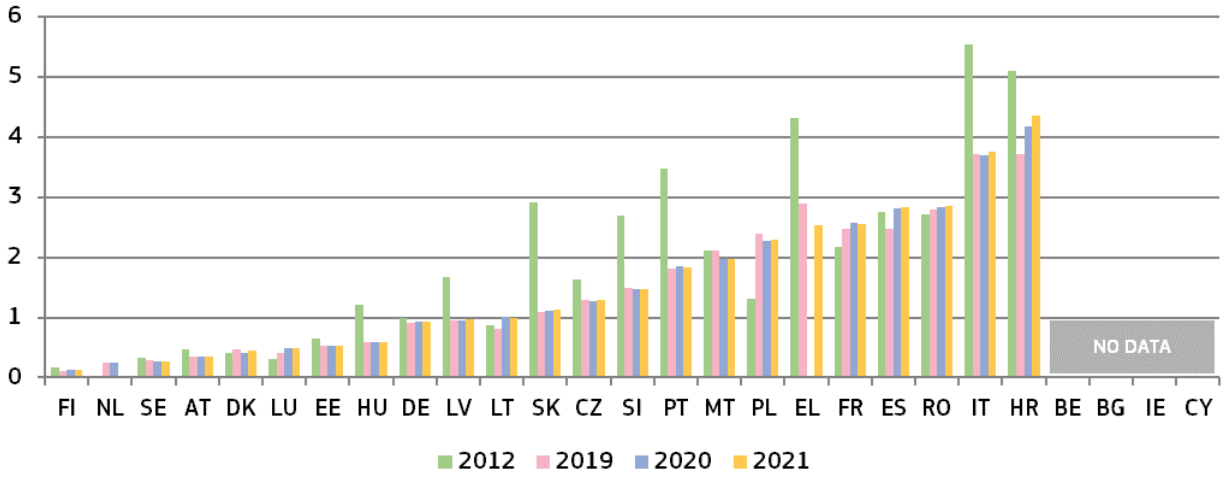
The number of pending cases expresses the number of cases that remains to be dealt with at the end of the year in question. It also affects disposition time.

Figure 13: Number of <u>pending civil, commercial and administrative and other cases in 2012, 2019 – 2021</u> (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study)*



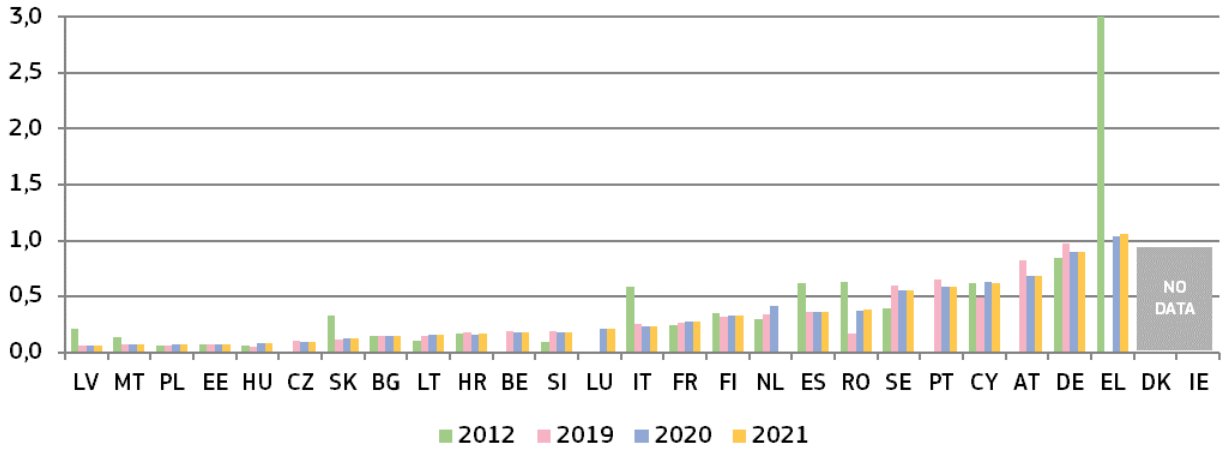
*(*) Under the CEPEJ methodology, this category includes all civil and commercial litigious and non-litigious cases, non-litigious land and business registry cases, other registry cases, other non-litigious cases, administrative law cases and other non-criminal cases. Methodology changes in **SK**. Pending cases include cases before courts of all instances in **CZ** and, until 2016, in **SK**. **IT**: different classification of civil cases introduced in 2013.*

Figure 14: Number of <u>pending litigious civil and commercial cases in 2012, 2019 – 2021</u> (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study)*



*(*) Methodology changes in **EL** and **SK**. Pending cases include cases before courts of all instances in **CZ** and, until 2016, in **SK**. **IT**: different classification of civil cases introduced in 2013. Data for **NL** include non-litigious cases.*

Figure 15: Number of pending administrative cases in 2012, 2019 – 2021 (*) *(1st instance/per 100 inhabitants) (source: CEPEJ study)*



*(*) Past values for some Member States have been reduced for presentation purposes (**EL** in 2012 = 3.5). Methodology changes in **EL** and **SK**. Pending cases include cases before courts of all instances in **CZ** and, until 2016, in **SK**. **DK** and **IE** do not record administrative cases separately.*

3.1.3. Efficiency in specific areas of EU law

This section complements the general data on the efficiency of justice systems and presents the average length of proceedings ([44]) in specific areas of EU law. The 2023 Scoreboard builds on previous data for competition, electronic communications, the EU trademark, consumer law and anti-money laundering. A sixth area is added, to include data on anti-corruption proceedings, in light of the recent proposal on this topic ([45]). The now six areas have been selected because of their relevance for the single market and the business environment. This edition continues with the overview of efficiency of administrative authorities with updated figures on the areas of competition and consumer protection. In general, long delays in judicial and administrative proceedings may have negative impacts on rights stemming from EU law e.g. when appropriate remedies are no longer available or serious financial damages become irrecoverable. For business in particular, administrative delays and uncertainty in some cases can lead to significant costs and undermine planned or existing investments ([46]).

[44] The length of proceedings in specific areas is calculated in calendar days, counting from the day on which an action or appeal was lodged before the court (or the indictment became final) until the day on which the court adopted its decision (Figures 16-23). Values are ranked based on a weighted average of data for 2013 and 2019-2021 for Figures 16, 18, 19 and 20, for 2013 and 2019-2021 for Figure 20, for 2014 and 2019-2021 for Figure 21. For Figure 17, data cover 2020 and 2021. For Figure 23, the data cover only 2021. Where data were not available for all years, the average reflects the available data presented in the chart, calculated based on all cases, a sample of cases or, in very few countries, estimations.

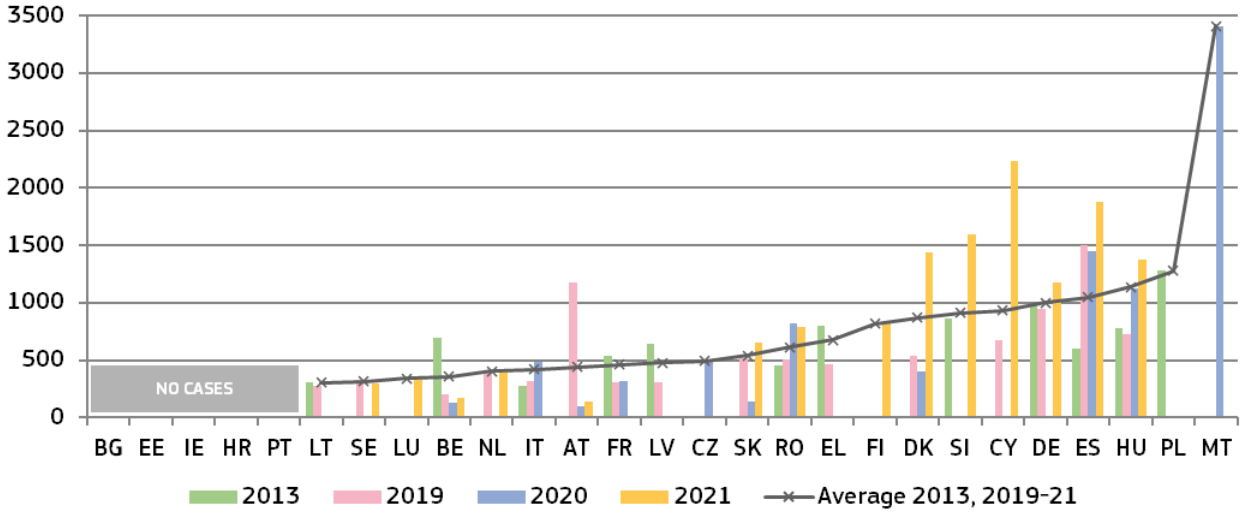
[45] Proposal for a Directive on combatting corruption COM (2023) 234 and Joint Communication on the fight against corruption JOIN(2023) 12 final.

[46] Figure 18 of the Retention and Expansion of Foreign Direct Investment, Political Risk and Policy Responses, 2019 the World Bank Group.

– Competition –

The effective enforcement of competition law is essential for an attractive business environment as it ensures a level playing field for businesses. It encourages enterprise and efficiency, creates a wider choice for consumers and helps reduce prices and improve quality. Figure 17 presents the average length of cases against the decisions of national competition authorities applying Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) ([47]). Figure 18 presents the average length of proceedings before the national competition authorities when applying Articles 101 and 102 of the TFEU.

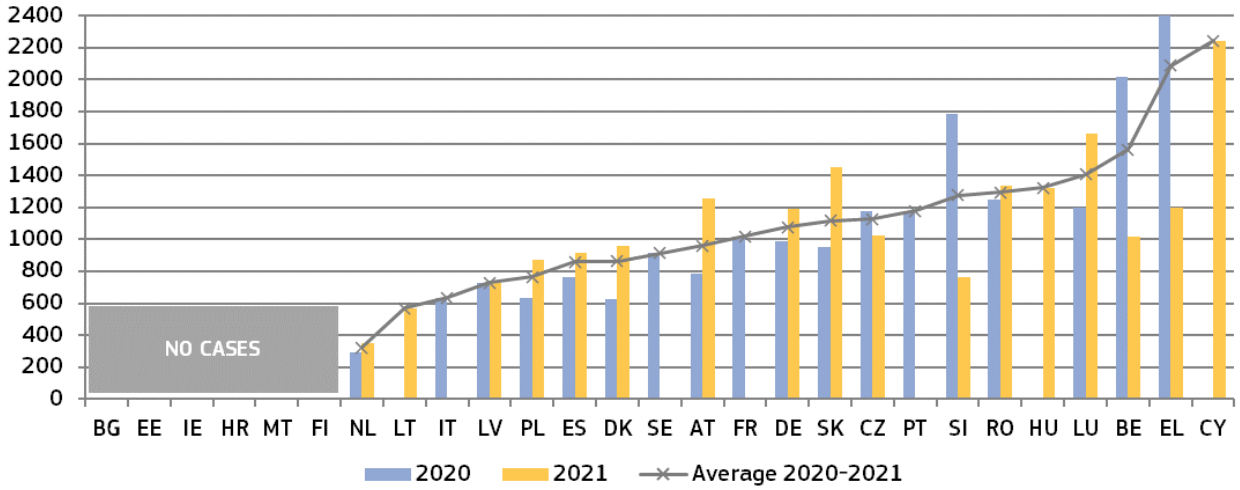
Figure 16: Competition: average length of judicial review in 2013, 2019 – 2021 (*) *(1st instance/in days) (source: European Commission with the European Competition Network)*



*(*) **IE** and **AT**: the scenario is not applicable as the authorities do not have powers to take respective decisions. **AT**: data include cases decided by the Cartel Court involving an infringement of Articles 101 and 102 TFEU, but not based on appeals against the national competition authority. An estimation of length was used for **IT**. An empty column can indicate that the Member State reported no cases for the year in question. The number of cases is low (below five a year) in many Member States. This can make the annual data dependent on one exceptionally long or short case (e.g. **MT** were there was only one case).*

[47] See Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Text with EEA relevance), OJ L 1, 4.1.2003, p. 1–25, in particular Articles 3 and 5.

Figure 17: <u>Competition</u>: average length of proceedings before the national competition authorities in 2020-2021 (*) *(in days) (source: European Commission with the European Competition Network)*



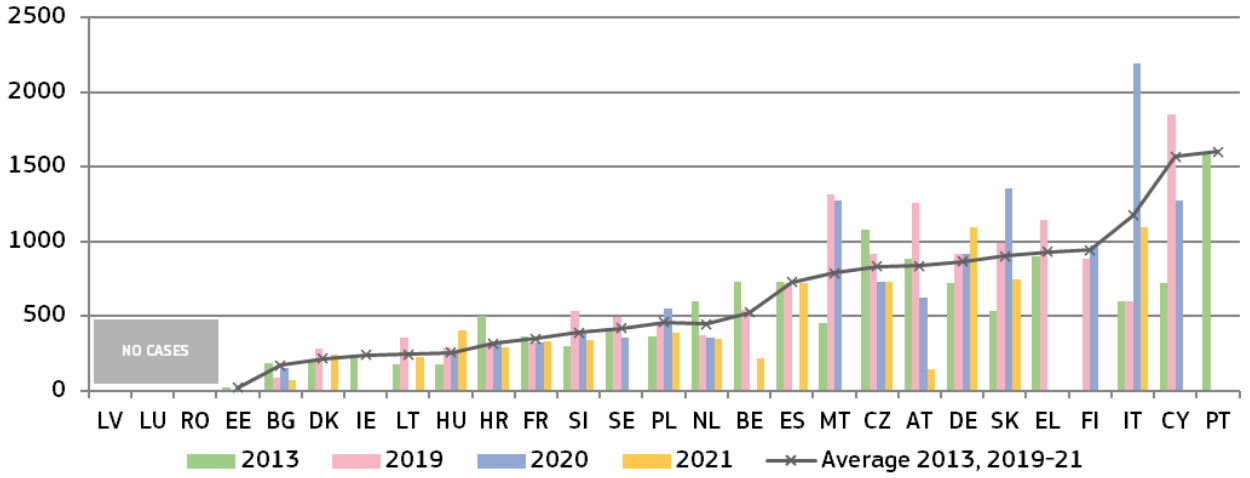
*(*) In 10 Member States the number of cases is limited. It must be taken into account that some Member States count the days for the length of proceedings from different starting points. With a few exceptions below, most Member States consider a case open when the investigation is open. In the **NL**, the case is considered open when the Statement of Objection is sent, while in **CZ** and **SK** a case is considered open when the administrative proceedings open. In the latter case, this is an intermediate phase between the opening of the investigation and the sending of the Statement of Objection. There are also a number of factors that may impact the length of proceedings before the national competition authorities. These include the nature and complexity of the case, the time it takes to collect the economic data and the conclusion of the economic analysis, the deadline extensions at the requests of the parties, the repetition of hearings and court actions. The COVID-19 pandemic also had an impact on the length of proceedings.*

– *Electronic communications* –

The objective of EU electronic communications legislation is to raise competition, to contribute to the development of the single market and to generate investment, innovation and growth. The positive effects for consumers can be achieved through effective enforcement of this legislation which can lead to lower prices for end users and better quality services. Figure 18 presents the average length of judicial review cases against the decisions of national regulatory authorities applying EU law on electronic communications ([48]). It covers a broad range of cases, ranging from more complex 'market analysis' reviews to more straightforward consumer-focused issues.

[48] The calculation has been made based on the length of cases of appeal against national regulatory authority decisions applying national laws that implement the EU regulatory framework for electronic communications (Directives 2002/19/EC (Access Directive), Directive 2002/20/EC (Authorisation Directive), Directive 2002/21/EC (Framework Directive), Directive 2002/22/EC (Universal Service Directive), as well as other relevant EU law such as the radio spectrum policy programme and Commission spectrum decisions, excluding Directive 2002/58/EC on privacy and electronic communications.

Figure 18: <u>Electronic communications</u>: average length of judicial review in 2013, 2019 – 2021 (*) *(1st instance/in days) (source: European Commission with the Communications Committee)*

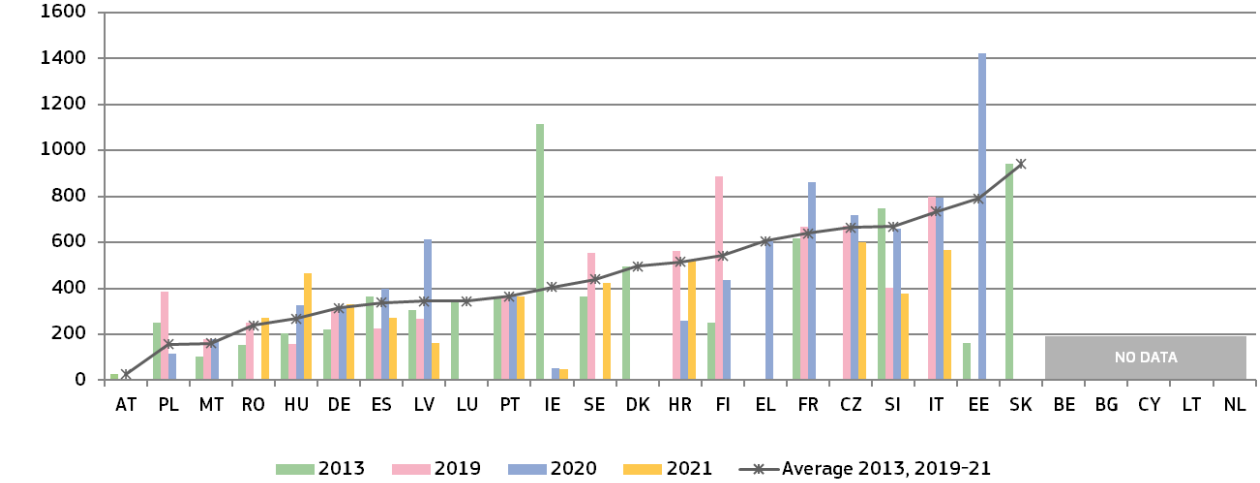


(*) *The number of cases varies from one Member State to another. An empty column indicates that the Member State reported no cases for the year (except **PT** for 2019-20, and **RO** no data). In some instances, the limited number of relevant cases (**BG**, **CY, MT**, **NL**, **SK**, **FI, SE**) can make the annual data dependent on one exceptionally long or short case and result in wide variations from one year to the next. **DK**: quasi-judicial body in charge of 1st instance appeals. **EE:** The average length of judicial review cases in 2013 was 18 days. **ES**, **AT**, and **PL**: different courts in charge depending on the subject matter.*

– EU trademark –

Effective enforcement of intellectual property rights is essential to stimulate investment in innovation. EU legislation on EU trademarks ([49]) gives the national courts a significant role to play, in acting as EU courts and taking decisions that affect the single market. Figure 19 shows the average length of EU trademark infringement cases in litigation between private parties.

Figure 19: <u>EU trademark</u>: average length of EU trademark infringement cases in 2013, 2019 – 2021 (*) *(1st instance/in days) (source: European Commission with the European Observatory on infringements of intellectual property rights)*



[49] Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trademark (OJ L 154, 16.62017, p. 1-99).

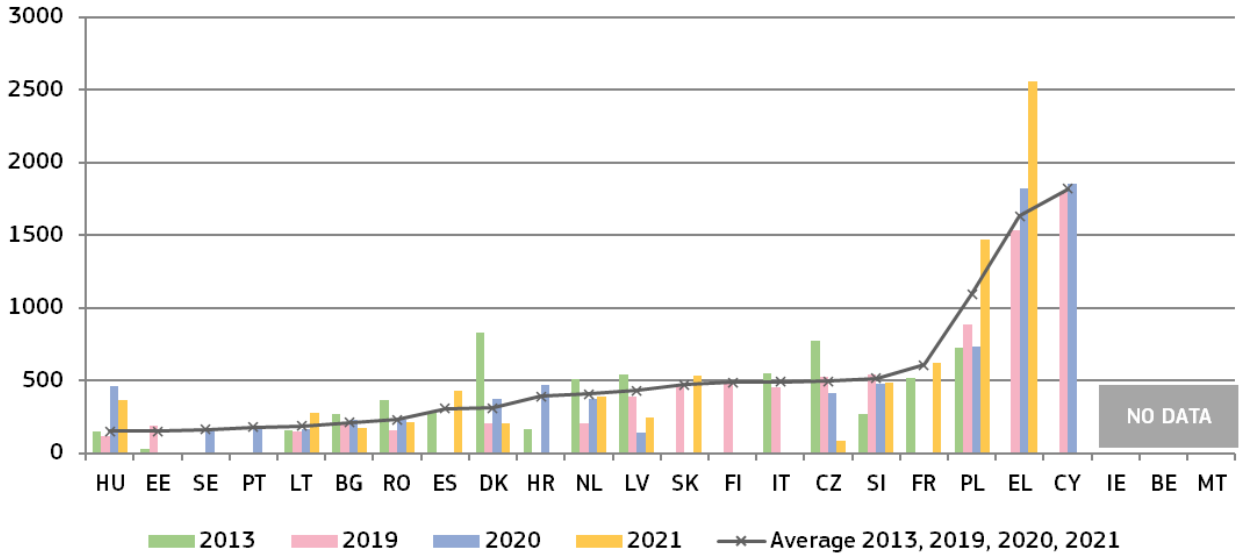
*(*) **FR**, **IT**, **LT**, **LU**: a sample of cases used for data for certain years. **DK**: data from all trademark cases (not only EU) in Commercial and Maritime High Courts; for 2018 and 2019, no data on average length due to changes in data collection system. **EL:** data based on weighted average length from two courts. **ES**: cases concerning other EU IP titles are included in the calculation of average length.*

– Consumer protection –

Effective enforcement of consumer law ensures that consumers benefit from their rights and that companies infringing consumer laws do not gain an unfair advantage. Consumer protection authorities and courts play a key role in enforcing EU consumer law ([50]) within the various national enforcement systems. Figure 20 illustrates the average length of judicial review cases against decisions of consumer protection authorities applying EU law.

For consumers or companies, effective enforcement can involve a chain of actors, not only courts but also administrative authorities. To shed more light on this enforcement chain, the length of proceedings by consumer authorities is presented. Figure 21 shows the average length of time it took for administrative decisions by national consumer protection authorities in 2014, 2019-2021 from the moment a case is opened. Relevant decisions include declaring infringements of substantive rules, interim measures, cease and desist orders, initiation of court proceedings or case closure.

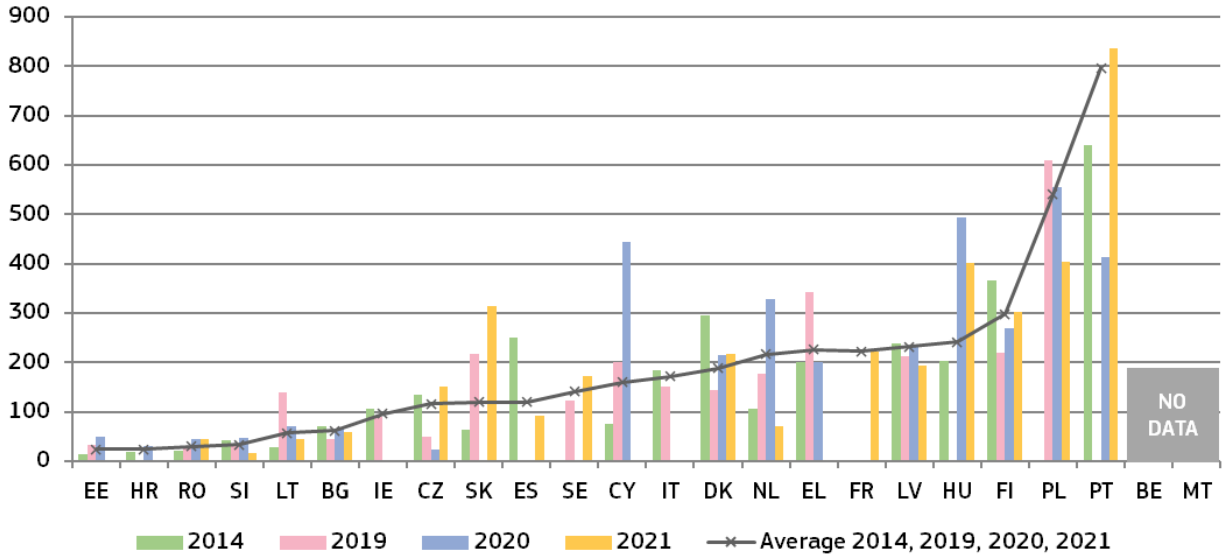
Figure 20: Consumer protection: average length of judicial review in 2013, 2019 – 2021 (*) *(1st instance/in days) (source: European Commission with the Consumer Protection Cooperation Network)*



*(*) **DE**, **LU, AT**: scenario is not applicable as consumer authorities are not empowered to decide on infringements of relevant consumer rules. The number of relevant cases for 2020 is low (fewer than five) in **IE** and **FI**. An estimate of average length was provided by **EL** and **RO** for certain years.*

[50] Figures 20 and 21 relate to the enforcement of the Unfair Terms Directive (93/13/EEC), the Consumer Sales and Guarantees Directive (1999/44/EC), the Unfair Commercial Practices Directive (2005/29/EC) and the Consumer Rights Directive (2011/83/EC), and their national implementing provisions.

Figure 21: Consumer protection: average length of administrative decisions by consumer protection authorities in 2014, 2019 – 2021 (*) *(1st instance/in days) (source: European Commission with the Consumer Protection Cooperation Network)*



*(*) **DE**, **LU**, **AT**: scenario is not applicable as consumer authorities are not empowered to decide on infringements of relevant consumer rules. An estimate of average length was provided by **DK**, **EL**, **FR**, **RO** and **FI** for certain years.*

– Money laundering –

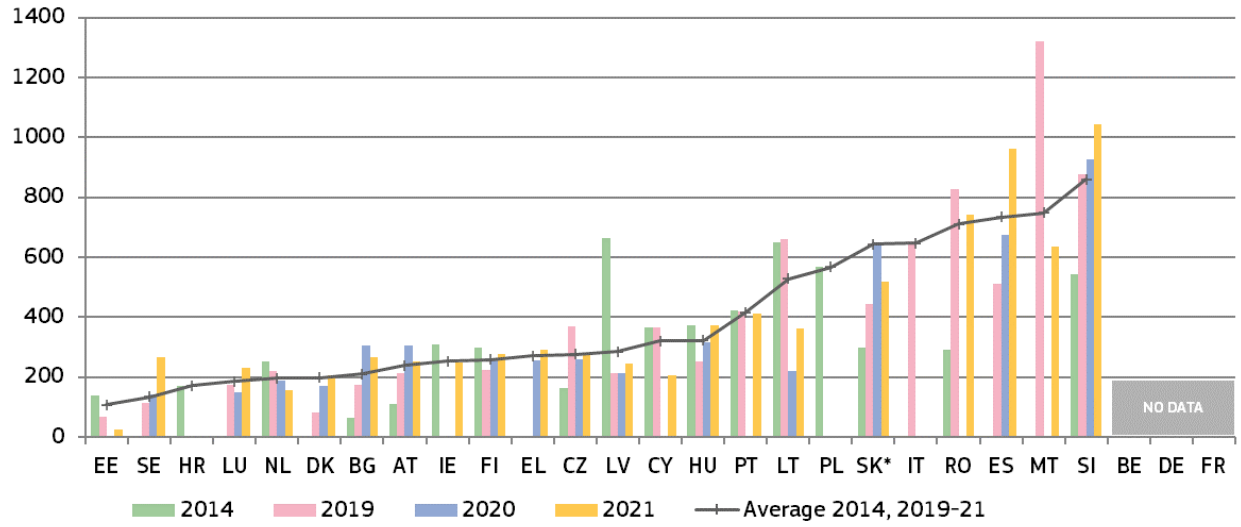
In addition to depriving criminals of resources for perpetrating their illicit acts, the fight against money laundering is crucial for the soundness, integrity and stability of the financial sector, confidence in the financial system and fair competition in the single market ([51]). Money laundering can discourage foreign investment, distort international capital flows and negatively affect a country's macroeconomic performance, resulting in welfare losses, thereby draining resources from more productive economic activities ([52]). The Anti-money laundering Directive requires Member States to maintain statistics on the effectiveness of their systems to combat money laundering or terrorist financing ([53]). In cooperation with Member States, an updated questionnaire was used to collect data on the judicial stages in national anti-money laundering regimes. Figure 22 shows the average length of first instance court cases dealing with money laundering criminal offences.

[51] Recital 2 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

[52] IMF factsheet, March 8, 2018: https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/31/Fight-Against-Money-Laundering-the-Financing-of-Terrorism

[53] Article 44(1) of Directive (EU) 2015/849. See also revised Article 44 of Directive (EU) 2018/843, which entered into force in June 2018 and had to be implemented by Member States by January 2020.

Figure 22: <u>Money laundering</u>: average length of court cases in 2014, 2019 – 2021(*) *(1st instance/in days) (source: European Commission with the Expert Group on Money Laundering and Financing of Terrorism)*



(*) No data for 2021: ***BE, DE, FR, HR, IT*** *and* ***RO****.* ***BG****: The average length of the cases is calculated from the day of opening the court case to the day of the court decision in months.* ***PT****: the database was filtered, for each and every judicial county, by the relevant criteria to reach the information related to money laundering files; regarding the average number of days, the dates of infraction and the date of final decision or closure were considered.* ***CY****: Serious cases, before the Assize Court, are on average tried within a year. Less serious offences, before the District Courts, take longer to be tried.* ***SK****: data correspond to average length of the whole proceedings, including at appeal court.*

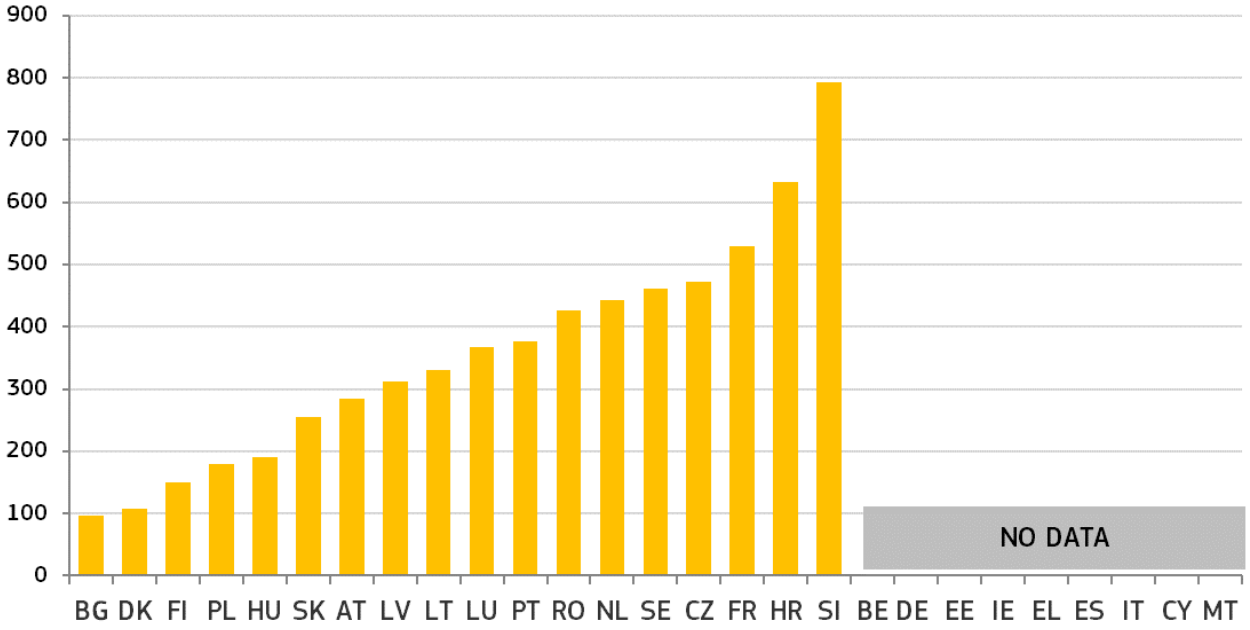
– Anti-corruption –

Corruption is an impediment to sustainable economic growth, diverting resources from productive outcomes, undermining the efficiency of public spending and deepening social inequalities. It hampers the effective and smooth functioning of the single market, creates uncertainties in doing business and holds back investment. Corruption is particularly complex to tackle since, unlike most crimes, both parties involved in a corruption case are interested in maintaining secrecy about it, contributing to a general difficulty to quantify the magnitude of corruption cases in any country. Corruption is a particularly serious crime with a cross-border dimension addressed in Article 83(1) of the Treaty on the Functioning of the European Union that can only be effectively tackled by common minimum rules across the European Union. On 3 May 2023, the Commission adopted a proposal for a Directive on combating corruption by criminal law and a joint communication on the fight against corruption ([54]). The proposal for a directive updates and harmonises EU rules on the definitions of and penalties for corruption offences, to ensure high standards against the full range of corruption offences (i.e. bribery, but also misappropriation, trading in influence, abuse of functions, as well as obstruction of justice and the illicit enrichment related to corruption offence) to better prevent corruption and to improve enforcement. In cooperation with Member States, a

[54] Proposal for a Directive on combatting corruption COM (2023) 234 and Joint Communication on the fight against corruption JOIN(2023) 12 final.

new questionnaire was developed to collect data on the length of court proceedings before first instance courts in bribery cases, which is presented in Figure 23 below ([55]).

Figure 23: <u>Corruption (bribery)</u>: average length of court cases in 2021 (*) *(1st instance/in days) (source: European Commission with the National Contact Points for Anti-corruption)*



*(*) No reply on this question from **MT** and **CY**. For **BE**, **EE**, **DE**, **IE**, **EL**, **ES** and IT the exact number of days is not available. **NL**: The average processing time for the 27 cases is 443 days. However, the indictment/subpoena at this starting point is not yet final, and often the case is not yet ready for trial, so it takes some time before it is placed in a hearing. If the starting point is the first hearing and the endpoint is the date of the final verdict (by a first instance judge), then the average processing time for the abovementioned cases is 100 days.*

[55] This first data collection has focussed on the criminal courts of first instance, which usually contribute the most to the overall length of criminal proceedings until the judgment becomes final.

3.1.4. Summary on the efficiency of justice systems

An efficient justice system manages its caseload and backlog of cases, and delivers its decisions without undue delay. The main indicators used by the EU Justice Scoreboard to monitor the efficiency of justice systems are therefore the **length of proceedings** (estimated or average time in days needed to resolve a case), the **clearance rate** (the ratio of the number of resolved cases to the number of incoming cases) and the number of **pending cases** (that remain to be dealt with at the end of the year).

General data on efficiency

The 2023 EU Justice Scoreboard contains data on efficiency spanning 10 years (2012-2021). This time-span makes it possible to identify certain trends and takes into account that it often takes time for the effect of justice reforms to be felt.

The data from 2012 to 2021 in civil, commercial and administrative cases reveals positive trends in most cases. After the dip in efficiency observed in 2020, possibly due to the COVID-19 pandemic, in 2021 we see a return to the efficiency levels of 2019. This shows the effect of the measures taken by Member States to introduce different types of hybrid or online working arrangements, in order to keep the courts functioning despite the ongoing COVID-19 pandemic in 2021.

Some positive developments can be observed in the Member States that have been considered, in the context of the European Semester, to be facing specific challenges ([56]).

- From 2012, based on the existing data for these Member States, and despite the COVID-19 pandemic, in 12 Member States, the **length of first instance court proceedings** in the broad 'all cases' category (Figure 5) and the 'litigious civil and commercial cases' category (Figure 6) continued to decrease or remained stable. Figures 5 and 6 show a decrease in the length of proceedings for 10 Member States, in some cases to below 2019 levels. In administrative cases (Figure 8), the length of proceedings since 2012 has decreased or remained stable in about 7 of these Member States. Overall, 15 the Member States saw a decrease in the length of proceedings in administrative cases in 2021.
- The Scoreboard presents data on the **length of proceedings in all court instances** for litigious civil and commercial cases (Figure 7) and administrative cases (Figure 9). Data show that in 5 of the Member States identified as facing challenges with the length of proceedings in first instance courts, higher instance courts perform more efficiently. However, for 5 other Member States facing challenges, the average length of proceedings in higher instance courts is even longer than in first instance courts.

[56] HR, IT, CY, HU, MT, PL, PT and SK which received 2020 European Semester country-specific recommendations, and BE, BG, IE, EL, ES, RO, and SI, where challenges were reflected in the recitals of their 2020 country-specific recommendations and country reports.
Differences in the results over the 10 years analysed may be explained by contextual factors (differences of more than 10% in the number of incoming cases are not unusual) or systemic deficiencies (lack of flexibility and responsiveness or inconsistencies in the reform process).

- In the broad 'all cases' and the litigious civil and commercial cases' categories (Figures 10 and 11), the overall number of Member States whose **clearance rate** is over 100% increased since last year, improving significantly since 2020. In 2021, 21 Member States, including those facing challenges, reported a high clearance rate (more than 97%). This means that courts are generally able to deal with the incoming cases in these categories. In administrative cases (Figure 12), in 2021, in 10 Member States the clearance rate remained broadly the same as in 2020. While the administrative clearance rate is generally lower than for other categories of cases, 5 Member States continue to make good progress. In particular, 7 of the Member States facing challenges report an increase in clearance rate in administrative cases since 2012.
- Since 2012, the situation has remained stable or continued to improve in 5 of the Member States facing the most substantial challenges with their **backlogs**, regardless of the category of cases. In 2021, despite the increase in the number of pending cases, in Member States the number of pending cases remained stable in litigious civil and commercial cases (Figure 14) and in administrative cases (Figure 15). However, significant differences remain between Member States with comparatively few pending cases and those with a high number of pending cases.

Efficiency in specific areas of EU law

Data on the average length of proceedings in specific areas of EU law (Figures 16-23) provide an insight into the functioning of justice systems in concrete types of business-related disputes.

Data on efficiency in specific areas of EU law are collected based on narrowly defined scenarios, so the number of relevant cases may be low. However, compared to the calculated length of proceedings presented in the general data on efficiency, these figures provide for an actual average length of all relevant cases in specific areas in a year. It is worth noting that Member States that do not appear to be facing challenges based on general data on efficiency report significantly longer average case lengths in specific areas of EU law. At the same time, the length of proceedings in different specific areas may also vary considerably in the same Member State.

Another figure introduced this year focuses on the length of criminal proceedings, particularly those involving bribery, revealing the level of efficiency in that area of EU law.

Finally, the 2023 Scoreboard builds on the efficiency of the overall enforcement chain. For example, in competition law cases, there is a chart focusing on the length of proceedings before the National Competition Authority and of the judicial review of the decisions of this authority. This is important for a positive business and investment environment, by ensuring timely resolution of cases and enforcement of rights

The figures for specific areas of EU law show the following trends.

- For **judicial review of competition cases** (Figure 16), as the overall caseload faced by courts across the EU increased, the length of judicial review decreased or remained stable in 4 Member States, while it increased in 7. Despite the moderately positive trend, 6 Member States reported an average length exceeding 1 000 days in 2021. For **proceedings before the national competition authorities**, 7 Member States reported that proceedings took less than 1 000 days. Among the Member States cited as

experiencing issues with efficiency in the judicial review of competition cases, 3 are among the more efficient when it comes to proceedings before the national competition authorities.

- For **electronic communications** (Figure 18), the caseload faced by courts decreased compared to previous years, continuing the positive trend regarding decreased length of proceedings observed in 2020. In 2021, 13 Member States registered a decrease in the average lengths of proceedings or figures remained stable, compared to 2020, with only 2 showing an increase.
- For **EU trademark infringement cases** (Figure 19), in 2021 the overall caseload continued to decrease. However, while 9 Member States managed to cope better with their caseload, registering decreased or stable lengths of proceedings, 2 saw a clear increase in the average length of proceedings.
- In the area of **EU consumer law**, the possible combined effect of the enforcement chain consisting of both administrative and judicial review proceedings can be seen (Figures 20 and 21). In 2021, 5 Member States reported that their consumer protection authorities took on average less than 3 months to issue a decision in a case covered by EU consumer law, while in 9 other Member States they took more than 6 months. Where the decisions of the consumer protection authorities were challenged in court, in 2021 trends in the length of the judicial review of an administrative decision diverged, with increases in 7 Member States, and decreases in 6, compared to 2020. In 2 Member States the average length of a judicial review is still over 1 000 days.
- Effective measures to combat **money laundering** are crucial for protecting the financial system, ensuring fair competition and preventing negative economic consequences. Over-lengthy court proceedings may hamper the EU's ability to fight against money laundering/reduce the effectiveness of efforts in this field. Figure 22 presents updated data on the length of judicial proceedings dealing with money laundering offences. It shows that, while in 15 Member States first instance court proceedings take up to a year on average, they take up to 2 years on average in 7 Member States, and in 2 Member States they take up to 3.5 years on average ([57]).
- **Corruption** is a particularly serious crime with a cross-border dimension. It has negative economic consequences and can only be effectively tackled by common minimum rules across the EU. This year's Scoreboard presents the first set of figures on the length of judicial proceedings dealing with bribery cases. Figure 23 shows varying levels of data availability among Member States, and differences in the average length of proceedings before first-instance criminal courts. In 12 Member States, the proceedings are concluded within about a year, while in the remaining 5 where data are available, the proceedings could last up to about 4 years. Overall, the complexity of prosecuting and adjudicating bribery offences reflects the serious nature of the crime, which is also reflected in the length of proceedings.

[57] Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law will eliminate legal obstacles that may delay prosecution, such as a rule that prosecution for money laundering can only start when the proceedings for the underlying predicate offence have been concluded. Member States were meant to transpose the Directive by 8 December 2020.

3.2. Quality of justice systems

There is no single way of measuring the quality of justice systems. The 2023 EU Justice Scoreboard continues to examine factors that are generally accepted as relevant for improving the quality of justice. They fall into four categories:

1) accessibility of justice for citizens and businesses;

2) adequate financial and human resources;

3) putting in place of assessment tools;

4) digitalisation.

3.2.1. Accessibility

Accessibility is required throughout the whole justice chain to enable people to obtain relevant information – about the justice system, about how to initiate a claim and the related financial aspects, about the state of play of proceedings up until their end – and to access the judgment online.

– Legal aid, court fees and legal fees –

The cost of litigation is a key factor that determines access to justice. High litigation costs, including court fees ([58]) and legal fees ([59]), may hinder access to justice. Litigation costs in civil and commercial matters are not harmonised at EU level. Governed by national legislation, they vary from one Member State to another.

Access to legal aid is a fundamental right enshrined in the Charter of Fundamental Rights of the EU ([60]). It allows access to justice to people who would not otherwise be able to bear or advance the costs of litigation. Most Member States grant legal aid based on the applicant's income ([61]).

Figure 24 shows the availability of full or partial legal aid in a specific consumer case involving a claim of EUR 6 000. It compares the income thresholds for granting legal aid, expressed as a percentage of the Eurostat poverty threshold for each Member State ([62]). For example, if the threshold for legal aid appears to be at 20%, it means that an applicant with an income 20% higher than the Eurostat poverty threshold for their Member State will still be eligible for legal aid.

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58 Court fees are understood as an amount to be paid to initiate non-criminal legal proceedings in a court or tribunal.

59 Legal fees are the bill for services provided by lawyers to their clients.

60 Article 47(3) of the Charter of Fundamental Rights of the EU.

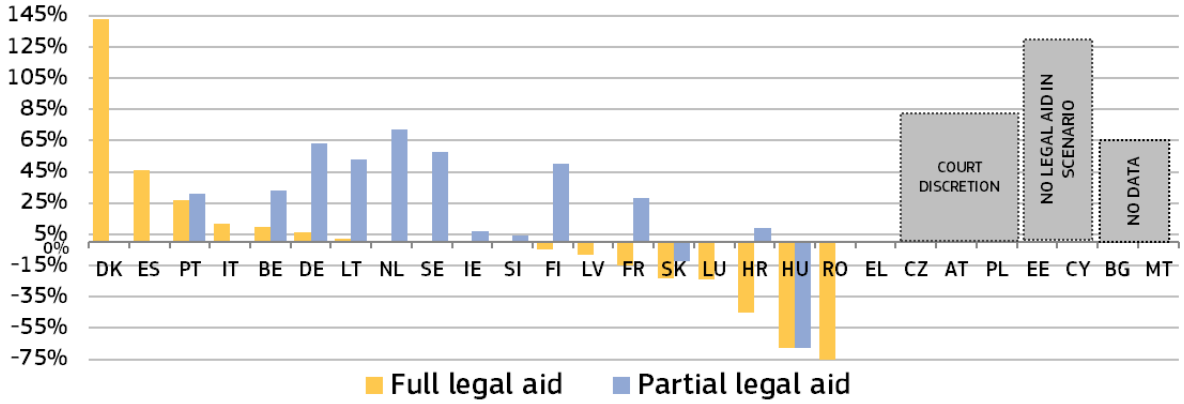
61 Member States use different methods to establish the eligibility threshold, e.g. different reference periods (monthly/annual income). In 14 Member States also have a threshold tied to the applicant's personal capital. This is not taken into account for this figure. In BE, BG, IE, ES, FR, HR, HU, LT, LU, NL and PT, certain groups of people (e.g. individuals who receive certain benefits) are automatically entitled to receive legal aid in civil/commercial disputes. Additional criteria that Member States may use, such as the merit of the case, are not reflected in this figure. Although not directly related to the figure, in several Member States (AT, CZ, DE, DK, IT, NL, PL, SI) legal aid is not limited to natural persons.

62 To collect comparable data, each Member State's Eurostat poverty threshold has been converted to a monthly income. The at-risk-of-poverty (AROP) threshold is set at 60% of the national median equivalised disposable household income. European Survey on Income and Living Conditions, Eurostat table ilc_li01, https://ec.europa.eu/eurostat/databrowser/view/ilc_li01/default/table?lang=en

However, if the threshold for legal aid appears to be below 0, this means that a person with an income below the poverty threshold may not be eligible for legal aid.

Nine Member States operate a legal aid system that provides for 100% coverage of the costs linked to litigation (full legal aid), complemented by a system covering partial costs (partial legal aid), the latter applying eligibility criteria different from that of the former. Ten Member States operate only a full or partial legal aid system. In three Member States, the courts have a discretion over granting legal aid.

Figure 24: Income threshold for legal aid in a specific consumer case, 2022 (*) *(differences in % from Eurostat poverty threshold) (source: European Commission with the Council of Bar and Law Societies in Europe (CCBE) ([63]))*

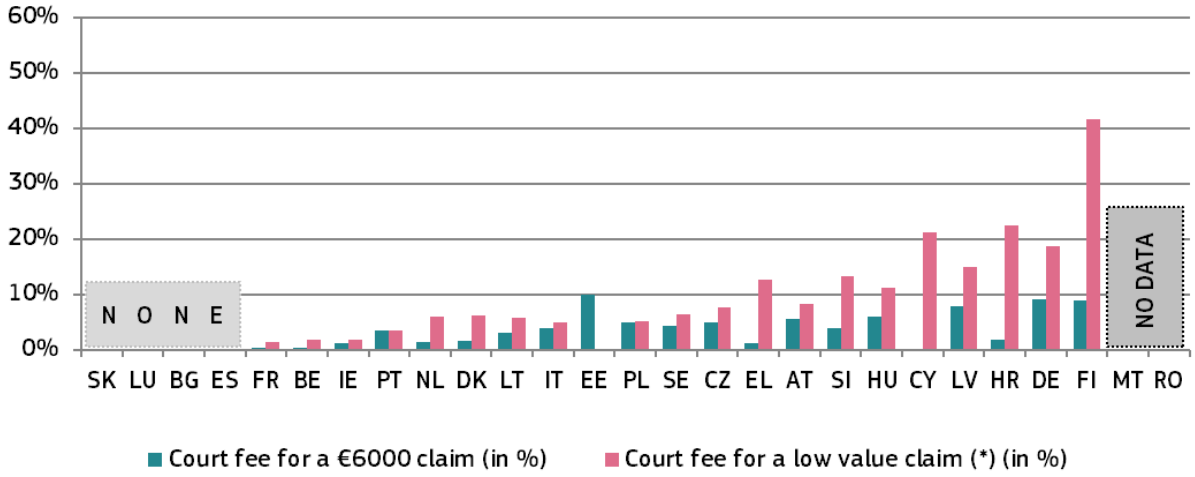


(*) Calculations are based on 2021 at-risk-of-poverty (AROP) threshold values. ***BE, DE, ES, FR, HR, IE, IT, LT, LU, NL, SI, SK, FI:*** *legal aid has to also take into account the applicant's disposable assets.* ***EE:*** *decision to grant legal aid is not based on the level of the applicant's financial resources.* ***EL****: Beneficiary of legal aid is the person whose capital annual income does not exceed the 2/3 of the lowest annual salaries as provided by the existing legislation.*

[63] The 2022 data is collected using replies from Council of Bar and Law Societies in Europe (CCBE) members to a questionnaire based on the following specific scenario: a dispute of a consumer with a company (two different claim values indicated: EUR 6 000 and the Eurostat AROP threshold for each Member State). Given that conditions for legal aid depend on the applicant's situation, the following scenario was used: a single 35-year-old employed applicant without any dependant or legal expenses insurance, with a regular income and a rented apartment.

21 Member States require parties to pay a court fee when starting judicial proceedings. Recipients of legal aid are often exempt from paying court fees. Only in six Member States (Bulgaria, Estonia, Ireland, the Netherlands, Poland and Slovenia) are recipients of legal aid not automatically exempt from paying court fees. In Czechia, the court decides on a case-by-case basis whether or not to exempt a legal aid recipient from paying court fees. In Luxembourg, litigants who benefit from legal aid do not have to pay bailiff fees. Figure 25 compares, for two scenarios, the amount of the court fee presented as a proportion of the value of the claim. If, for example, in the figure below the court fee is 10% of a EUR 6 000 claim, the consumer will have to pay a EUR 600 court fee to start judicial proceedings. The low value claim is based on the Eurostat at-risk-of-poverty (AROP) threshold for each Member State.

Figure 25: Court fee to start judicial proceedings in a specific consumer case, 2022 (*) (*amount of court fee as a proportion of the value of the claim*) *(source: European Commission with the Council of Bar and Law Societies in Europe (CCBE) ([64]))*



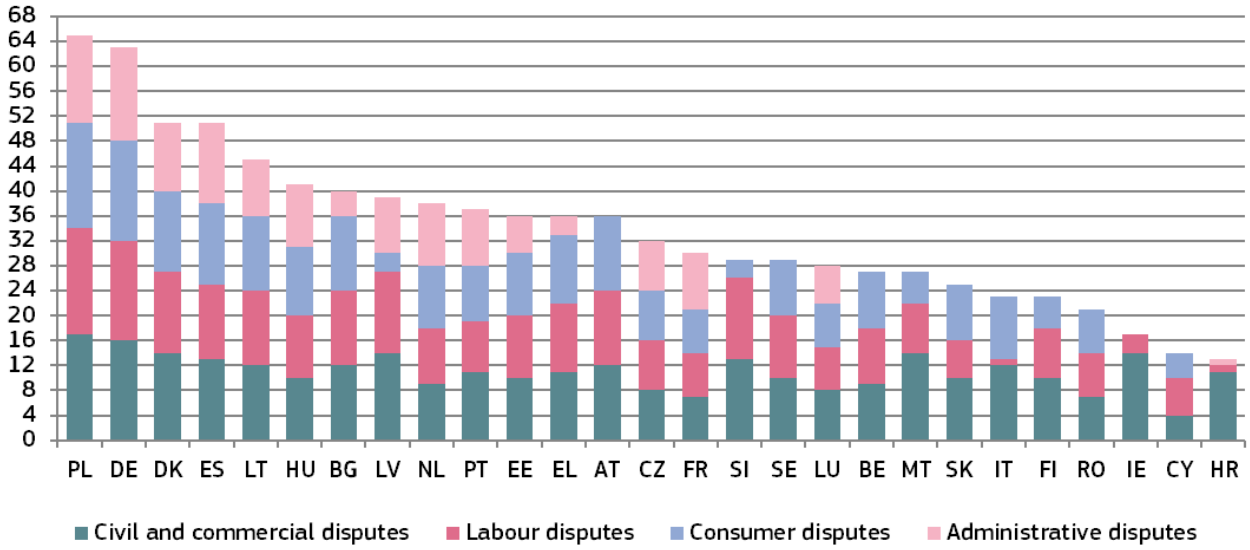
*(*) Calculations are based on 2021 at-risk-of-poverty (AROP) threshold values. 'Low value claim' is a claim corresponding to the Eurostat poverty threshold for a single person in each Member State, converted to monthly income (e.g. in 2021, this value ranged from EUR 242 in **RO** to EUR 2124 in **LU**).EE, PT: No data on the court fee for a low value claim. NL: Court fees values correspond to a litigant with less than EUR 29400 annual income.*

[64] The data, referring to income thresholds valid in 2022, have been collected using replies from Council of Bar and Law Societies in Europe (CCBE) members to a questionnaire based on the following scenario: a consumer dispute between an individual and a company (two different claim values indicated: EUR 6 000 and the Eurostat AROP threshold for each Member State).

– *Accessing alternative dispute resolution methods* –

Figure 26 shows Member States' efforts to promote the voluntary use of alternative dispute resolution (ADR) methods with specific incentives. These may vary depending on the area of law ([65]).

Figure 26: Promotion of and incentives for using ADR methods, 2022 (*) *(source: European Commission ([66]))*



(*) Maximum possible: 68 points. Aggregated indicators based on the following indicators: 1) website providing information on ADR; 2) media publicity campaigns; 3) brochures for the general public; 4) provision by the court of specific information sessions on ADR upon request; 5) court ADR/mediation coordinator; 6) publication of evaluations on the use of ADR; 7) publication of statistics on the use of ADR; 8) partial or full coverage by legal aid of costs ADR incurred; 9) full or partial refund of court fees, including stamp duties, if ADR is successful; 10) no requirement for a lawyer for ADR procedures; 11) judge can act as a mediator; 12) agreement reached by the parties becomes enforceable by the court; 13) possibility to initiate proceedings/file a claim and submit documentary evidence online; 14) parties can be informed of the initiation and different steps of procedures electronically; 15) possibility of online payment of applicable fees; 16) use of technology (artificial intelligence applications, chat bots) to facilitate the submission and resolution of disputes; and 17) other means. For each of these 17 indicators, one point was awarded for each area of law. ***IE****: administrative cases fall into the category of civil and commercial cases.* ***EL****: ADR exists in public procurement procedures before administrative courts of appeal.* ***ES****: ADR is mandatory in labour law cases.* ***PT****: for civil/commercial disputes, court fees are refunded only in the case of justices for peace.* ***SK****: the Slovak legal order does not support the use of ADR for administrative purposes.* ***FI****: consumer and labour disputes are also considered to be civil cases.* ***SE****: judges have procedural discretion on ADR. Seeking an amicable dispute settlement is a mandatory task for the judge unless it is inappropriate due to the nature of the case.*

– *Specific arrangements for access to justice* –

The 2022 EU Justice Scoreboard presented a dedicated figure on specific arrangements to facilitate equal access to justice of persons with disabilities. This edition continues a deeper exploration of

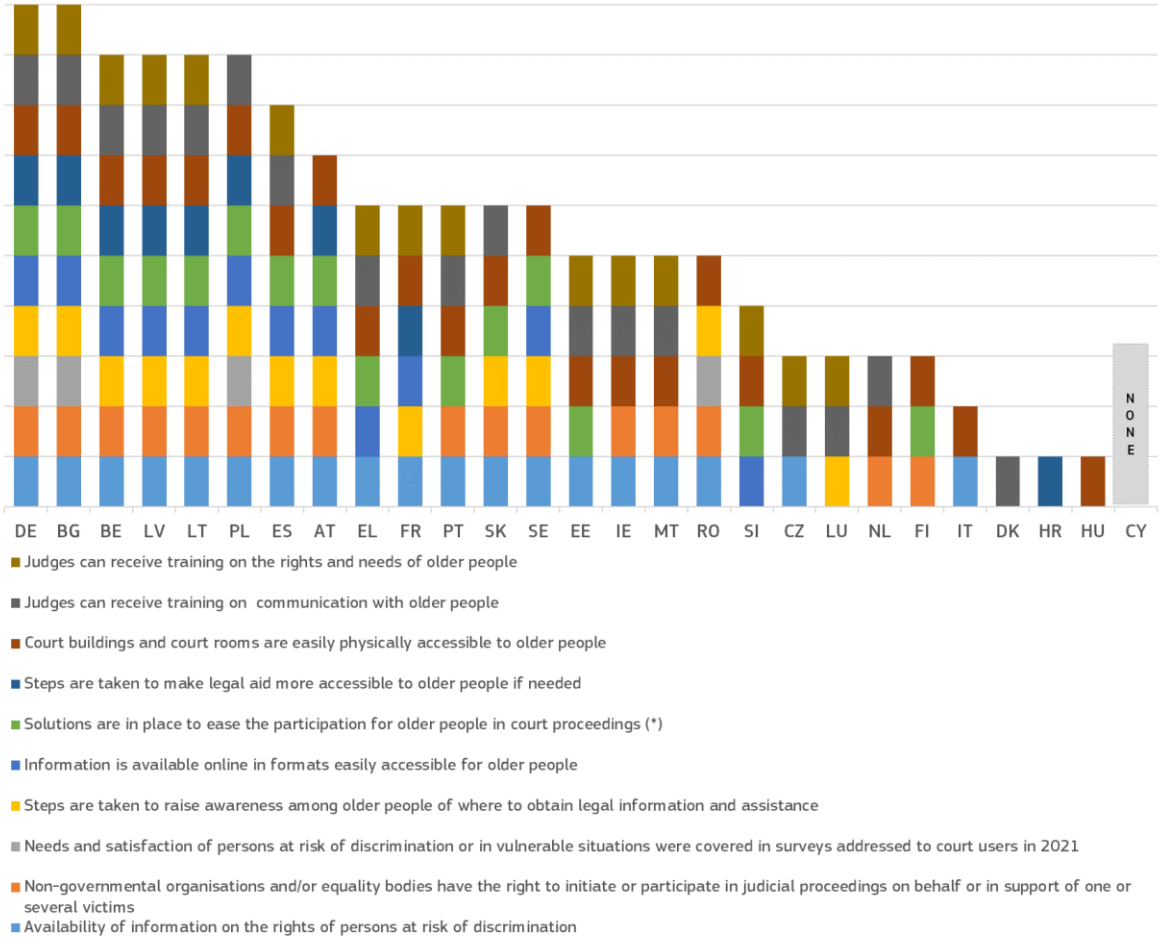
[65] The methods for promoting and incentivising the use of ADR do not cover compulsory requirements to use ADR before going to court. Such requirements may raise concerns about their compatibility with the right to an effective remedy before a tribunal enshrined in the Charter of Fundamental Rights of the EU.

[66] 2022 data collected in cooperation with the group of contact persons on national justice systems.

selected specific arrangements that facilitate equal access to justice to persons at risk of discrimination overall and two specific groups: older persons and victims of violence against women and domestic violence.

The two figures below show what steps each Member State undertook to facilitate the access to justice for the respective groups. Figure 27 displays selected specific arrangements with regard to persons who are at risk of discrimination, as well as older persons. These are, among others, the availability of information in accessible formats, ensuring physical access to court buildings and court rooms, or enabling participation of non-governmental organisations and equality bodies in judicial proceedings on behalf or in support of the victim(s).

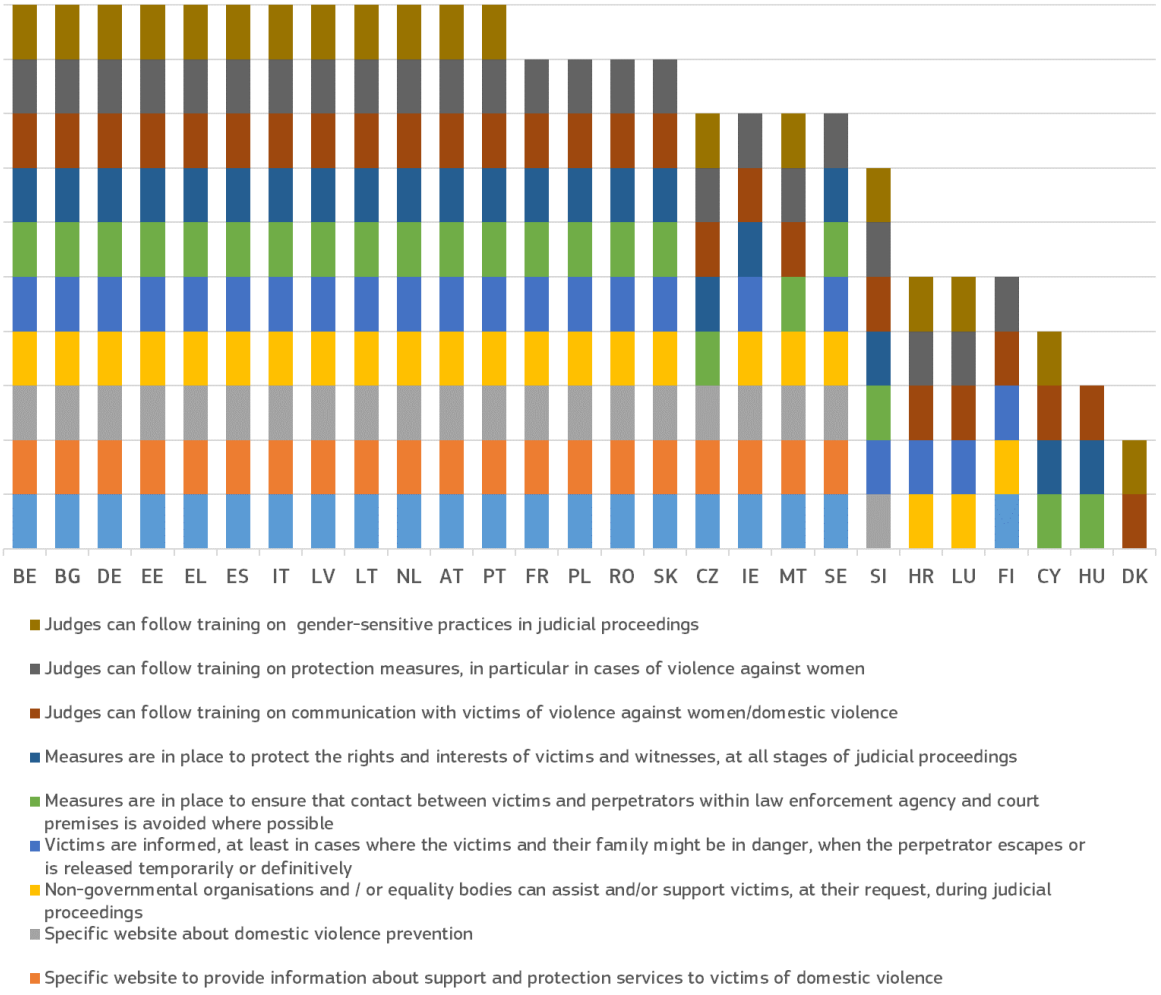
Figure 27: Specific arrangements for access to justice of persons at risk of discrimination and older persons, 2022 *(source: European Commission ([67]))*



[67] 2022 data collected in cooperation with the group of contact persons on national justice systems and the European Judicial Training Network.

Figure 28 shows the effort of Member States to protect and support victims of violence against women/domestic violence[68] and facilitate their access to justice. Access to justice plays an important role in combating violence against women and domestic violence. A coordinated and integrated justice response contributes to the safety and well-being of victims and to preventing re-victimisation.

Figure 28: Specific arrangements for victims of violence against women/domestic violence, 2022 (*) *(source: European Commission ([69]))*



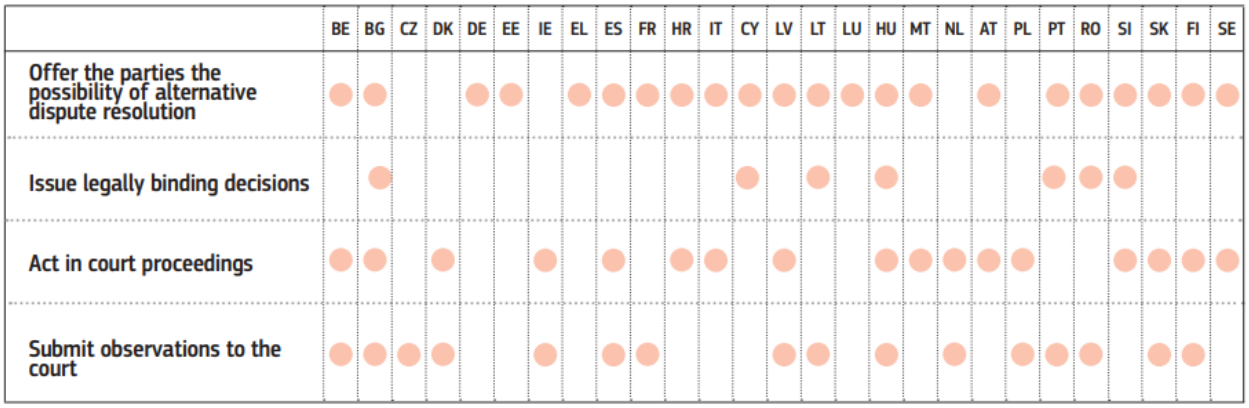
[68] Violence against women means gender-based violence, that is directed against a woman or a girl because she is a woman or a girl or that affects women or girls disproportionately, including all acts of such violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Domestic violence means all acts of violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, that occur within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim.

[69] 2022 data collected in cooperation with the group of contact persons on national justice systems and the European Judicial Training Network.

- Selected powers of equality bodies to help victims of discrimination to access justice -

For the first time, the 2023 EU Justice Scoreboard provides an overview of selected specific powers of equality bodies to assist victims of discrimination to access justice. Figure 29 below shows which powers the equality body(ies) – or in certain cases other specific bodies – hold in each Member State to resolve cases of discrimination. These are, among others, offering the parties the possibility to seek an alternative resolution to their dispute (for example mediation or conciliation procedures), issuing binding decisions in discrimination cases, acting in court in cases of discrimination either on behalf of victims or in its own name, or submitting observations to the court as amicus curiae or expert in cases of discrimination. The exercise of those powers in practice varies depending on the Member State.

Figure 29: Selected powers of equality bodies to help victims of discrimination to access justice, 2022 (*) *(source: information compiled based on data collected from Equinet (the European network of equality bodies), national equality bodies and the European Network of legal experts)*



(*) A dot reflects that at least one equality body in the Member State has the relevant power. In some Member States, the powers studied are exercised by another entity than the equality body, in which case the table does not contain a dot. ***BG****: According to Act 15/2022, adopted on 12 July 2022.****CZ:*** *The Public Defender of Rights is empowered to act as amicus curiae only before constitutional court. It is not formaly empowered to submit observation before courts deciding on discrimination cases.* ***ES:*** *According to Ley 15/2022, adopted on 12 Julio 2022, but not fully implemented yet.*

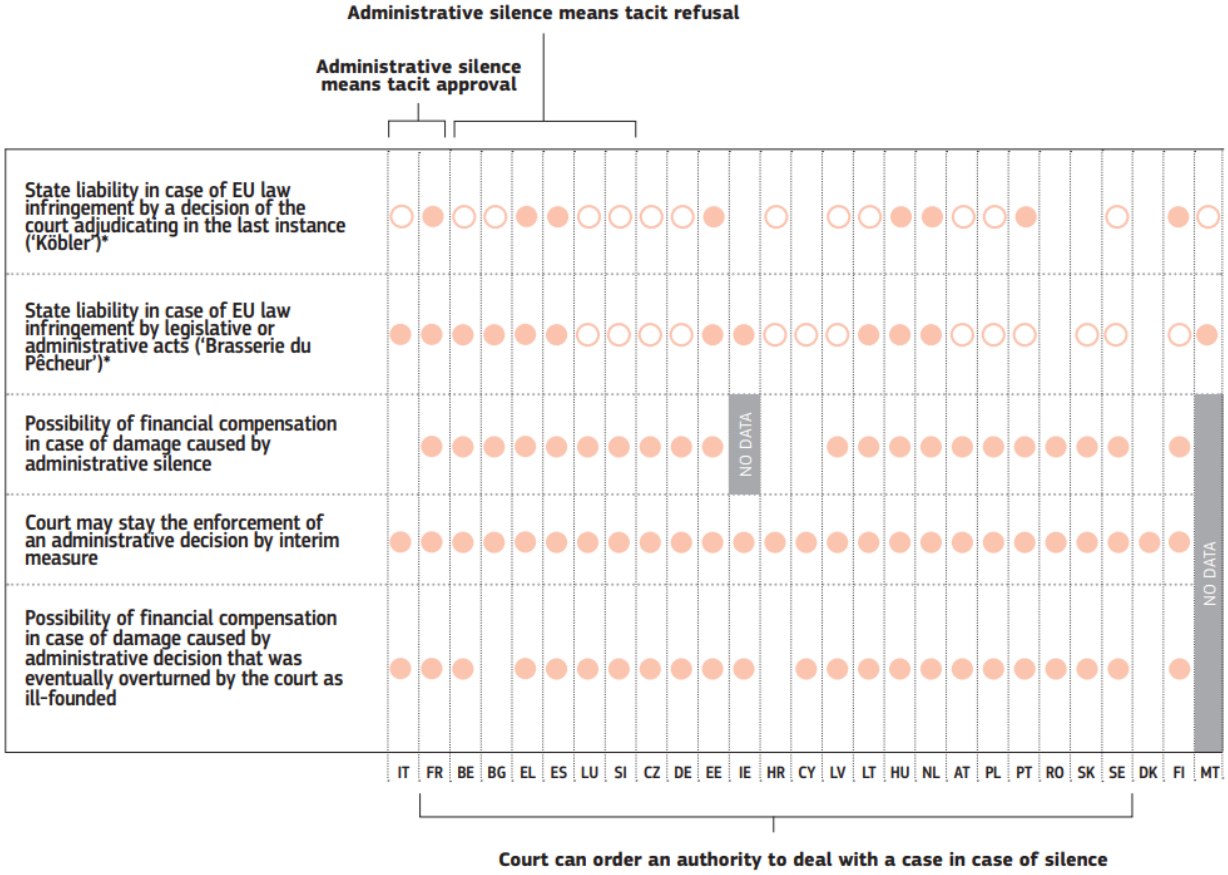
– Judicial control over public administration in business-related scenarios –

The 2023 EU Justice Scoreboard further develops the overview of selected legal safeguards regarding acts or omissions of administrative authorities in business-related scenarios[70], started in

[70] In the first scenario, during the court proceedings related to the expropriation, the authorities order a mining company to cease mining with immediate effect; they rely on earlier complaints made by house owners in the neighbouring village, already settled by the mining company. The company would incur a daily profit loss of EUR 8 000 if it complied with the administrative decision. The company challenges the administrative decision in court, which eventually overturns the decision as ill-founded. In the second scenario, a company established in Member State 'B' files with the competent authority in Member State 'A' a request for permission to build an 800 square meters retail store in the capital city of Member State 'A'. The company does not receive any reply from the authority in question within the statutory time limit/within what seems a reasonable time to reply (period of administrative silence). Finally, the figure examines whether the company can seek financial compensation for the losses it incurred because of the delay (the period of administrative silence) in granting the building permit (assuming that the building permit is finally granted) from the competent authority.

the 2022 edition of the Scoreboard. Relevant safeguards include the court review of administrative decisions and interim measures, or possibility for financial compensation in the case of administrative silence or an ill-founded decision. All of these contribute to the quality of the justice system, of particular relevance for the business and investment environment and the functioning of the single market**.**

Figure 30: Legal safeguards regarding decisions or inaction of administrative authorities, 2022 (*) *(source: European Commission ([71]))*



(*) *'●': The specific form of state liability is recognised under the legal regime of the Member State and it was applied in practice in at least one court case in the past ten years; '○': The specific form of state liability is recognised under the legal regime of the Member State but it has not been applied in practice in at least one court case in the past ten years. A blank cell should not be understood as a statement related to the existence of requirements under EU law.* ***FR:*** *While in general, administrative silence means tacit approval, in certain exceptional cases listed by law, it means tacit refusal.* ***SK****: Court may stay the enforcement of an administrative decision upon proposal in most cases. National references to cases establishing state liability in case of EU law infringement by a decision of the court adjudicating in the last instance (Köbler):* ***CZ****: Cases establishing such liability of the state might exist. In several cases concerning such liability of the state, the Supreme Court refered the case back to the first instance for a new hearing but the results of the new proceeding are not publicly available (see, for example, judgment of the Supreme Court of 26 July 2019, No. 30 Cdo 3856/2017, ECLI:CZ:NS:2019:30.CDO.3856.2017.1);* ***DK****: The legal basis for financial compensation claims would have to be found in normal Danish legal principles, - namely on the 'culpa' principle - requiring for the company to inter alia provide proof of liability. In certain exceptional cases of administrative silence where the failure to act is deemed to be an illegal omission, an authority within the State Administration may order*

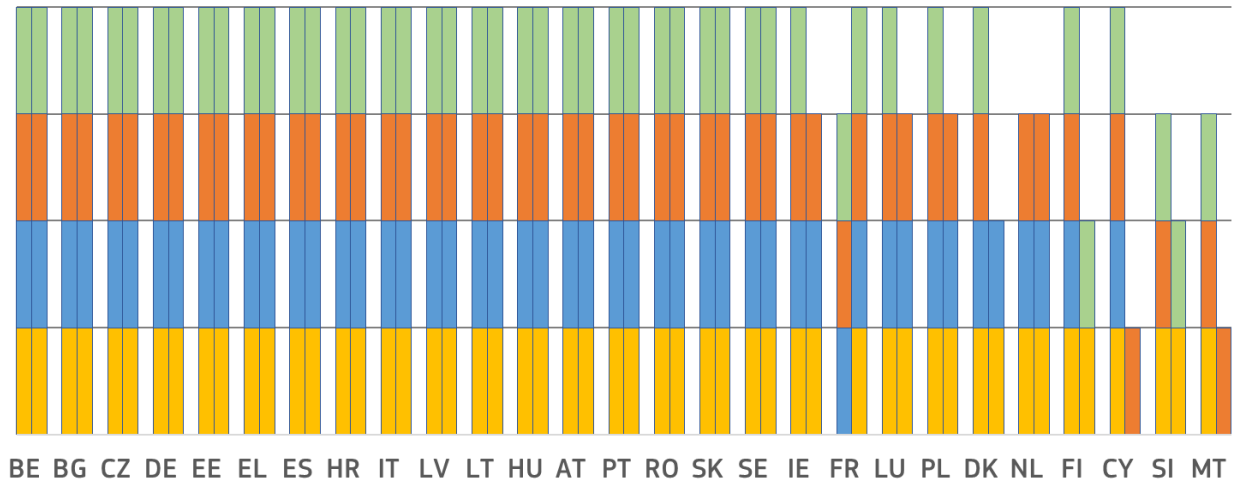
[71] 2021 and 2022 data collected in cooperation with the group of contact persons on national justice systems.

municipalities to act. ***EE****: Supreme Court of Estonia (20.05.2022) judgment of the Administrative Chamber of the Supreme Court in administrative case no 3-20-1684;* ***EL****: Council of State decisions of the plenary 799-803/2021;* ***ES****: Judgment of the National Audience 415/2009 - Sentencia de la Audiencia Nacional AN 415/2009 - ECLI:ES:AN:2009:415, Audiencia Nacional. Sala de lo Contencioso. Sección:3 10/02/2009, Nº de Recurso:553/2007;* ***FR****: Tribunal administratif de Paris, 21 April 2021, n° 1823994 ;* ***HU*** *: Kúria, Pfv. III. 22.112/2012/13. (doctrine confirmed, claim rejected) Kúria, Pfv.III.21.591/2013/5 ;* ***NL****: ECLI:NL:HR:2018:2396, ECLI:NL:RBDHA:2021:15447, ECLI:NL:HR:2018:2396;* ***FI*** *: KKO2013:58 ; State liability in case of EU law infringement by legislative or administrative acts (Brasserie du Pêcheur):* ***BE:*** *Civ. Fr. Brussels (4ème ch.) 17 June 2021. Decision of 09.03.2021 of the Brussels Court of Appeal (Fernand Ullens de Schooten v Belgian State);* ***BG****: Judgment No. 16 of 2.03.2021 of the SCC in Case No. 1914/2020;* ***CZ:*** *Cases establishing such liability of the state might exist. For example, in several cases concerning such liability of the state, the Supreme Court refered the case back to the first instance for a new hearing but the results of the new proceeding are not publicly available (see, for example, judgment of the Supreme Court of 25 April 2018, No. 30 Cdo 1945/2016, ECLI:CZ:NS:2018:30.CDO.1945.2016.1).;* ***EE****: Tallinn Circuit Court 31.10.2017 judgment in an administrative case no 3-13-366;* ***IE:*** *Ogieriakhi v MJE and others (Case C-244/13);* ***EL****: Council of State decisions 607/2016, 4403/2015;* ***ES****: Supreme Court, Administrative Section, judgment 26 May 2021, application nº 352/2019, ECLI:ES:TS:2021: 2143; Supreme Court, Administrative Section, judgment 29 October 2021, application nº 3409/2016, ECLI:ES:TS: 2021:4019;* ***FR:*** *TA Rouen, 28 June 2022, n°2001360; TA Clermont-Ferrand, 14 December, 2021, n°2000090 (5 different cases) ; TA Poitiers, 26 November 2020, n° 1901176 ; CAA Versailles, 24 November 2020, IP Celimo SAS, n° 15VE02812);* ***IT****: Italian Supreme Court (Cassation Court), Section III, 24.11.2020 n. 26757 and Cassation Court, 29.9. 2021 n. 26302; Cassation Court, United Sections, 23.6.2022, n. 20278; Cassation Court, Section III, 13.5.2020 n. 8889, Cassation Court, Section I, 30.10.2018, n. 27690; Cassation Court, III Section, 16.10.2020 n. 22631;* ***HU****: Fővárosi Ítélőtábla, 3. Pf. 20.182/2014/2. Fővárosi Ítélőtábla, 5.Pf.21.081/2016/6. Fővárosi Ítélőtábla Pf. 21.340/2017/5.3. Fővárosi Ítélőtábla Pf.20.602/2017/5/II;* ***MT:*** *Daniel James Cassar vs. Direttur tas-Sahha Istituzzjonali et;* ***NL:*** *ECLI:NL:GHDHA:2013:3791 (cassatieberoep: ECLI:NL:HR:2015:2722 en ECLI:NL:HR:2015:2723); ECLI:NL:RVS:2020:898, ECLI:NL:RVS:2020:899, ECLI:NL:RVS:2020:900 and ECLI: NL:RVS:2020:901; ECLI:NL:HR:2018:1973; ECLI:NL:GHDHA:2013:3791.*

– Child-friendly justice –

The 2023 EU Justice Scoreboard continues the analysis of child friendly-justice. Figure 31 looks at specific arrangements available when a child is involved as a victim or as a suspect/accused person.

Figure 31: Specific arrangements for child-friendly proceedings with children involved as victims or suspects or as accused persons, 2022 (*) *(source: European Commission ([72]))*



For each Member State, the two columns represent the involvement of children as (from left to right):
1. victims
2. suspects or accused persons

- Audio-visual recording of questioning of children
- Children are heard in child-friendly specialised settings and may effectively participate in the hearing
- Children are provided with child-friendly information about their rights and the proceedings
- Children are assisted by a lawyer (always or where necessary)

(*) Children: persons under 18 years of age.

[72] 2022 data collected in cooperation with the group of contact persons on national justice systems.

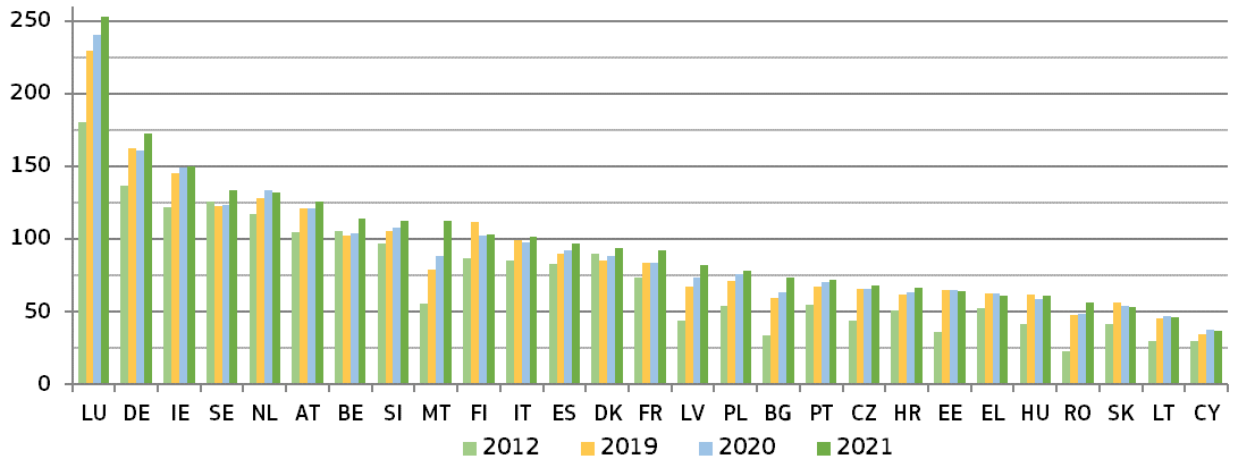
3.2.2. Resources

Sufficient resources, including the necessary investments in physical and technical infrastructure, and well qualified, trained and adequately paid staff of all kinds, are necessary for the justice system to work properly. Without adequate facilities, tools or staff with the required qualifications, skills and access to continuous training, the quality of proceedings and decisions is undermined.

– Financial resources –

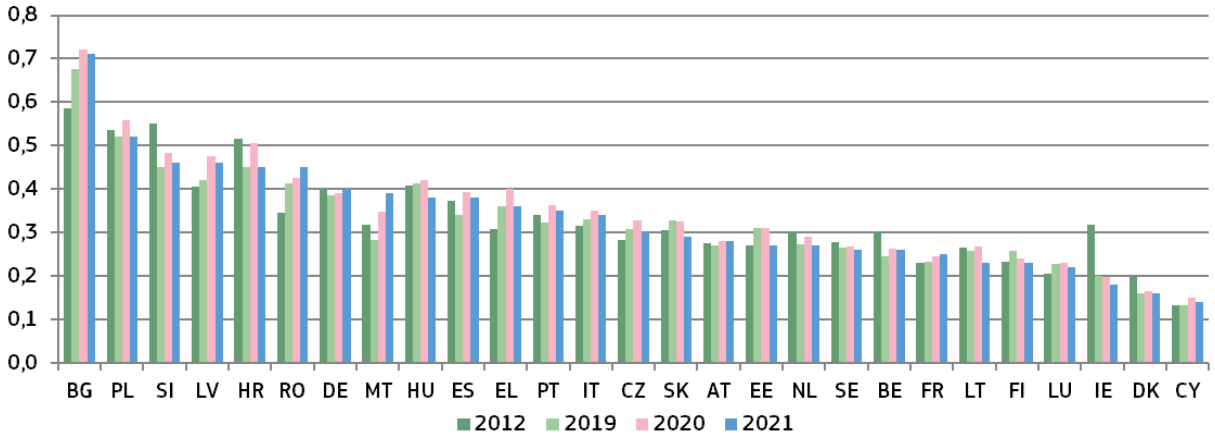
The figures below show the actual government expenditure on the operation of the justice system (excluding prisons), both per inhabitant (Figure 32) and as a proportion of gross domestic product (GDP) (Figure 33).

Figure 32: General government total expenditure on law courts in EUR per inhabitant, 2012, 2019 – 2021 (*) *(source: Eurostat)*



(*) Member States are ordered according to their expenditure in 2021 (from highest to lowest). While a significant effort was undertaken to harmonise the recording of government measures to mitigate the economic and social impact of the COVID-19 pandemic, a full harmonisation of data for the reference years 2020 and 2021 was not yet achieved. The likelihood of future revisions is thus higher than usual and EU and euro area data is provisional for 2021. Further, data for other years is provisional for DE, ES, FR and PT.

Figure 33: General government total expenditure on law courts as a percentage of GDP, 2012, 2019 – 2021 (*) *(source: Eurostat)*

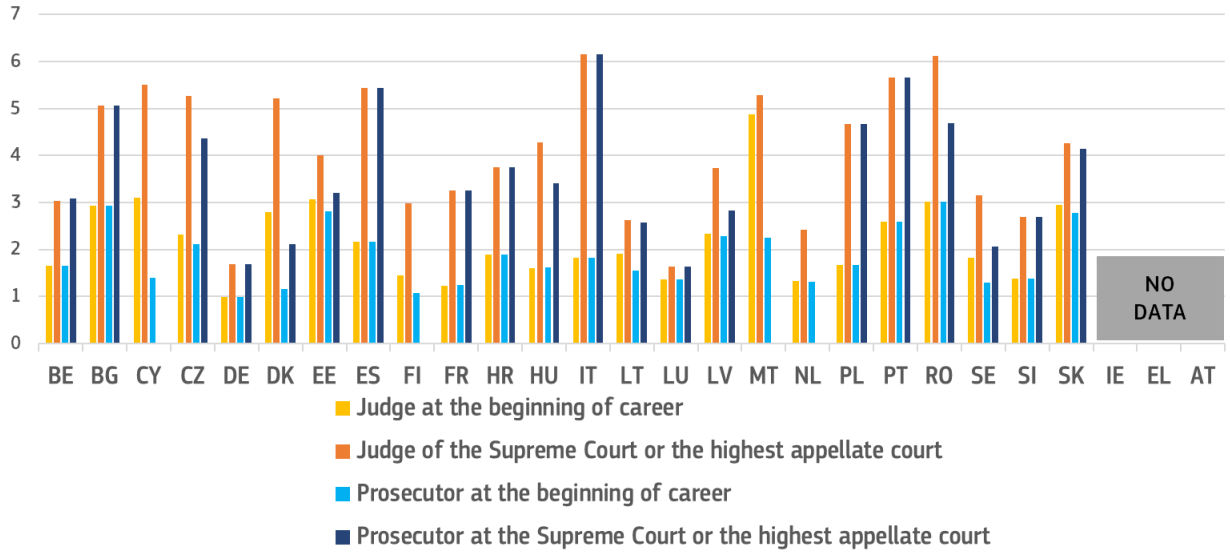


(*) Member States are ordered according to their expenditure in 2020 (from highest to lowest). While a significant effort was undertaken to harmonise the recording of government measures to mitigate the economic and social impact of the COVID-19 pandemic, a full harmonisation of data for the reference years 2020 and 2021 was not yet achieved. The likelihood of future revisions is thus higher than usual and EU and euro area data is provisional for 2021. Further, data for other years is provisional for DE, ES, FR and PT.

Figure 34 presents the ratio of annual salaries of judges and prosecutors compared to the average annual salary in the country. For each country, the first two columns present the salaries of judges and prosecutors at the beginning of their respective careers, and at their peak. By virtue of Article 19(1) TEU, Member States have to ensure that both their courts as a whole and the individual judges are independent in the fields covered by Union law. While temporary reduction in remuneration in the context of austerity measures has not been considered in violation of this provision, the European Court of Justice has stated that the receipt by members of the judiciary of a level of remuneration conmensurate with the importance of the functions carried out constitutes an essential guarantee of judicial independence ([73]).

[73] Case C-64/16 *Associação Sindical dos Juízes Portugueses*, para. 45, " Like the protection against removal from office of the members of the body concerned (see, in particular, judgment of 19 September 2006, *Wilson*, C-506/04, EU:C:2006:587, paragraph 51), the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence."

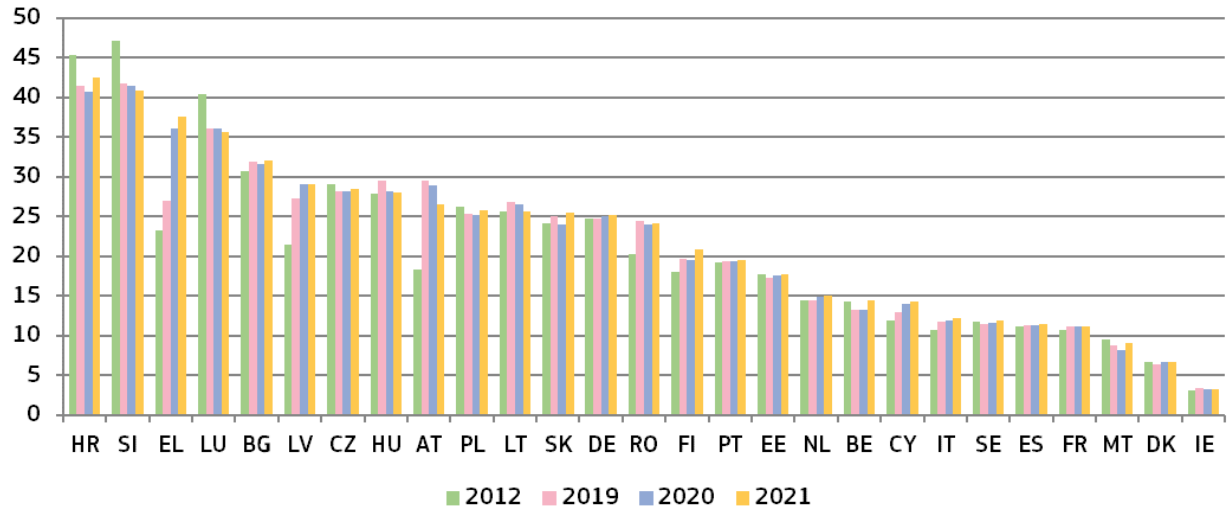
Figure 34: Ratio of annual salaries of judges and prosecutors with annual average gross salary in the country in 2021 (*) *(per 100 000 inhabitants) (source: Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) study)*



– Human resources –

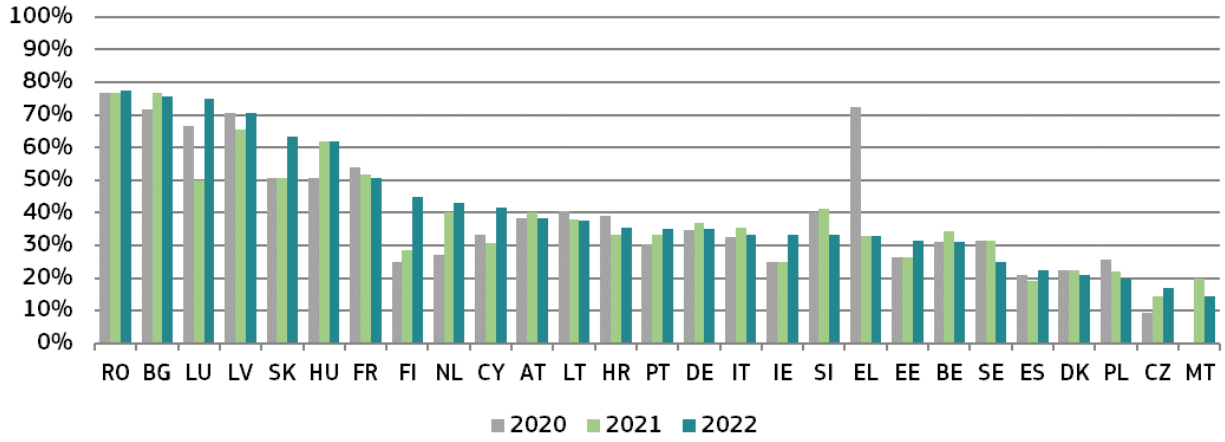
Adequate human resources are essential for the quality of a justice system. Diversity among judges, including gender balance, adds complementary knowledge, skills and experience and reflects the reality of society.

Figure 35: Number of judges, 2012, 2019 – 2021 (*) *(per 100 000 inhabitants) (source: Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) study)*



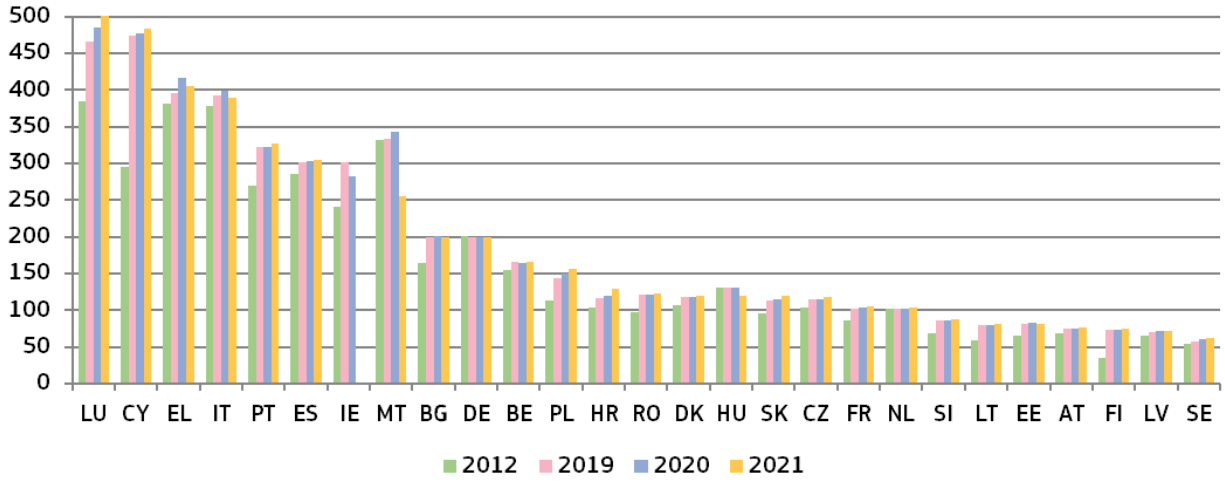
(*) This category consists of judges working full-time, in accordance with the CEPEJ methodology. It does not include the Rechtspfleger/court clerks that exist in some Member States. ***AT****: data on administrative justice have been part of the data since 2016.* ***EL****: since 2016, data on the number of professional judges include all the ranks for criminal and civil justice as well as administrative judges.* ***IT****: Regional audit commissions, local tax commissions and military courts are not taken into consideration. Administrative justice has been taken into account since 2018.*

Figure 36: Proportion of female professional Supreme Court judges 2020 – 2022 (*) *(source: European Commission ([74]))*



(*) The data are sorted by 2022 values, from the highest to the lowest. ***MT****: No women on the highest court 2020.*

Figure 37: Number of lawyers, 2012, 2019 – 2021 (*) *(per 100 000 inhabitants) (source: Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) study)*



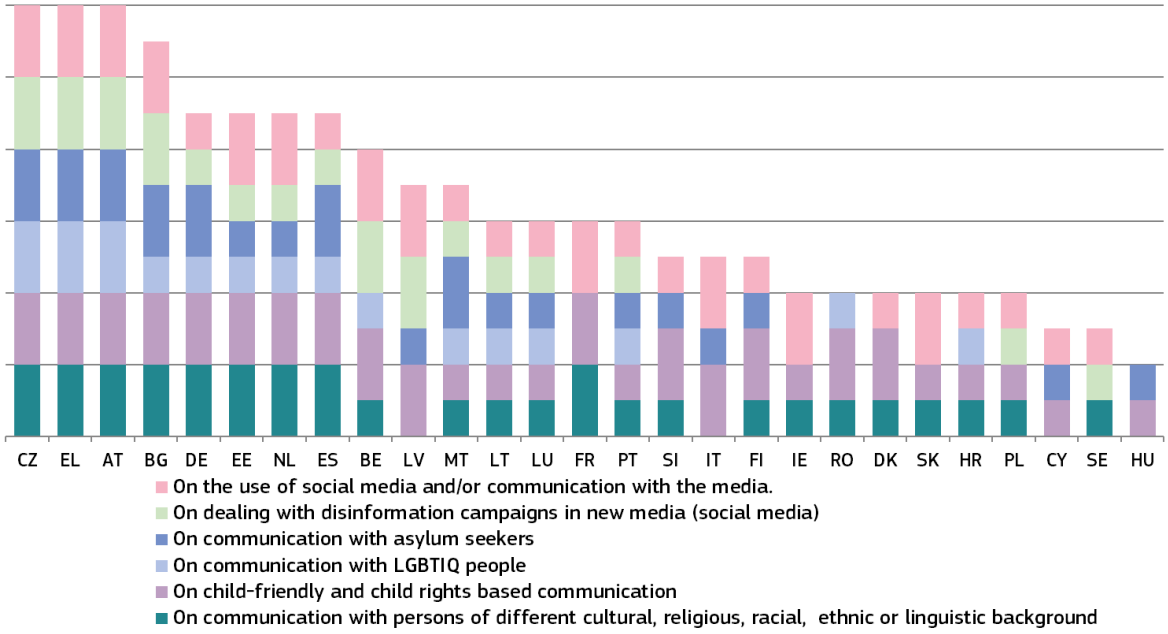
(*) In accordance with the CEPEJ methodology, a lawyer is a person qualified and authorised by national law to plead and act on behalf of their clients; to engage in the practice of law; to appear before the courts or advise and represent their clients in legal matters (Recommendation Rec (2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer). ***DE****: no distinction is made between different groups of lawyers in Germany, such as between solicitors or barristers.* ***FI****: since 2015, the number of lawyers provided includes both the number of lawyers working in the private sector and the number of lawyers working in the public sector.*

[74] European Institute for Gender Equality, Gender Statistics Database: https://eige.europa.eu/gender-statistics/dgs/indicator/wmidm_jud_natcrt__wmid_natcrt_supcrt/datatable

– Training –

Judicial training makes an important contribution to the quality of judicial decisions and the justice service delivered to citizens. The data set out below cover judicial training on communication with parties and on social media.

Figure 38: Availability of training in communication for judges, 2022 (*) *(source: European Commission ([75]))*



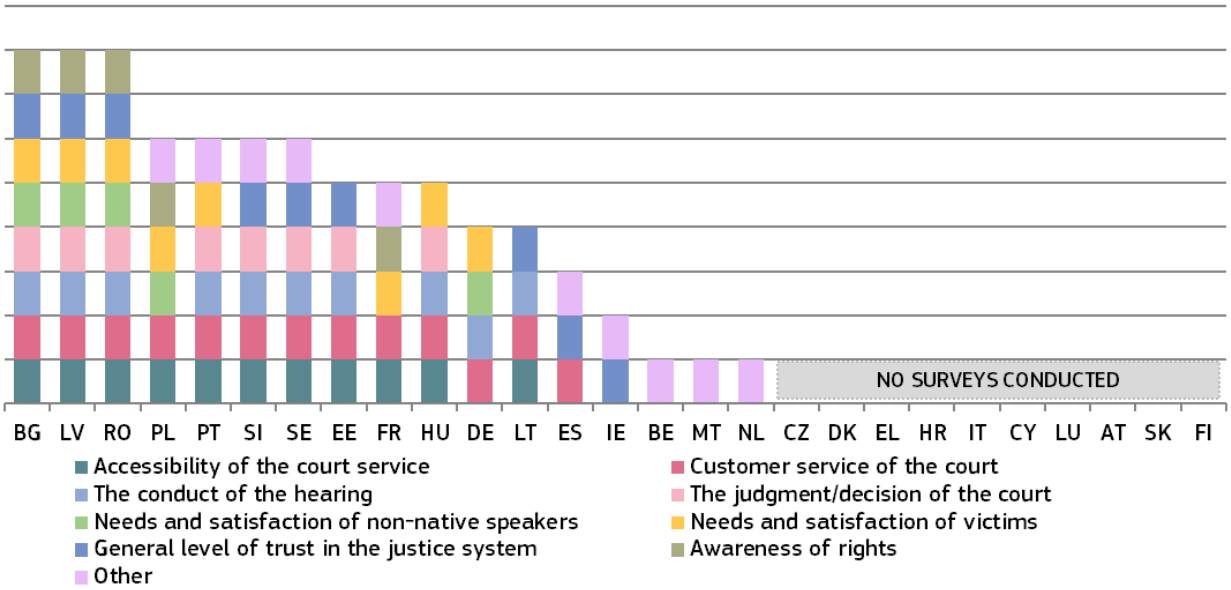
(*) Maximum possible: 12 points. Member States were given 1 point if they have initial training and 1 point if they have continuing training (maximum of 2 points for each type of training) on the topics displayed above.

[75] 2022 data collected in cooperation with the European Judicial Training Network.

3.2.3. Assessment tools

Regular evaluation could make the justice system more responsive to current and future challenges, thereby improving its quality. Surveys (Figure 39) are essential for assessing how justice systems operate from the perspective of legal professionals and court users.

Figure 39: Topics of surveys conducted among court users or legal professionals, 2021 (*) *(source: European Commission ([76]))*



*(*) Member States were given one point per survey topic indicated regardless of whether the survey was conducted at national, regional or court level. 'Other topics' included the impact of Covid-19, how to minimise disruptions to the court and the expansion of video-links as a solution (**IE**), satisfaction of victims of criminal offenses who use the victim assistance offices of the judicial courts (**FR**), main issues that should be addressed in order to make justice more accessible to victims of domestic violence (**MT**), the use of alternative sanctions and their effectiveness , and trust in the system of preventing domestic violence, including intervention (**PL**), general aspects of the courts; access to information on the courts; court facilities; functioning of the courts; judge responsible for the case; resources available; and loyalty (**PT**). In (**SE**), the Swedish National Courts Administration (SNCA) has created a digital questionnaire with a series of different types of questions, which the courts can use when performing their own surveys. In addition to the above-mentioned questions, the template also includes questions if the courthouse building and the courtrooms within the courthouse are easy to find. Another set of questions refers to the court users 'perception of their personal safety and security both inside and outside the courtroom and outside the immediate premises of the court building.*

3.2.4. Digitalisation

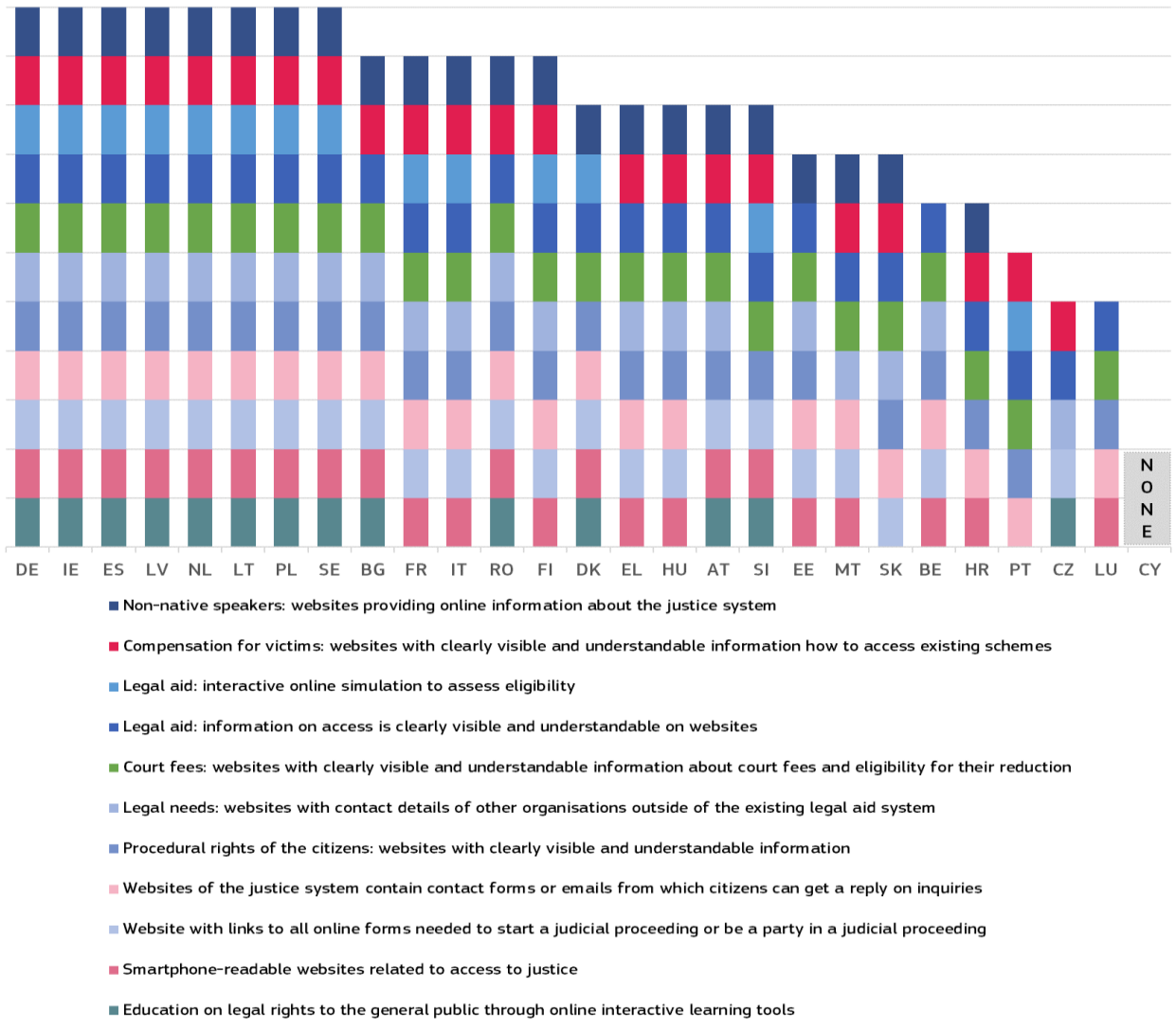
The use of information and communication technologies (ICT) can strengthen the Member States' justice systems and make them more accessible, efficient, resilient and ready to face current and future challenges. The COVID-19 pandemic has highlighted a number of challenges affecting the functioning of the judiciary and showed the need for the national justice systems to further improve their digitalisation.

[76] 2021 data collected in cooperation with the group of contact persons on national justice systems.

Earlier editions of the EU Justice Scoreboard provided comparative data on certain aspects of the ICT in justice systems. As announced in the Commission's Communication on the digitalisation of justice in the EU of 2 December 2020 ([77]), the Scoreboard has been substantially augmented with further data on digitalisation in the Member States. This should allow for more in-depth monitoring of progress areas and outstanding challenges.

Citizen-friendly justice requires that information about national judicial systems is not only easily accessible but is also tailored to specific groups of society that would otherwise have difficulties in accessing the information. Figure 41 shows the availability of online information and specific public services that can help people access justice.

Figure 40: **Availability of online information about the judicial system for the general public, 2022** (*) *(source: European Commission ([78]))*



[77] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Digitalisation of justice in the European Union: A toolbox of opportunities' COM(2020)710 and accompanying SWD(2020)540.

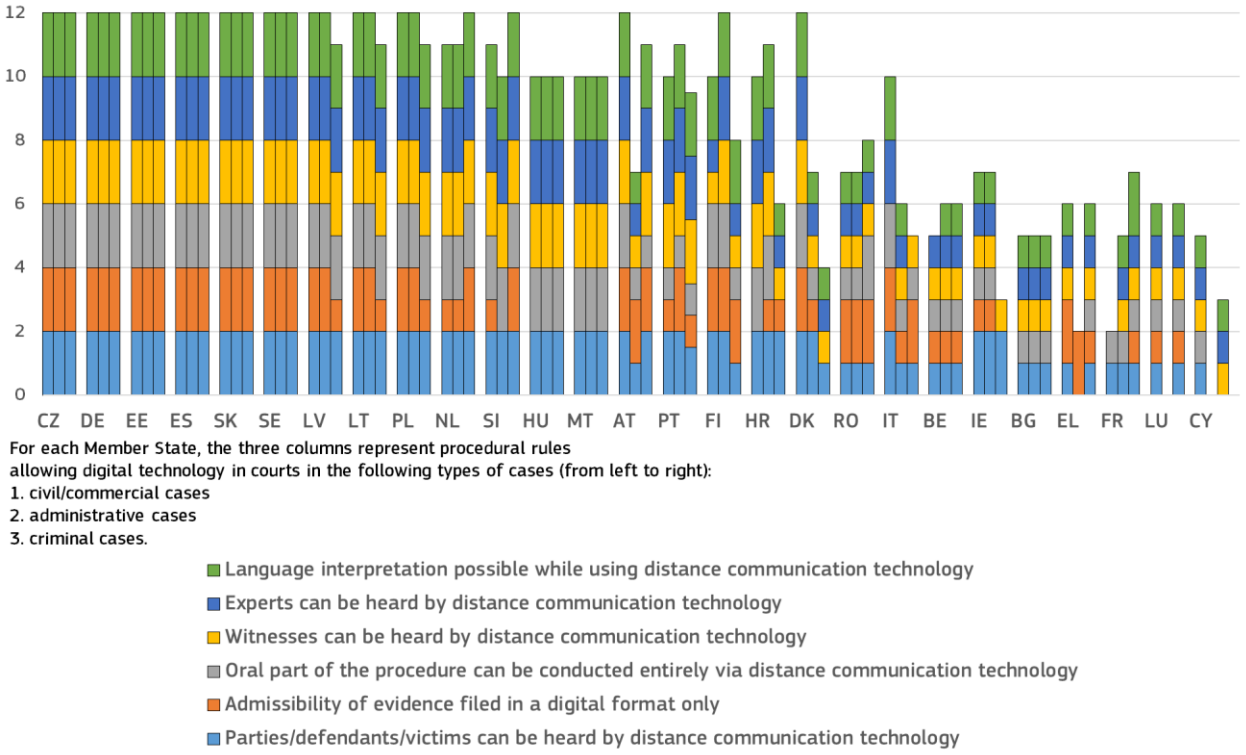
[78] 2022 data collected in cooperation with the group of contact persons on national justice systems.

*(*) **DE**: Each federal state as well as the federal level decide individually which information to provide online.*

– Digital-ready rules –

The use of digital solutions in civil/commercial, administrative and criminal cases often requires appropriate regulation in national procedural rules. Figure 41 illustrates the possibilities set out by law for various actors to use distance communication technology (such as videoconferencing) for court and court related procedures, and reflects the current situation on the admissibility of digital evidence.

Figure 41: Procedural rules allowing digital technology in courts in civil/commercial, administrative and criminal cases, 2022 (*) *(source: European Commission ([79]))*



(*) For each Member State, the first column presents procedural rules for civil/commercial cases, the second column for administrative cases and the third column for criminal cases. Maximum possible: 12 points. For each criterion, two points were given if the possibility exists in all civil/commercial, administrative and criminal cases, respectively (in criminal cases, the possibility of hearing the parties was split to cover both defendants and victims). The points are divided by two when the possibility does not exist in all cases. For those Member States that do not distinguish between civil/commercial and administrative cases, the same number of points has been given for both areas ***CY, LU****: none for administrative cases.*

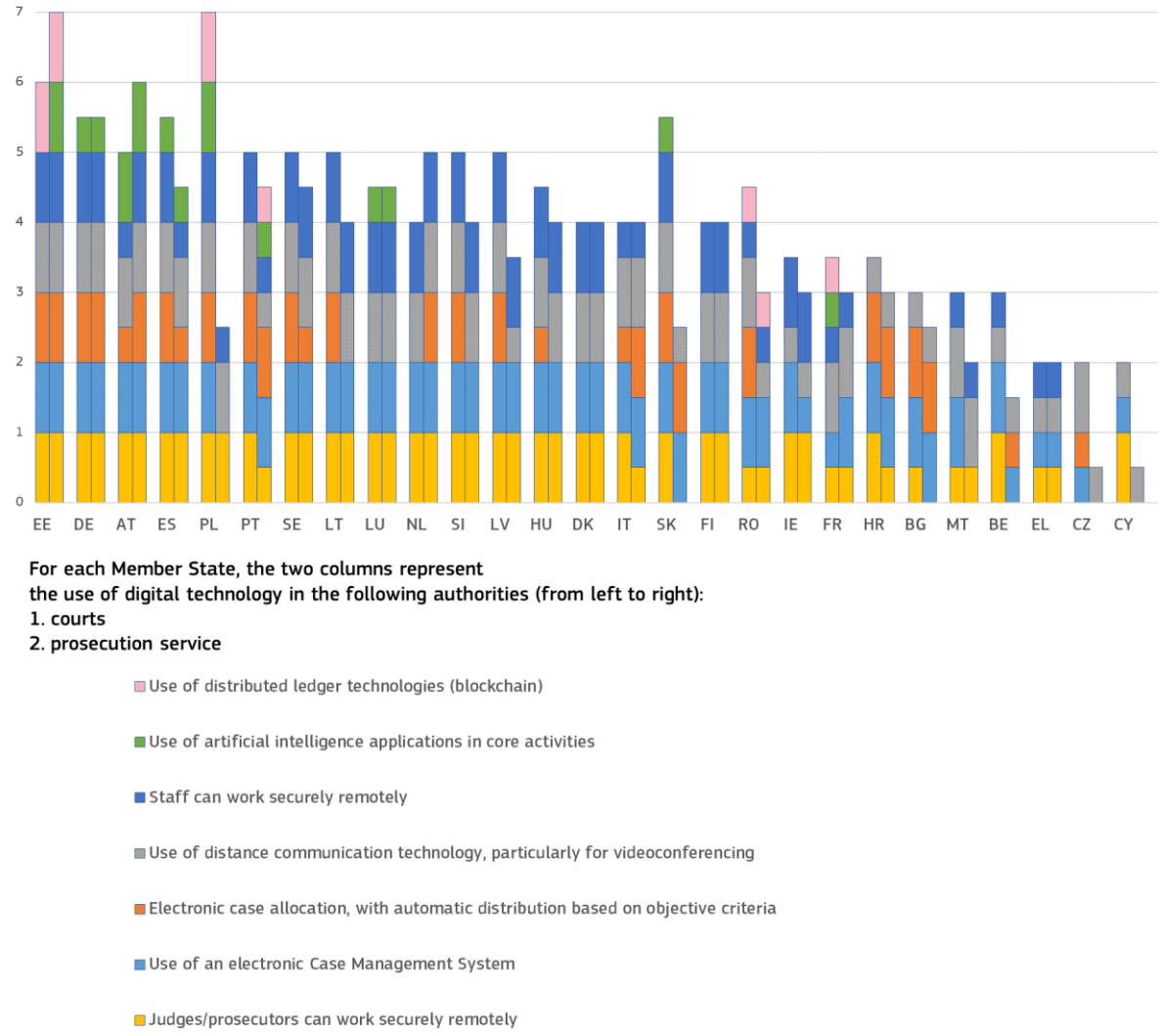
[79] 2022 data collected in cooperation with the group of contact persons on national justice systems.

– Use of digital tools –

Beyond digital-ready procedural rules, courts and prosecution services need to have appropriate tools and infrastructure in place for distance communication and secure remote access to the workplace (Figure 42). Adequate infrastructure and equipment is also needed for secure electronic communication between courts/prosecution services and legal professionals and institutions (Figures 43 and 44).

ICT, including innovative technology, plays an important role in supporting the work of judicial authorities. It therefore contributes significantly to the quality of justice systems. The availability of various digital tools at the disposal of judges, prosecutors and judicial staff can streamline work processes, ensure fair workload allocation and lead to a significant time reduction.

Figure 42: Use of digital technology by courts and prosecution services, 2022 (*) *(source: European Commission ([80]))*

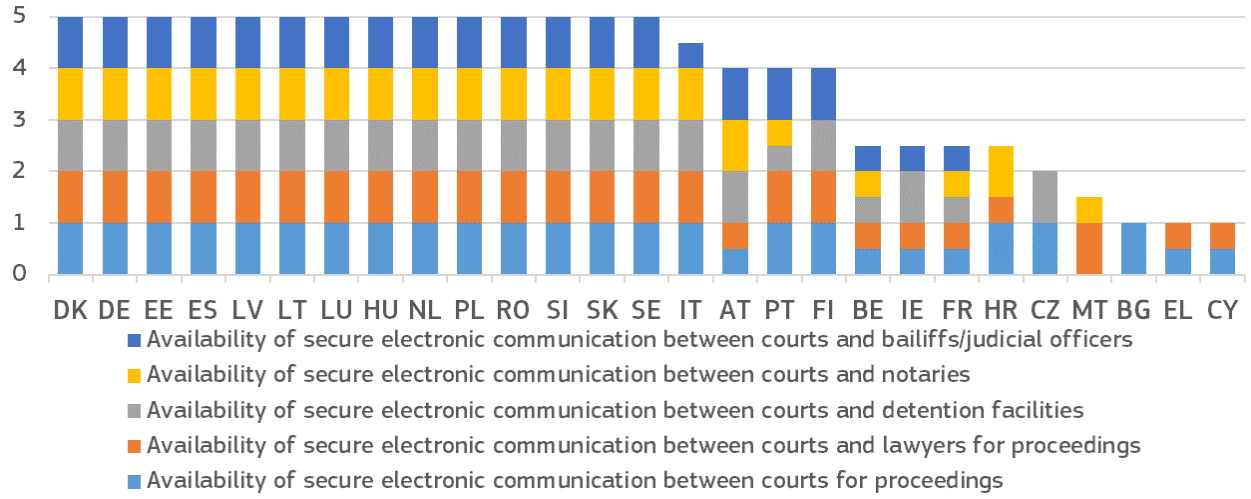


[80] 2022 data collected in cooperation with the group of contact persons on national justice systems.

(*) Maximum possible: 7 points. For each criterion, one point was given if courts and prosecution services, respectively, use a given technology and 0.5 point was awarded when the technology is not always used by them.

Secure electronic communication can contribute to improving the quality of justice systems. The possibility for courts to communicate electronically between themselves, as well as with legal professionals and other institutions, can streamline processes and reduce the need for paper-based communication and physical presence, which would lead to a reduction in the length of pre-trial activities and court proceedings.

Figure 43: Courts: electronic communication tools, 2022 (*) *(source: European Commission ([81]))*

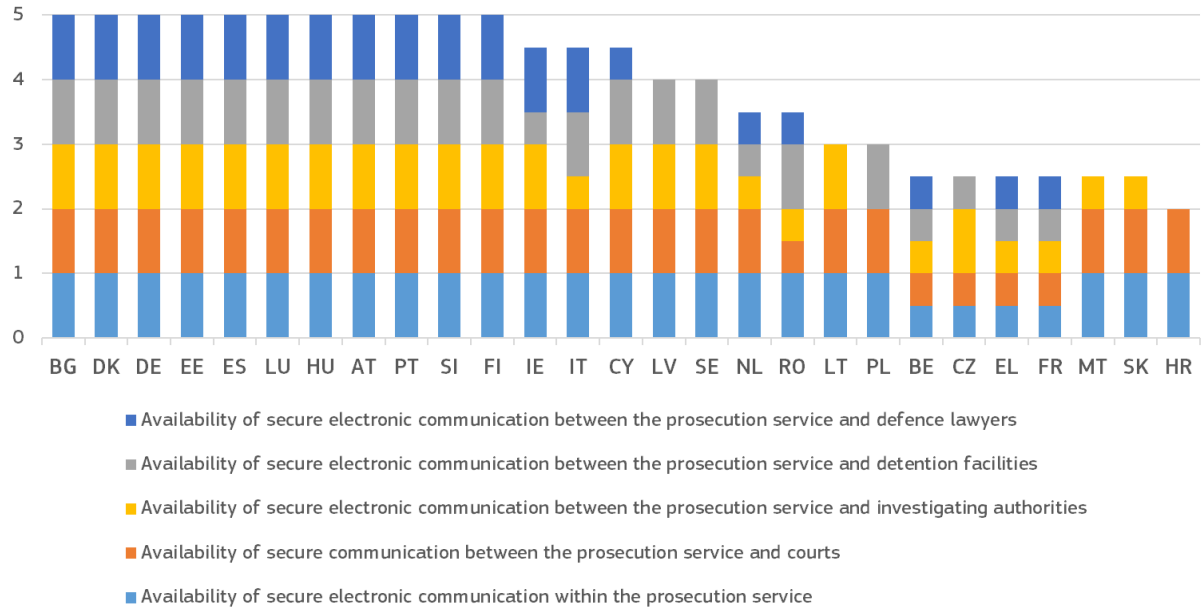


(*) Maximum possible: 5 points. For each criterion, one point was given if secure electronic communication is available for courts. 0.5 was awarded when the possibility does not exists in all cases. ***FI****: the tasks of notaries do not relate to courts. Therefore, there is no reason to provide them with secure connection.*

Prosecution services are essential for the functioning of the criminal justice system. They also stand to benefit from access to a secure electronic channel of communication, which could facilitate their work and thus improve the quality of court proceedings. The possibility for secure electronic communication between prosecution services and investigating authorities, defence lawyers and courts would enable a more expedient and efficient preparation of the proceedings before the court.

[81] 2022 data collected in cooperation with the group of contact persons on national justice systems.

Figure 44: Prosecution service: electronic communication tools, 2022(*) *(source: European Commission ([82]))*



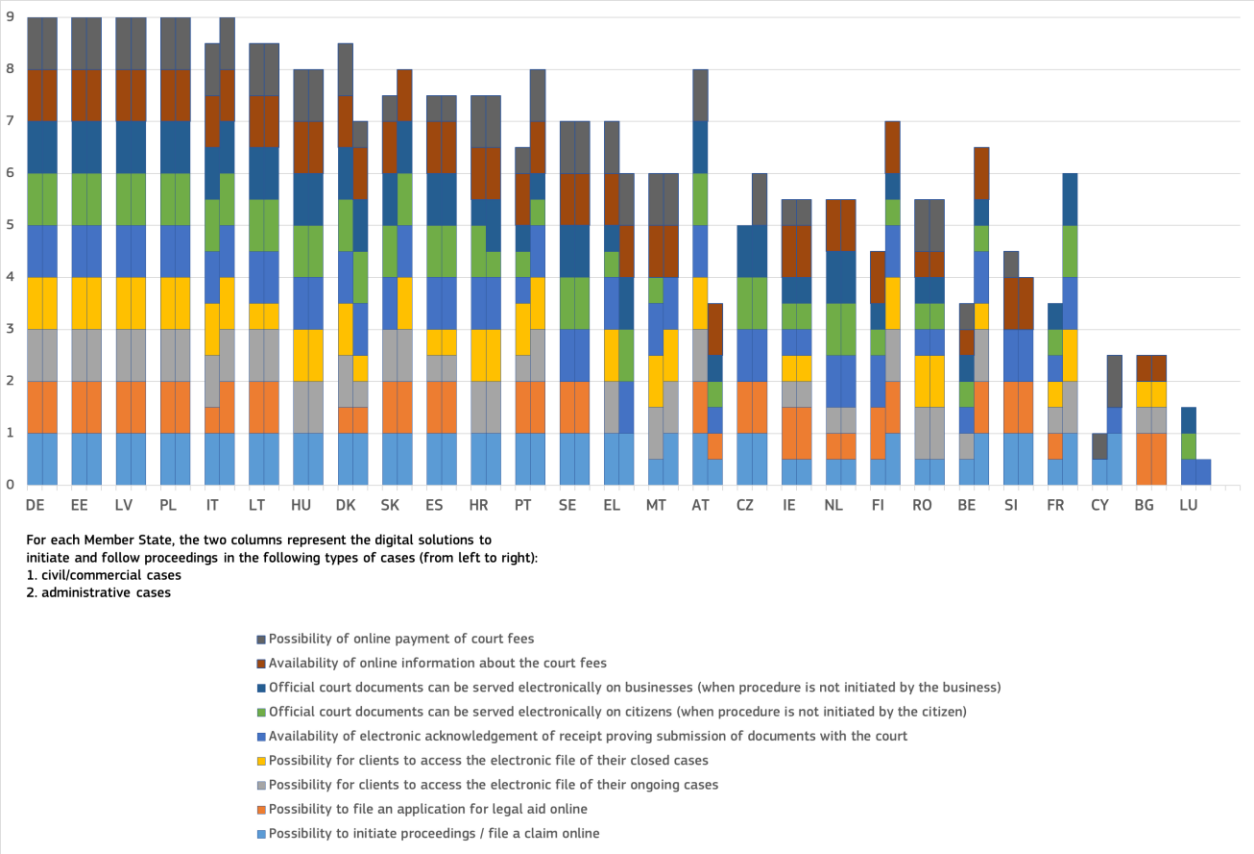
(*) Maximum possible: 5 points. For each criterion, one point was given if secure electronic communication is available for prosecution services. 0.5 was awarded when the possibility does not exist in all cases. Availability of electronic communication tools within prosecution service includes communication with lawyers employed by the prosecution service.

[82] 2022 data collected in cooperation with the group of contact persons on national justice systems.

– Online access to courts –

The ability to carry out specific steps in a judicial procedure electronically is an important aspect of the quality of justice systems. The electronic submission of claims, the possibility to monitor and advance a proceeding online or serve documents electronically can tangibly facilitate access to justice for citizens and businesses (or their legal representatives) and reduce delays and costs. The availability of such digital public services would help bring courts one step closer to citizens and businesses, and by extension increase public trust in the justice system.

Figure 45: Digital solutions to initiate and follow proceedings in civil/commercial and administrative cases, 2022(*) *(source: European Commission ([83]))*

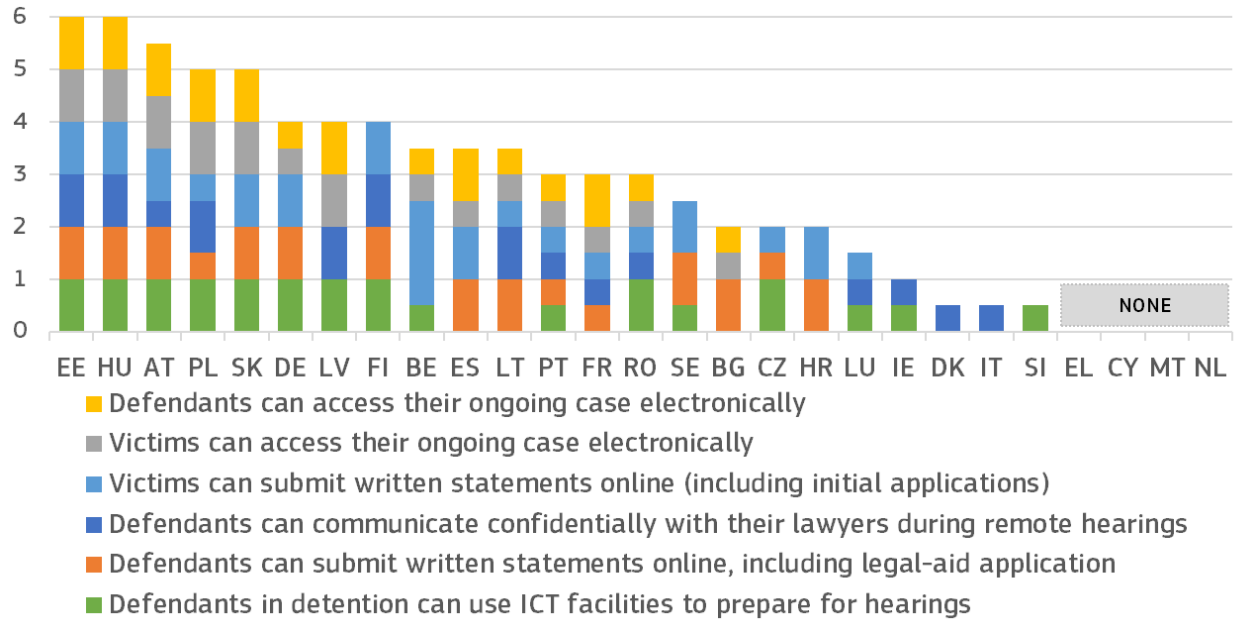


(*) Maximum possible: 9 points. For each criterion, one point was given if the possibility exists in all civil/commercial and administrative cases, respectively. 0.5 point was awarded when the possibility does not exist in all cases. For those Member States that do not distinguish civil/commercial and administrative cases, the same number of points has been given for both areas.

[83] 2022 data collected in cooperation with the group of contact persons on national justice systems.

The use of digital tools for conducting and following court proceedings in criminal cases can also help guarantee the rights of victims and defendants. For example, digital solutions can enable confidential remote communication between defendants and their lawyers, allow defendants in detention to prepare for their hearing and help victims of crime avoid secondary victimisation.

Figure 46: Digital solutions to conduct and follow court proceedings in criminal cases, 2022(*) *(source: European Commission ([84]))*



(*) Maximum possible: 6 points. For each criterion, one point was given if the possibility exists in all criminal cases. 0.5 point was awarded when the possibility does not exists in all cases.

– Access to judgments –

Ensuring online access to judgments increases the transparency of justice systems, helps citizens and businesses understand their rights and can contribute to consistency in case-law. Appropriate arrangements for publishing judicial decisions online are essential for creating user-friendly search facilities ([85]) that make case-law more accessible to legal professionals and the general public. Seamless access to and easy reuse of case-law makes the justice system algorithm-friendly, enabling innovative 'legal tech' applications that support practitioners.

The online publication of court decisions requires balancing a variety of interests, within the boundaries set by legal and policy frameworks. The General Data Protection Regulation ([86]) fully applies to the processing of personal data by courts. When assessing what data to make public, a fair balance has to be struck between the right to data protection and the obligation to publicise

[84] 2022 data collected in cooperation with the group of contact persons on national justice systems.

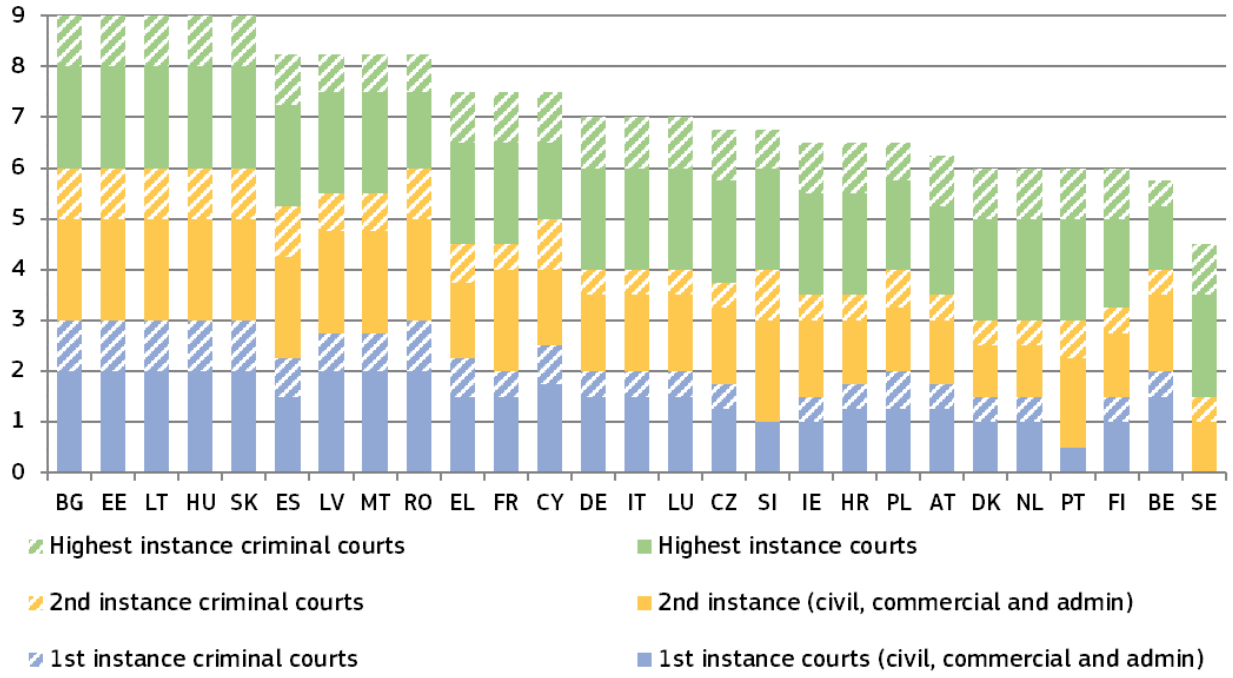
[85] See *Best practice guide for managing Supreme Courts*, under the project Supreme Courts as guarantee for effectiveness of judicial systems, p. 29.

[86] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

court decisions to ensure the transparency of the justice system. This is particularly true when there is a prevailing public interest that justifies the disclosure of those data. In many countries, the law or practice requires the anonymisation or pseudonymisation ([87]) of judicial decisions before publication, either systematically or upon request. Data produced by the judiciary are also governed by EU legislation on open data and the reuse of public sector information ([88]).

The availability of judicial decisions in a machine-readable format ([89]), as displayed in Figure 49, facilitates an algorithm-friendly justice system ([90]).

Figure 47: Online access to published judgments by the general public, 2022 (*) *(civil/commercial, administrative and criminal cases, all instances) (source: European Commission ([91]))*



(*) Maximum possible: 9 points. For each court instance, one point was given if all judgments are available for civil/commercial and administrative and criminal cases respectively, 0.75 points when most judgments (more than 50% are available) and 0.5 points

87 Anonymisation/pseudonymisation is more efficient if assisted by an algorithm. However, human supervision is needed, since the algorithms do not understand context.

88 Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90) and Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

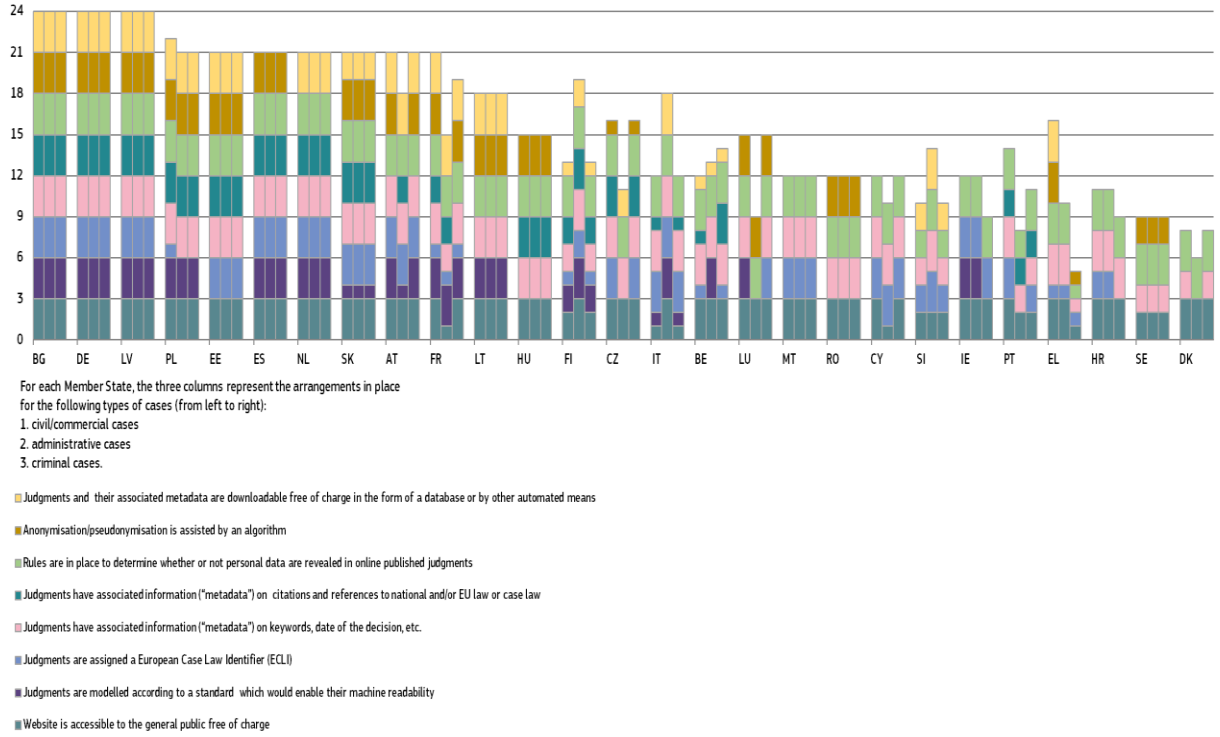
89 Judgments modelled according to standards (e.g. Akoma Ntoso) and their associated metadata are downloadable free of charge in the form of a database or by other automated means (e.g. Application Programming Interface).

90 See also Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A European strategy for data, COM(2020) 66 final, Commission White Paper on Artificial Intelligence – A European approach to excellence and trust, COM(2020) 65 final, and Conclusions of the Council and the representatives of the Governments of the Member States meeting within the Council on Best Practices regarding the Online Publication of Court Decisions (OJ C 362, 8.10.2018, p. 2).

91 2022 data collected in cooperation with the group of contact persons on national justice systems.

when some judgments (less than 50%) are available. For Member States with only two court instances, points have been given for three court instances by mirroring the respective higher instance court of the non-existing instance. For those Member States that do not distinguish the two areas of law (civil/commercial and administrative), the same number of points has been given for both areas. ***BE****: for civil and criminal cases, each court is in charge of deciding on the publication of its own judgments.* ***DE****: each federal state decides on online availability of first instance judgments.* ***AT****: for first and second instance, judges decide which judgments are published. Decisions of the Supreme Court that reject an appeal without substantial reasoning are not published. Decisions of the Supreme Administrative Court taken by a single judge are published if the judge concerned decides to publish them. Furthermore, decisions only containing legal issues where there already is continuous jurisprudence of the Supreme Administrative Court and non-complicated decisions concerning discontinuance of proceedings are not published.* ***NL****: courts decide on publication according to published criteria.* ***PT****: a commission within the court decides on the publication.* ***SI****: procedural decisions with little or no significance for the case-law are not published; from decisions in cases, which are identical in substance (e.g. bulk cases), only the leading decision is published (together with the list of case files with the same content). Individual higher courts decide which judgments can be published.* ***SK****: decisions on several types of civil cases, such as in inheritance matters or determining of paternity are not published.* ***FI****: courts decide which judgments are published.*

Figure 48: Arrangements for producing machine-readable judicial decisions, 2022 (*) *(civil/commercial, administrative and criminal cases, all instances) (source: European Commission ([92]))*



(*) Maximum possible: 24 points per type of case. For each of the three instances (first, second, final) one point can be given if all judicial decisions are covered. If only some judicial decisions are covered at a given instance, only half a point is awarded. Where a Member State has only two instances, points have been given for three instances by mirroring the respective higher instance as the non-existing instance. For those Member States that do not distinguish between administrative and civil/commercial cases, the same points have been allocated for both areas of law. ***ES:*** *The use of the General Council for the Judiciary (CGPJ) database for commercial purposes, or the massive download of information is not allowed. The reuse of this information for developing databases or for commercial purposes must follow the procedure and conditions established by the CGPJ through its Judicial Documentation Centre.* ***IE:*** *anonymisation of judgments is done in family law, child care and other areas where statute requires or a judge directs the identities of parties or persons not to be disclosed.*

[92] 2022 data collected in cooperation with the group of contact persons on national justice systems.

3.2.5. Summary on the quality of justice systems

Easy access, sufficient resources, effective assessment tools and digitalisation all contribute to a high-quality justice system. The public and businesses expect high-quality decisions from an effective justice system. The 2023 EU Justice Scoreboard makes a comparative analysis of these factors.

Accessibility

The 2023 Scoreboard looks again at a number of elements that contribute to a people-friendly justice system:

1) The **availability of legal aid** and the **level of court fees** have a major impact on access to justice, in particular for people living in poverty or at risk of poverty. Figure 24 shows that in 5 Member States, people whose income is below the Eurostat poverty threshold would not receive legal aid. The level of court fees (Figure 25) has remained largely stable since 2016, although in 5 Member States court fees were lower than in 2021, in particular for low-value claims. The burden of court fees continues to be proportionally higher for low-value claims. Difficulties in claiming legal aid combined with high court fees in 4 Member States could deter people living in poverty from attempting to access justice.
2) The 2023 EU Justice Scoreboard continues to analyse the ways in which Member States promote voluntary use of **alternative dispute resolution methods (ADR)** (Figure 26), including the possibility of using digital technologies. The overall picture is unchanged from 2021, with 3 Member States improving their efforts, but also 3 reducing the number of promotion measures. In general, the number of ways used to promote ADR methods tends to be lower for administrative disputes than for civil and commercial, labour or consumer disputes.
3) For the first time, the 2023 EU Justice Scoreboard takes stock of specific arrangements to support **persons at risk of discrimination and older persons** in accessing justice. Figure 27 shows that 17 Member States provide information on the rights of persons at risk of discrimination and 22 provide easy physical access to court buildings. 14 enable non-governmental organisations to initiate or participate in proceedings on behalf or in support of persons at risk of discrimination, as well as making it easier for older people to participate in court proceedings. Additionally, one third of Member States took steps to make legal aid more accessible for older people, while only 4 Member States asked about the needs and satisfaction levels of persons at risk of discrimination in surveys of court users in 2021.
4) Figure 29 shows that Member States have also given **equality bodies powers to help victims access justice.** This year's Scoreboard gives an overview of this for the first time. Equality bodies in a third of Member States can take binding decisions in discrimination cases. In 22 Member States, they can offer parties the option of seeking an ADR (for example mediation or conciliation procedures). In 18 Member States, equality bodies can act in court in cases of discrimination either on behalf of victims or in their own name, and in 16 Member States they can submit observations to the court as an expert or *amicus curiae* (non-party but who is permitted to assist a court by offering information, expertise, or insight that has a

bearing on the issues in the case).

5) Also for the first time, a mapping is given of selected specific arrangements for **victims of violence against women and domestic violence**. Figure 28 shows how many of the examined safeguards are in place in each Member State. In 12 Member States, all safeguards are in place, e.g. providing special protection for victims, or online access to specific information. However, nearly a quarter of Member States do not provide online access to specific information on domestic violence prevention, support and protection services, or legal information about violence against women/domestic violence and victims' rights.

6) The 2023 EU Justice Scoreboard extends the mapping of certain aspects of **judicial control over acts and omissions of public administrations** based on specific business scenarios (Figure 30). The figure presents the recognition and application of the specific forms of state liability under legal regimes of the Member States when state conduct infringing EU law causes damage or when the infringement of EU law stems from a decision of the court adjudicating at last instance. This was already applied in concrete cases before national courts in 5 Member States for state conduct causing damage and in 10 for decisions of courts adjudicating at last instance. Apart from these specific safeguards, other, more general, forms of state liability may exist. In 24 Member States companies may receive financial compensation for damage caused by administrative decisions or by administrative silence and courts may stay the enforcement of administrative decisions. These may have an impact on investor confidence, the business environment and the functioning of the single market, and require closer monitoring.

7) The 2023 EU Justice Scoreboard provides an overview of selected measures Member States have in place to ensure a **child-friendly justice system**. Figure 31 looks at specific arrangements available when a child is involved as a victim or as a suspect/accused person. Overall, the situation appears to have improved compared to 2021. In total, 17 Member States are now reported to: provide the possibility of audio-visual recording of questioning of children; ensure child-friendly settings and effective participation of children in hearings; provide information in a child-friendly way; and arrange for assistance by a lawyer. Despite these reported improvements, especially with regards to legal assistance for children, there are still fewer specific safeguards available for children involved in proceedings as suspects or accused persons than for those who are involved as victims.

Resources

High-quality justice systems in Member States depend on sufficient financial and human resources. This requires appropriate investment in physical and technical infrastructure, initial and continuing training, and diversity among judges, including gender balance. The 2023 EU Justice Scoreboard shows the following.

8) In terms of **financial resources**, overall, in 2021, general government spending on law courts remained stable in most Member States, but with persistent significant differences between Member States in spending levels of both per inhabitant and as a percentage of GDP (Figures 32 and 33). There are 21 Member States that increased their expenditure as a percentage of GDP in 2021 (an increase compared to 2020) and 3 also increased their expenditure per capita.

9) For the first time, this year's Scoreboard presents the ratio of annual **salaries** of judges and prosecutors compared to the average annual salary in the country (Figure 34).

10) **Women** still account for fewer than 50% of judges at supreme court level in 20 Member States (Figure 36), while in 7 Member States half or more judges at supreme courts are female. Figures for the three-year period from 2020 to 2022 show diverging levels and trends between Member States.

11) To **improve communication** with vulnerable groups (Figure 38), all Member States provide training on communicating with asylum seekers and/or with people from different cultural, religious, ethnic or linguistic backgrounds. Furthermore, 15 Member States provide training on the use of social media and communication with the media, and 15 raise awareness and provide training on dealing with disinformation.

Assessment tools

12) The **use of surveys** among court users and legal professionals (Figure 39) was higher in 2021 than in the preceding years, with only 10 Member States not conducting any surveys (15 in 2020). Accessibility, customer service, court hearings and overall trust in the justice system are recurring topics for surveys, but only 8 Member States inquired about the satisfaction of groups with special needs or about individuals' awareness of their rights.

Digitalisation

Since 2021, the EU Justice Scoreboard has included a large, detailed section on aspects related to the digitalisation of justice. Although Member States already use digital solutions in different contexts and to varying degrees, there is significant room for improvement.

13) 26 Member States provide some **online information about their judicial system**, including websites with clear information on accessing legal aid, on court fees and on eligibility criteria for reduced fees (Figure 40). The situation has improved compared to last year but some differences still exist between Member States in the level of information and the degree to which it responds to people's needs. For example, 14 Member States provide an interactive online simulation where people can find out whether they are eligible for legal aid, or provide education on legal rights through online interactive learning tools. 24 Member States provide a website with understandable information on procedural rights, including online forms for companies and individuals, and information for non-native speakers.

14) 8 Member States have **digital-ready procedural rules** (Figure 41), which allow fully or mostly for the use of distance communication and for the admissibility of evidence in digital format only. In 19 Member States, this is possible only in a limited number of situations. Nonetheless, there has been steady overall progress in this regard since 2020.

15) Figure 42 reveals the **use of digital technology by courts and prosecution services**. It shows that, with two exceptions, Member States do not fully use the potential allowed by their procedural rules (cf. Figure 41). Member States' courts, prosecutors and court staff already have various digital tools at their disposal, such as case-management systems, videoconferencing systems and teleworking arrangements. However, further progress could still be achieved in electronic case allocation systems, with automatic distribution based on objective criteria.

16) Courts in all Member States have some **secure electronic tools for communication** at their disposal. These tools are available for communication among courts and between courts and lawyers. However, 10 Member States still lack tools for digital communication with notaries, detention facilities or bailiffs/judicial officers (Figure 43). All Member States now provide for secure electronic communication within the prosecution services, as well as between prosecution services and courts, which represents an improvement compared to 2021 (Figure 44). Nevertheless, a third of Member States still lack tools for electronic communication between the prosecution services and defence lawyers.

17) In civil/commercial and administrative cases, 21 Member States provide individuals and businesses (or their legal representatives) with **online access to their ongoing or closed cases** (Figure 45), albeit to varying degrees. In 25 Member States it is now possible to initiate proceedings or to file a claim online, which marks a significant improvement compared to 2021. However, in criminal cases (Figure 46) in 21 Member States, defendants and victims have only limited possibilities for following or pursuing part of their case electronically, with a third of the Member States providing no or very few digital solutions in criminal cases.

18) **Online access to court judgments** (Figure 47) has slightly improved overall compared to 2021, especially regarding the publication of first- and second-instance court decisions. When it comes to the highest instance, online access to judgments has generally remained stable.

19) As in previous years, the 2023 EU Justice Scoreboard analyses **arrangements for producing machine-readable judicial decisions** (Figure 48). All Member States have at least some arrangements in place for civil/commercial, administrative and criminal cases although there is considerable variation between them. In general, there is a tendency to introduce more arrangements, particularly for downloading the judgments free of charge (databases and other automated solutions), for modelling judgments to make them machine-readable, or for anonymising/pseudonymising judgments using algorithms. In 2022, 8 Member States reported improvement compared to the previous year, while the situation in 10 Member States remained stable. Justice systems with arrangements for modelling judgments in line with standards to make them machine-readable seem to have the potential to achieve better results in the future.

3.3. Independence

Judicial independence, which is integral to the task of judicial decision-making, is an EU law requirement stemming from the principle of effective judicial protection referred to in Article 19 TEU, and from the right to an effective remedy before a court or tribunal enshrined in Article 47 of the Charter of Fundamental Rights of the EU ([93]). That requirement presumes:

(a) **external independence**, when the body concerned exercises its functions autonomously, without being subject to any hierarchical constraint or subordinated to any other body and without taking orders or instructions from any source whatsoever, thus being protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions; and

(b) **internal independence and impartiality**, when an equal distance is maintained from the parties to the proceedings and their respective interests with regard to the subject matter of those proceedings ([94]), and when individual judges are protected from undue internal pressue within the judiciary ([95]).

Judicial independence guarantees that all the rights that individuals derive from EU law will be protected and that the values common to the Member States set out in Article 2 TEU, in particular the value of the rule of law, will be safeguarded ([96]). Preserving the EU legal order is fundamental for all citizens and business whose rights and freedoms are protected under EU law.

A high perceived independence of the judiciary is paramount for the trust which justice in a society governed by the rule of law must inspire in individuals, and is contributing to a growth-friendly business environment, as a perceived lack of independence can deter investments. The Scoreboard includes indicators for the judiciary's independence concerning the effectiveness of investment protection. In addition to indicators on perceived judicial independence from various sources, the

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93 See http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN

94 Court of Justice, judgment of 16 November 2021, *Criminal proceedings against WB and Others*, Joined Cases C-748/19 to C-754/19, judgment of 6 October 2021, *W. Ż.*, C-487/19, judgment of 15 July 2021, , *Commission v. Poland*, C-791/13, judgment of 2 March 2021, *AB*, C-824/18, judgment of 19 November 2019, *A. K. and Others*, C-585/18, C-624/18 and C-625/18, ECLI:EU:C:2019:982, paras. 121 and 122; judgment of 5 November 2019, *Commission v* Poland, C-192/18, judgment of 24 June 2019, *Commission v. Poland*, C-619/18, ECLI:EU:C:2019:531 paras. 73 and 74; judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, para. 44; judgment of 25 July 2018, *Minister for Justice and Equality*, C-216/18 PPU, EU:C:2018:586, para. 65.

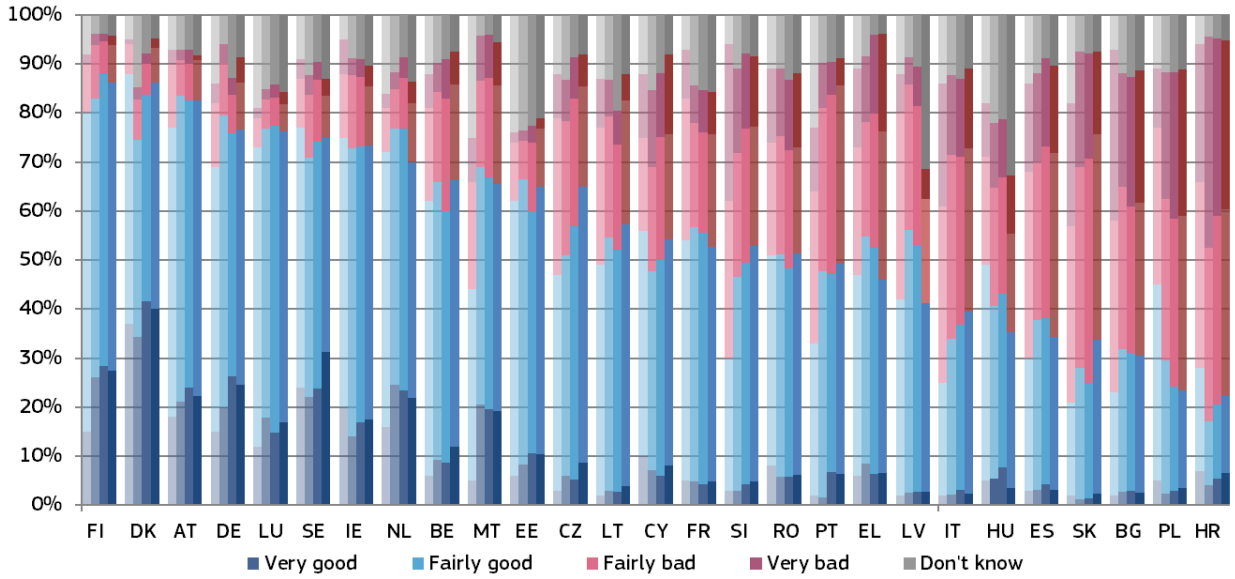
95 Supreme Courts, as final instance courts, and higher/appeal courts in general, are essential to secure the uniform application of the law in Member States. Nevertheless, hierarchical judicial organisation should not undermine individual independence (Recommendation CM/Rec(2010)12, para. 22). Superior courts should not address instructions to judges about the way they should decide individual cases, except in national preliminary rulings or when deciding on legal remedies according to the law (Recommendation CM/Rec(2010)12, para. 23). A hierarchical organisation of the judiciary in the sense of a subordination of judges to higher instances in their judicial decision-making activity would be a clear violation of the principle of internal independence, according to the Venice Commission (Venice Commission, Report on the independence of the judicial system, Part I: the independence of courts, Study No. 494/2008, 16 March 2010, CDL-AD(2010)004, paras. 68 - 72). Any procedure for the unification of case-law must comply with fundamental principles of separation of powers, and even after such a decision of a higher/Supreme Court, all courts and judges must remain competent to assess their cases independently and impartially, and to distinguish new cases from the interpretation previously unified by a higher/Supreme Court (2022 EU Justice Scoreboard, p. 45).

96 Court of Justice, judgment of 24 June 2019, *Commission v. Poland*, C-619/18, ECLI:EU:C:2019:531 para. 44.

Scoreboard presents a number of indicators on how justice systems are organised to protect judicial independence in certain types of situations where independence could be at risk ([97]). Reflecting the input from the European Network of Councils for the Judiciary (ENCJ), the Network of the Presidents of the Supreme Judicial Courts of the EU (NPSJC), the Expert Group on Money Laundering and Financing of Terrorism (EGMLTF), and from the National contact points in the fight against corruption, this edition of the Scoreboard shows indicators on powers of the Councils for the Judiciary, the authorities involved in the appointment of Supreme Court Presidents and Prosecutors General, and the a first overview regarding bodies involved in prevention and prosecution of corruption and their various degrees of specialisation.

3.3.1. Perceived judicial independence and effectiveness of investment protection

Figure 49: How the general public perceives the independence of courts and judges (*) *(source: Eurobarometer ([98]) - light colours: 2016, 2021 and 2022, dark colours: 2023)*



(*) Member States are ordered first by the percentage of respondents who stated that the independence of courts and judges is very good or fairly good (total good); if some Member States have the same percentage of total good, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is fairly bad or very bad (total bad); if some Member States have the same percentage of total good and total bad, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is very good; if some Member States have the same percentage of total good, total bad and of very good, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is very bad.

Figure 50 shows the main reasons given by respondents for the perceived lack of independence of courts and judges. Respondents among the general public, who rated the independence of the

[97] Since 2020, the World Economic Forum has not published the Global Competitiveness Index (GCI) rankings.

[98] Eurobarometer survey FL519, conducted between 16 and 24 January 2023. Replies to the question: 'From what you know, how would you rate the justice system in (your country) in terms of the independence of courts and judges? Would you say it is very good, fairly good, fairly bad or very bad?', see: https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en FL 503 (2022), FL 489 (2021), FL 435 (2016), also available on the Eurobarometer website: https://europa.eu/eurobarometer/screen/home.

justice system as being 'fairly bad' or 'very bad,' could choose between three reasons to explain their rating. The Member States are listed in the same order as in Figure 49.

Figure 50: Main reasons among the general public for the perceived lack of independence *(share of all respondents - higher value means more influence) (source: Eurobarometer ([99]))*

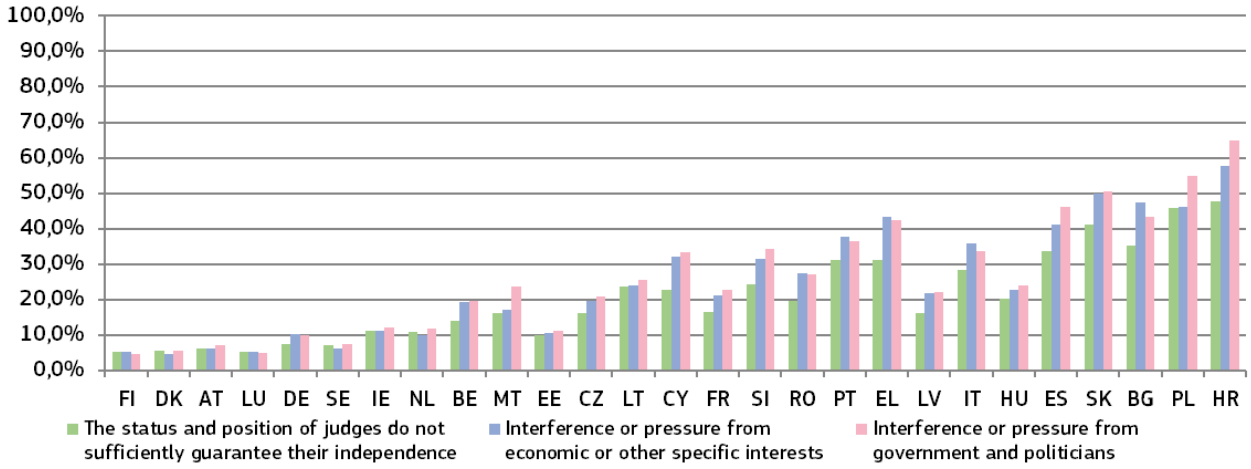
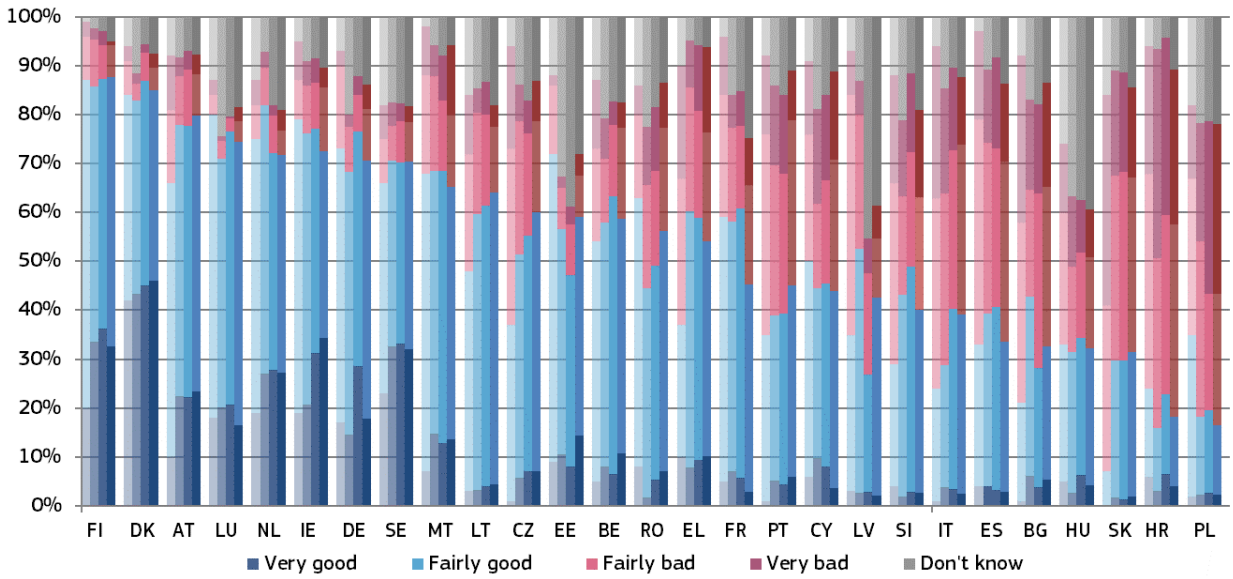


Figure 51: How companies perceive the independence of courts and judges (*) *(source: Eurobarometer ([100]) - light colours: 2016, 2021 and 2022, dark colours: 2023)*



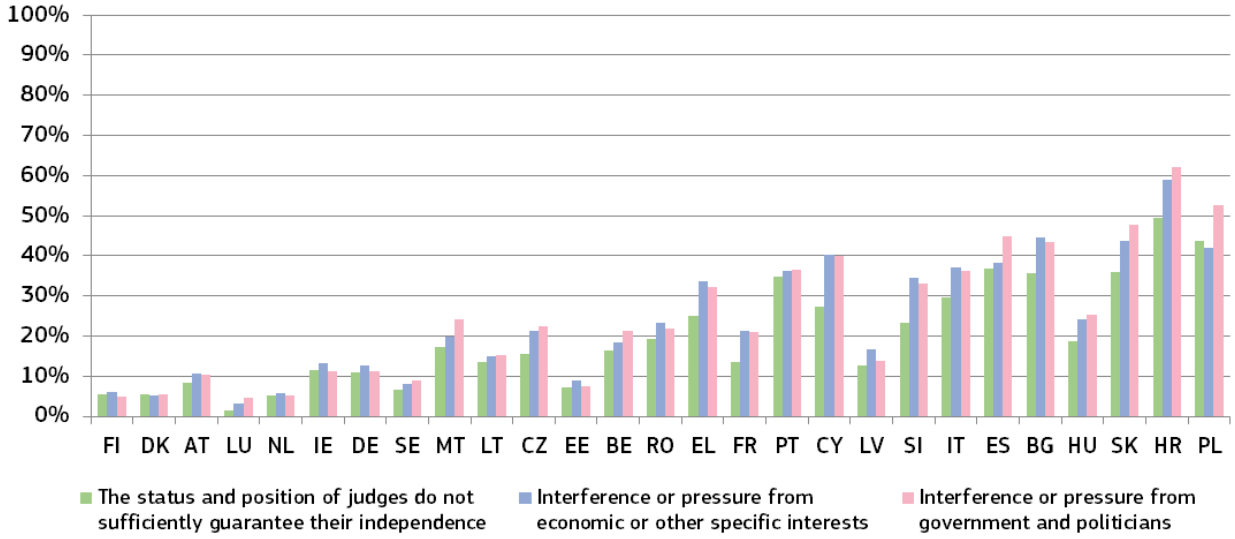
[99] Eurobarometer survey FL519, replies to the question: 'Could you tell me to what extent each of the following reasons explains your rating of the independence of the justice system in (our country): very much, somewhat, not really, not at all?' if reply to Q1 is 'fairly bad' or 'very bad'.

[100] Eurobarometer survey FL520, conducted between 16 and 30 January 2023, replies to the question: 'From what you know, how would you rate the justice system in (our country) in terms of the independence of courts and judges? Would you say it is very good, fairly good, fairly bad or very bad?', see: https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en; from

(*) Member States are ordered first by the percentage of respondents who stated that the independence of courts and judges is very good or fairly good (total good); if some Member States have the same percentage of total good, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is fairly bad or very bad (total bad); if some Member States have the same percentage of total good and total bad, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is very good; if some Member States have the same percentage of total good, total bad and of very good, then they are ordered by the percentage of respondents who stated that the independence of courts and judges is very bad.

Figure 52 shows the main reasons given by respondents for the perceived lack of independence of courts and judges. Respondents among companies, who rated the independence of the justice system as being 'fairly bad' or 'very bad,' could choose between three reasons to explain their rating. The Member States are listed in the same order as in Figure 51.

Figure 52: Main reasons among companies for the perceived lack of independence *(rate of all respondents - higher value means more influence) (source: Eurobarometer ([101]))*

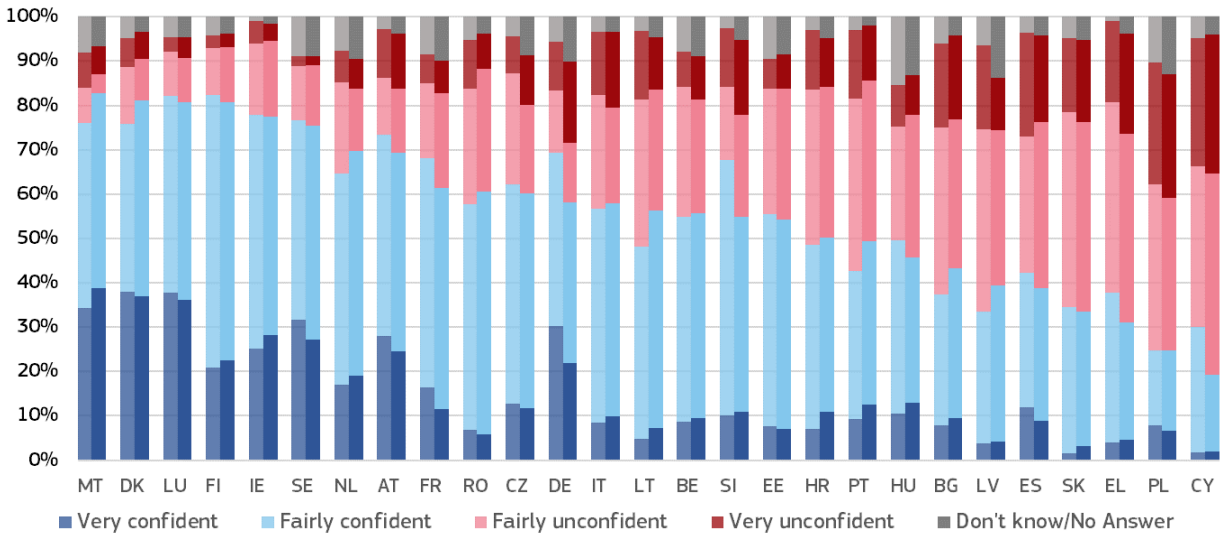


2021, the sample size of companies surveyed was enlarged to 500 for all Member States except for MT, CY and LU, where the sample was 250. In previous years the sample size was 200 for all Member States except for DE, ES, FR, PL and IT, where the sample was 400. FL 504 (2022), FL 490 (2021), FL 436 (2016) are also available on the Eurobarometer website. Eurobarometer – Public opinion in the European Union (europa.eu)

[101] Eurobarometer survey FL520; replies to the question: 'Could you tell me to what extent each of the following reasons explains your rating of the independence of the justice system in (your country): very much, somewhat, not really, not at all?' if the response to Q1 was 'fairly bad' or 'very bad'.

Figure 53 shows, for the second time, the indicator on how companies perceive the effectiveness of investment protection by the law and courts as regards, in their view, unjustified decisions or inaction by the State.

Figure 53: How companies perceive the effectiveness of investment protection by the law and courts (*) *(source: Eurobarometer ([102]) - light colours: 2022, dark colours: 2023)*

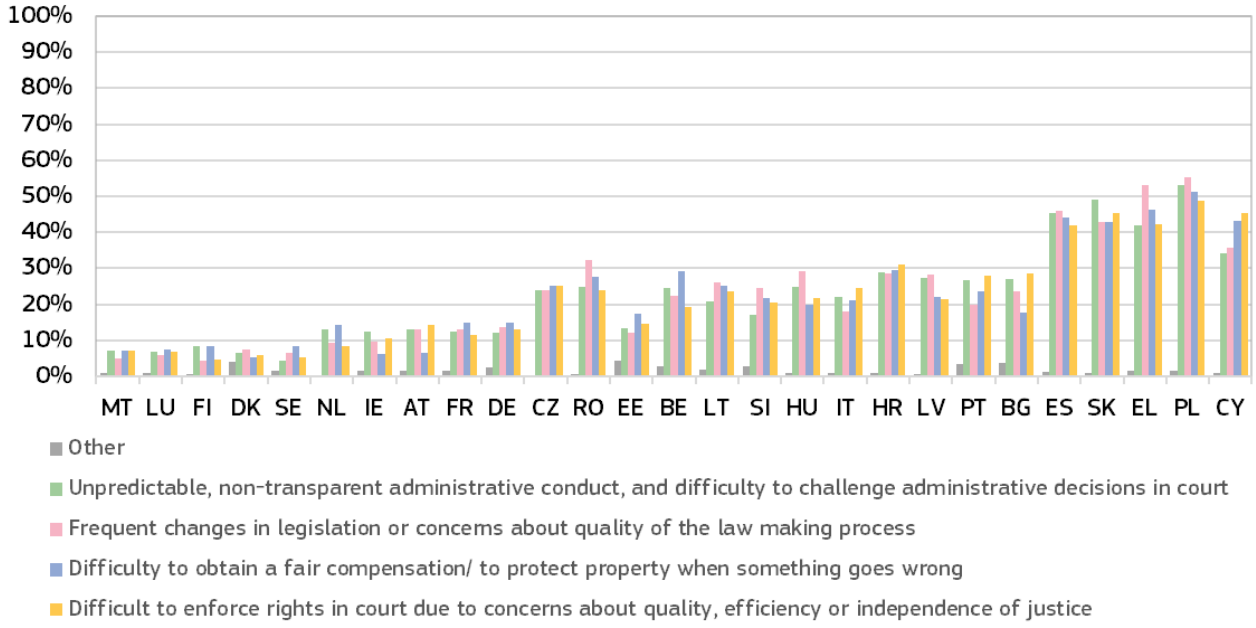


(*) Member States are ordered first by the combined percentage of respondents who stated that they are very or fairly confident in investment protection by the law and courts (total confident).

[102] Eurobarometer survey FL520; replies to the question: 'To what extent are you confident that your investments are protected by the law and courts in (your country) if something goes wrong?' For the purpose of the survey, investment was defined as including any kind of asset that a company owns or controls and that is characterised by the commitment of capital or other resources, the expectation of gain or profit or the assumption of risk.

Figure 54 shows the main reasons given by respondents for the perceived lack of effectiveness of investment protection. Respondents among companies, who rated their level of confidence as 'fairly unconfident' or 'very unconfident', could choose four reasons to explain their rating (and some indicated “other”). The Member States are listed in the same order as in Figure 53.

Figure 54: Main reasons among companies for their perceived lack of effectiveness of investment protection *(rate of all respondents - higher value means more influence) (source: Eurobarometer ([103]))*



[103] Eurobarometer survey FL520; replies to the question: 'What are your main reasons for concern about the effectiveness of investment protection?' if the response to Q3 was 'fairly unconfident' or 'very unconfident'.

3.3.2. Structural independence

The guarantees of structural independence require rules, particularly on the composition of the court and the appointment, length of service and grounds for abstention, rejection and dismissal of its members. These rules dispel any reasonable doubt in the minds of individuals as to the imperviousness of the court to external factors and its neutrality with respect to the interests before it ([104]). They must, in particular, be such as to preclude not only any direct influence, in the form of instructions, but also types of influence that are more indirect and that are liable to have an effect on the decisions of the judges concerned ([105]).

European standards have been developed, particularly by the Council of Europe, for example in the *2010 Council of Europe Recommendation on judges: independence, efficiency and responsibilities* ([106]). The EU Justice Scoreboard presents certain indicators on issues that are relevant when assessing how justice systems are organised to safeguard judicial independence.

This edition of the Scoreboard contains new indicators on: (i) authorities involved in the appointment of Supreme Court Presidents (Figures 56 and 57) ([107]); (ii) certain bodies involved in the prevention of corruption, with regard to some of their key powers (Figure 58) and authorities involved in their appointment (Figure 59); (iii) the specialisation of authorities involved in the repression of corruption (Figure 60); (iv) authorities involved in the appointment of the heads of

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[104] See Court of Justice, judgment of 16 November 2021, *Criminal proceedings against WB and Others*, Joined Cases C-748/19 to C-754/19, para. 67; judgment of 6 October 2021, *W.Ż.*, C-487/19, para. 109; judgment of 15 July 2021, *Commission v. Poland*, C-791/19, para. 59; judgment of 2 March 2021, *A.B.*, C-824/18, para.117; judgment of 19 November 2019, *A. K. and Others* (Independence of the Disciplinary Chamber of the Supreme Court), C-585/18, C-624/18 and C-625/18,EU:C:2019:982, paras. 121 and 122; judgment of 24 June 2019, *Commission v. Poland*, C-619/18, EU:C:2019:531 paras. 73 and 74; judgment of 25 July 2018, *LM*, C-216/18 PPU, EU:C:2018:586, para. 66; judgment of 27 February 2018, *Associação Sindical dos Juízes Portugueses*, C-64/16, EU:C:2018:117, para. 44. See also paragraphs 46 and 47 of the Recommendation CM/Rec(2010)12 Judges: Independence, Efficiency and Responsibility (adopted by the Committee of Ministers of the Council of Europe on 17 November 2010) and the explanatory memorandum. These provide that the authority taking decisions on the selection and career of judges should be independent of the executive and legislative powers. With a view to guaranteeing its independence, at least half of the members of the authority should be judges chosen by their peers. However, where the constitutional or other legal provisions prescribe that the head of state, the government or the legislative power take decisions concerning the selection and career of judges, an independent and competent authority drawn in substantial part from the judiciary (without prejudice to the rules applicable to councils for the judiciary contained in Chapter IV) should be authorised to make recommendations or express opinions which the relevant appointing authority follows in practice.

[105] See Court of Justice, judgment of 2 March 2021, *A.B.*, C-824/18, para. 119; judgment of 19 November 2019, *A. K. and Others* (Independence of the Disciplinary Chamber of the Supreme Court), C-585/18, C-624/18 and C-625/18, EU:C:2019:982, para. 123; judgment of 24 June 2019, *Commission v. Poland*, C-619/18, EU:C:2019:531 para. 112.

[106] See Recommendation CM/Rec(2010)12 Judges: Independence, Efficiency and Responsibility, adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and the explanatory memorandum ('the Recommendation CM/Rec(2010)12').

[107] The figures are based on the responses to an updated questionnaire drawn up by the Commission in close association with the ENCJ. Responses to the updated questionnaire from Member States that have no Councils for the Judiciary or that are not ENCJ members (CZ, DE, EE, CY, LU, AT, and PL) were obtained in cooperation with the Network of the Presidents of the Supreme Judicial Courts of the EU.

prosecutor's offices specialised for dealing with corruption (Figure 61) ([108]); (v) authorities involved in the appointment of prosecutors general (Figure 62) ([109]); and (vi) a first overview of the different solutions adopted in Member States to ensure the protection of constitutional rights at highest instance and the bodies' selected powers (Figures 63 and 64) ([110]). It also presents an updated overview of some of the key powers of the councils for the judiciary (Figure 55) ([111]) and updated figures on the independence of bars and lawyers (Figure 65) ([112]). The figures present the national frameworks as they were in December 2022.

The figures presented in the Scoreboard do not provide an assessment or present quantitative data on the effectiveness of the safeguards. They are not intended to reflect the complexity and details of the procedures and accompanying safeguards. Implementing policies and practices to promote integrity and prevent corruption within the judiciary are also essential to guarantee judicial independence. Ultimately, the effective protection of judicial independence also requires, beyond whatever necessary norms, a culture of integrity and impartiality shared by magistrates and respected by the wider society.

– Powers of the Councils for the Judiciary –

Figure 55 shows an updated overview, first presented in the 2016 EU Justice Scoreboard, of some of the key powers of the Councils for the Judiciary (members of the ENCJ), such as the powers over the appointment of judges and powers affecting their careers. It has been expanded to include the powers to evaluate the functioning of the courts (e.g. quality, efficiency), process complaints from court users, and decide on the number of judicial posts in each court.

[108] Figures 58-61 are based on the responses to a questionnaire drawn up by the Commission in close association with the national contact points in the fight against corruption.

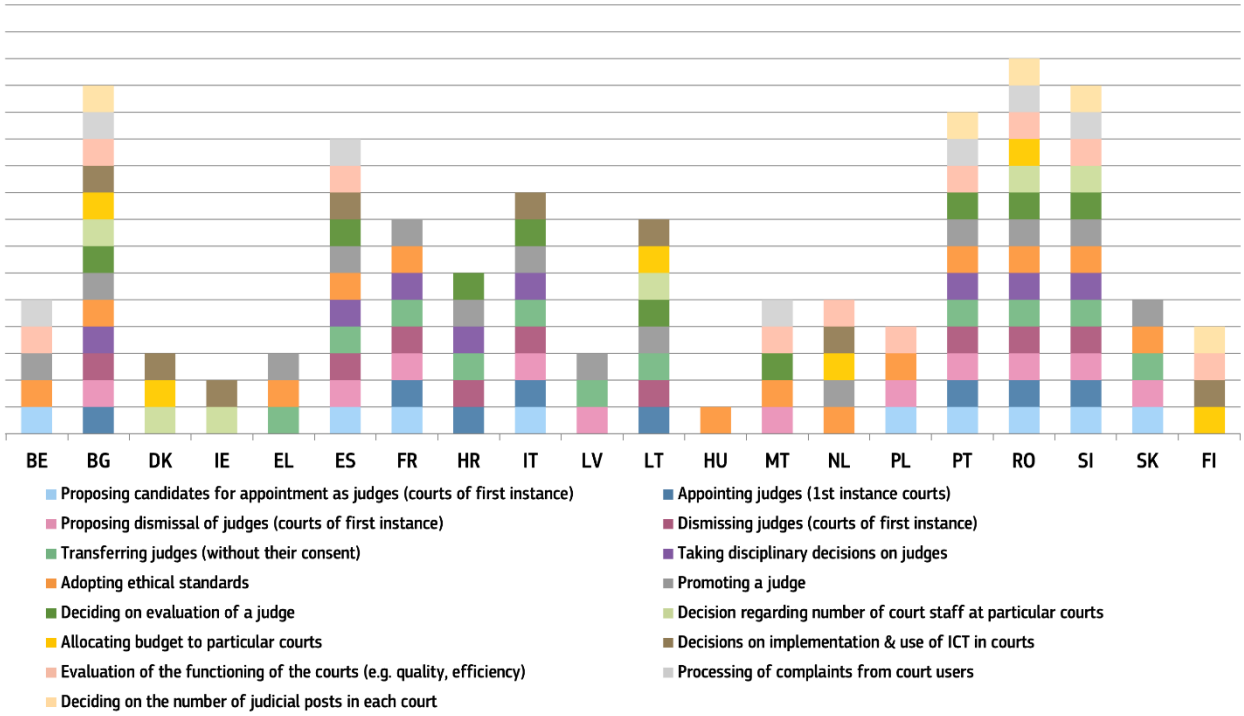
[109] Figure 62 is based on responses to an updated questionnaire drawn up by the Commission in close cooperation with the Expert Group on Money Laundering and Financing of Terrorism.

[110] Figures 63 and 64 have been drawn by the Commission.

[111] Figure 55 is based on the responses to an updated questionnaire drawn up by the Commission in close association with the ENCJ. Responses to the updated questionnaire from Member States that are not ENCJ members (PL) were obtained in cooperation with the Network of the Presidents of the Supreme Judicial Courts of the EU.

[112] Figure 65 is based on the responses to an updated questionnaire drawn up by the Commission in close association with the Council of Bars and Law Societies of Europe (CCBE).

Figure 55: Powers of Councils for the Judiciary (*source: European Network of Councils for the Judiciary and Network of Presidents of Supreme Judicial Courts of the EU ([113])*)



(*) The figure presents only certain powers and is not exhaustive. The Councils for the Judiciary have further powers not mentioned here. For DK, IE, HU, and PT, data are from the 2021 judicial independence questionnaire, and there is no information on these Councils' potential powers of evaluation of the functioning of the courts, of processing complaints from court users, and of deciding on number of judicial posts in each court. EL: column shows powers for both councils, the Supreme Judicial Council of Civil and Criminal Justice and the Supreme Judicial Council for Administrative Justice; the Supreme Judicial Council for Administrative Justice has an additional power to decide on implementation and use of ICT in courts. IT: column shows powers for both councils, the council for civil and criminal courts (CSM) and the council for administrative courts (CPGA); CPGA has an additional power to allocate budget to particular courts; LV: other self-governing judicial bodies exercise certain powers, e.g. over discipline and ethics.

– Appointment of Supreme Court Presidents –

Supreme Courts, as final instance courts, are essential to ensure the uniform application of the law in Member States. Presidents of Supreme Courts exercise an important role as they are often assigned powers to manage the Supreme Court. It is for the Member States to organise the procedure of appointment of Supreme Court judges and Presidents in such a way that their independence and impartiality is ensured. In that respect, EU law requires Member States to ensure that, once appointed, judges are free from influence or pressure from the appointing authority when carrying out their role ([114]). It is also necessary to ensure that the substantive conditions and

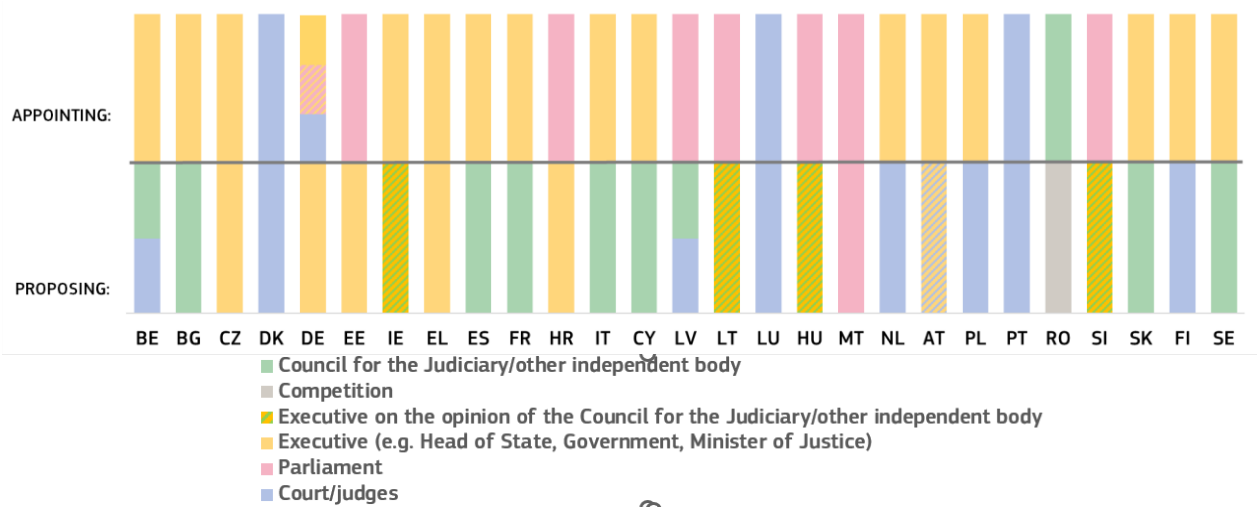
[113] Data collected through an updated questionnaire drawn up by the Commission in close association with the ENCJ. For PL, data collected through the NPSC.

[114] Since 2019, the Court of Justice issued a number of rulings on judicial appointments and requirements of EU law in that respect (see judgment of 20 April 2021 in case C-896/19, *Repubblika and Il-Prim Ministru*, para. 56; judgment of 2 March 2021 in case C-824/18, *AB*, para. 122; judgment of 19 November 2019 in joined cases C-585/18, C-624/18 and C-625/18, *AK et al*, para. 133).

detailed procedural rules governing the adoption of appointment decisions are such that they cannot give rise to reasonable doubts, in the minds of individuals, as to the imperviousness of the judges concerned to external factors and as to their neutrality with respect to the interests before them ([115]). Participation of independent bodies, such as Councils for the Judiciary, in the process of judicial appointment process may, in principle, be such as to contribute to making that process more objective, provided that such a body is itself sufficiently independent of the legislature and the executive and the authority to which it is required to submit an opinion ([116]).

Figure 56 shows an overview of the bodies and authorities which propose candidates for their appointment as Supreme Court Presidents and the authorities that appoint them, as well as the authorities that are consulted (e.g. Supreme Court judges, Councils for the Judiciary).

Figure 56: Appointment of Supreme Court Presidents: proposing and appointing authorities (*) (*source: European Network of Councils for the Judiciary and Network of Presidents of Supreme Judicial Courts of the EU ([117])*)



*(*) **BE**: proposal: Council for the Judiciary on mandatory advice from the Supreme Court; appointment: the Head of State (King). **BG**: Preliminary proposals for candidates are made by at least three members of the Judges Chamber of the Council for the Judiciary, the Minister of Justice and the Plenaries of the Supreme Cassation Court and the Supreme Administrative Court. The Plenary of the Council for the Judiciary, after a selection procedure, sends the official proposal of one candidate to the President of the Republic who then appoints the President of the Supreme Cassation Court or Supreme Administrative Court. **CZ**: The President of the Supreme Court is appointed from among the other judges of the Supreme Court by the President of the Republic. The President of the Republic appoints one of the judges of the Supreme Administrative Court as the President of the Supreme Administrative Court with the countersignature of the Prime Minister. **DK**: The President of the Supreme Court is elected by the other judges in the Supreme Court. **IE**: proposal: the Judicial Appointments Advisory Board selects candidates who are not already*

[115] Judgment of 20 April 2021 in case C-896/19, *Repubblika and Il-Prim Ministru*, para. 57, ECLI:EU:C:2021:311; judgment of 2 March 2021 in case C-824/18, *AB*, para. 123, ECLI:EU:C:2021:153; judgment of 19 November 2019 in joined cases C-585/18, C-624/18 and C-625/18, *AK et al.*, paras. 134 and 135, ECLI:EU:C:2019:982.

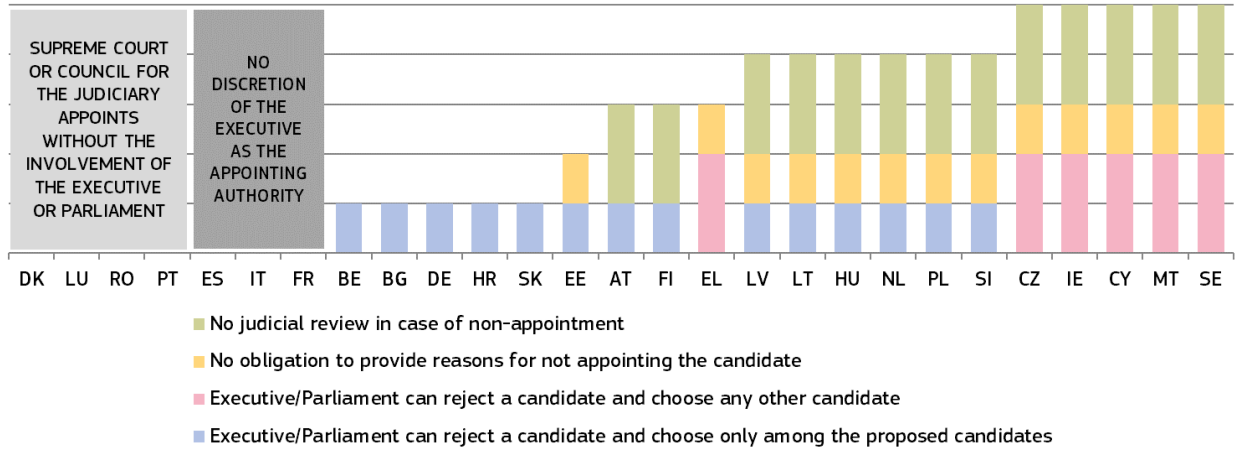
[116] Judgment of 20 April 2021 in case C-896/19, *Repubblika and Il-Prim Ministru* para. 66; judgment of 2 March 2021 in case C-824/18, *AB*, paras. 66, 124 and 125; judgment of 19 November 2019 in joined cases C-585/18, C-624/18 and C-625/18, *AK et al*, paras. 137 and 138.

[117] Data collected through an updated questionnaire drawn up by the Commission in close association with the ENCJ. Responses to the updated questionnaire from Member States that have no Councils for the Judiciary are not ENCJ members, were obtained through cooperation with the NPSC.

holding judicial office and recommends them to the government as being suitable for appointment to judicial office. The government may select serving judges for appointment to higher judicial office; appointment: the President on the advice of the government. ***AT****: proposal: Minister of Justice based on a proposal from a 'staff panel' consisting of judges; appointment: Federal President.* ***LU****: proposal and appointment: Cour supérieure de justice.* ***DE****: proposal: Minister of Justice; appointment: the whole Federal Government following consultative advice from the Präsidialrat (the Presidential Council of the Supreme Court, consisting of its president and judges elected by all the judges of the court, provides a reasoned opinion on the personal and professional aptitude of each candidate) and with mandatory consent from Richterwahlausschuss (Judges Election Committee, consisting of the ministers of justice of the 16 federal states and 16 members elected by the federal parliament (Bundestag)); formal appointment by the President. Appointment as President of the Supreme Federal Court also requires election as a judge of that federal court. In this respect, there are no special features for the election of a federal judge.* ***EE****: proposal: President of the Republic; appointment: Parliament.* ***EL****: The presidents of the three highest courts (Council of State, Supreme Court, Court of Audit) are appointed according to the same procedure; proposal: the government, based on a proposal by the Minister of Justice and an opinion of a parliamentary body; appointment: President of the Republic by a presidential decree.* ***NL:*** *proposal: Supreme Court; appointment: government.* ***PL:*** *The President of the Supreme Court is appointed by the President of the Republic of Poland, after the opinion of the First President of the Supreme Court, for a 3-year term of office from among three candidates selected by the assembly of the judges of a chamber of the Supreme Court.* ***PT****: The President of the Supreme Court is elected by the other judges in the Supreme Court.* ***RO****: The President, Vice-Presidents and Presidents of Sections of the High Court of Justice and Cassation are appointed by the Superior Council of Magistracy (Section for Judges), following an interview consisting of presenting the managerial plan, the verification of the managerial and communication skills, focusing essentially on the organisational capacity, speed in decision-making, resilience to stress, self-improvement, capacity for analysis, synthesis, forecasting, short-, medium- and long-term strategy and planning, initiative, rapid adaptability, networking and communication capacity, as well as verification of the specific knowledge of the role/position the candidate has applied for.* ***CY****: President appoints on advice of the Advisory Judicial Council (Law on the Administration of Justice No 145(I)/2022).* ***ES****: The President of the Supreme Court is appointed by the King by royal decree countersigned by the President of the Government on advice of the Council for the Judiciary. The candidate takes an oath or promise before the King and takes office before the Plenary of the High Court. Upon the President's appointment, if they have a judicial career, they are declared in a special service situation (Articles 351.a and 593 of the Organic Law of the Judiciary). The duration of the term of office coincides with that of the Council that elected them, and they may only be re-elected and appointed once for a new term of office (Article 587 of the Organic Law of the Judiciary).* ***LT****: The chart reflects the process for the Supreme Court President; proposal: President of the Republic (the candidates are selected by the Selection Commission); appointment: Parliament. The Chairperson of the Supreme Administrative Court is appointed by the President of the Republic.* ***LV****: proposal: Plenary session of the Supreme Court on mandatory advice from the Judicial Council; appointment: Parliament.* ***LU****: proposal and appointment: Cour supérieure de justice. The procedure will change from 1 July 2023 when the Council for the Judiciary will start operating.* ***IT****: proposal: the Supreme Council for Magistracy (CSM) or the Council for the judiciary for administrative judges (CPGA); appointment: President of the Republic.* ***FR****: proposal: Higher Council for the Judiciary (CSM); appointment: President of the Republic. The Council issues a 'call for candidates', and all judges can propose their candidature. The president of the Supreme administrative court (Conseil d'Etat) is appointed by the President of the Republic.* ***HR****: proposal: President of the Republic after receiving the list of eligible candidates who applied to the vacancy; The General Assembly of the Supreme Court and the competent parliamentary committee give their opinions on the candidates either before or after the President proposes the candidate. As clarified by the Constitutional Court (U-I-1039/2021), these opinions, which have to be given on all candidates, are not binding on the President of the Republic. appointment: Parliament.* ***HU****: proposal: President of the Republic based on a list of suitable candidates drawn up by the OBT (National Judicial Council). The parliamentary committee for justice interviews the candidate; appointment: Parliament elects the candidate with a two-thirds majority of votes for 9 years. Re-election is not possible.* ***MT****: The Chief Justice is appointed by the President acting in accordance with a resolution of Parliament supported by the votes of not less than two-thirds of all the members.* ***SI****: proposal: Minister of Justice after receiving an opinion of the Judicial Council. The Judicial Council interviews candidates who applied to the vacancy and requests a plenary session of the Supreme Court for an opinion. The Minister for Justice may also be present at the interview and has the right to ask questions; appointment: Parliament.* ***SK****: proposal: Judicial Council; appointment: President.* ***FI****: proposal: Supreme Court; appointment: President of the Republic.* ***SE****: proposal: Judges Proposals Board; appointment: government.*

Figure 57 presents the competence of the executive power and parliament in appointing candidates as Supreme Court Presidents upon submission from the proposing authorities (e.g. Council for the Judiciary or Supreme Court). The height of the column depends on whether the executive or parliament have the possibility to reject a candidate for the Supreme Court President, whether it can choose only among the proposed candidates, or whether it can choose and appoint any other candidate, even if they are not proposed by the competent authority. If a candidate is not appointed, an important safeguard is the obligation to provide reasons ([118]) and the possibility for a judicial review of the decision ([119]). The figure is a factual presentation of the legal system and does not make a qualitative assessment of the effectiveness of the safeguards. For example, in 13 Member States. the executive or parliament has the power to reject a candidate for the Supreme Court President. However, that power has never been exercised or has not been exercised in the last 5 years (2018-2022) (i.e. in BE, BG, DE, EE, LV, LU, MT, NL, AT, PL, SK, FI, and SE), or it has been exercised in isolated cases (i.e. in EL, HR, SI, and LT).

Figure 57: Appointment of Supreme Court Presidents: competence of the executive and parliament (*) *(source: European Network of Councils for the Judiciary and Network of Presidents of Supreme Judicial Courts of the EU ([120]))*



*(*) **BG**: The President of the Republic has the right to veto the proposed candidate. Then the Plenary of the Council for the Judiciary has to vote again for the candidates that were proposed to them. If the Plenary re-elects the same candidate, the President is obliged to appoint them. **IE**: The figure reflects the competence of the government. Under Article 13.9 of the Constitution (i.e. a constitutional requirement rather than a practice), the President's power of appointment is only exercisable on the advice of the government. Where the government proposes to advise the President on an appointment to the office of Chief Justice, it must first have regard to the qualifications and suitability of those who are already serving as judges. **EL**: Supreme Court (dealing with civil and commercial cases) and Council of State (dealing with administrative cases): selection from among the Vice-Presidents of the Supreme Court and Supreme Court Judges (with at least 4 years of service in this position) or selection among the members of the Council of State (Vice-Presidents and Councillors). For Supreme Court and Council of State President: Complete discretional power of the government (Cabinet). No reasoning required. For the President and Vice-Presidents of the Supreme Court, an appeal/review under provision of the law is not allowed. For the post of Vice-President or President of the Council of State, the judicial review is very limited. **ES:** The Head of State (the King) as appointing authority must mandatorily follow the proposal of the Council for the Judiciary concerning judicial appointments and promotions.*

[118] Judgment of 20 April 2021 in case C-896/19, *Repubblika and Il-Prim Ministru*, para. 71.

[119] Judgment of 19 November 2019 in joined cases C-585/18, C-624/18 and C-625/18, *AK et al.*, para. 145.

[120] Data collected through an updated questionnaire drawn up by the Commission in close association with the ENCJ. Responses to the updated questionnaire from Member States that have no Councils for the Judiciary are not ENCJ members, were obtained through cooperation with the NPSC.

The King has, therefore, no discretion and no obligation to provide reasons. The decision of the King has the form of a Royal Decree, is published in the Official Gazette and may not be challenged as such. It is the previous decision by the Council to propose a candidate for judicial appointment or promotion that can be appealed, initially through an administrative appeal (decided by the Plenary of the Council) and subsequently through a judicial review before the Administrative Division of the Supreme Court. ***IT****: On the proposal by the Supreme Council for Magistracy (CSM) or the Council for the judiciary for administrative judges (CPGA), which are in practice binding proposals, the President of the Republic issues a decree on the appointment of the President of the Supreme Court or the President of the Council of State, respectively, having no discretion in this regard.* ***CY****: The President of the Republic, when appointing the President of the Supreme Court, has no constitutional or legal obligation to follow the advisory opinion, but as a rule follows it. The senior member of the Supreme Court has been appointed as President of the Supreme Court to date.* ***MT****: The authority presented is the Parliament. The Chief Justice is appointed by the President acting in accordance with a resolution of Parliament supported by the votes of not less than two-thirds of all the members.* ***NL****: proposal: Supreme Court; appointment: the government upon the nomination by the Minister of Justice.* ***AT****: The Federal President may reject the candidate proposed by the Minister of Justice, but may not appoint a person who has not been proposed.* ***LT****: The candidate can request a special judicial review of the selection procedure before the Supreme Court only on a procedural basis on the opinion of the Selection Commission (this opinion is not binding on the President of the Republic).* ***LU:*** *There is no binding text on this subject, but so far, the appointing authority has never refused the nomination of a candidate proposed by the Court.* ***HR:*** *The Constitutional Court, in a decision of 23 March 2021 (U-I-1039/2021,) clarified that the President of the Republic can only choose from among the candidates who have applied to the vacancy; however, the President can also decide not to propose any of the candidates who applied and inform the Parliament. An unsuccessful candidate can request a review of the Parliament's decision before the Constitutional Court.* ***PL:*** *The President of the Republic is not obliged by law to provide reasons for not appointing the President of the Supreme Court. A candidate for the President of the Supreme Court and a candidate for the president of a chamber of the Supreme Court cannot appeal. The President of the Republic cannot refuse to appoint the First President of the Supreme Court or a president of a chamber from among the candidates selected by the General Assembly of Supreme Court judges.* ***SI****: Neither the Minister of Justice nor the Parliament are required to give reasons for not proposing/appointing the candidate. The Judicial Council is not required to give reasons for its opinion on the candidates. There is no judicial review of decisions or opinions in the procedure.* ***SK:*** *Although it has never happened, if a candidate for a Supreme Court President is not appointed, the appointing authority/body would be required to provide them the reasons for the decision, and there would be a possibility of a review before the Supreme Administrative Court.* ***FI****: The President would give reasons for the decision, although this is not mentioned in the law.* ***SE****: The government can decide not to appoint a candidate for the Supreme Court President and can choose any other candidate, even if the proposing authority did not submit their name. However, the chosen candidate's application must be one of the applications for the position processed by the Judges Proposals Board.*

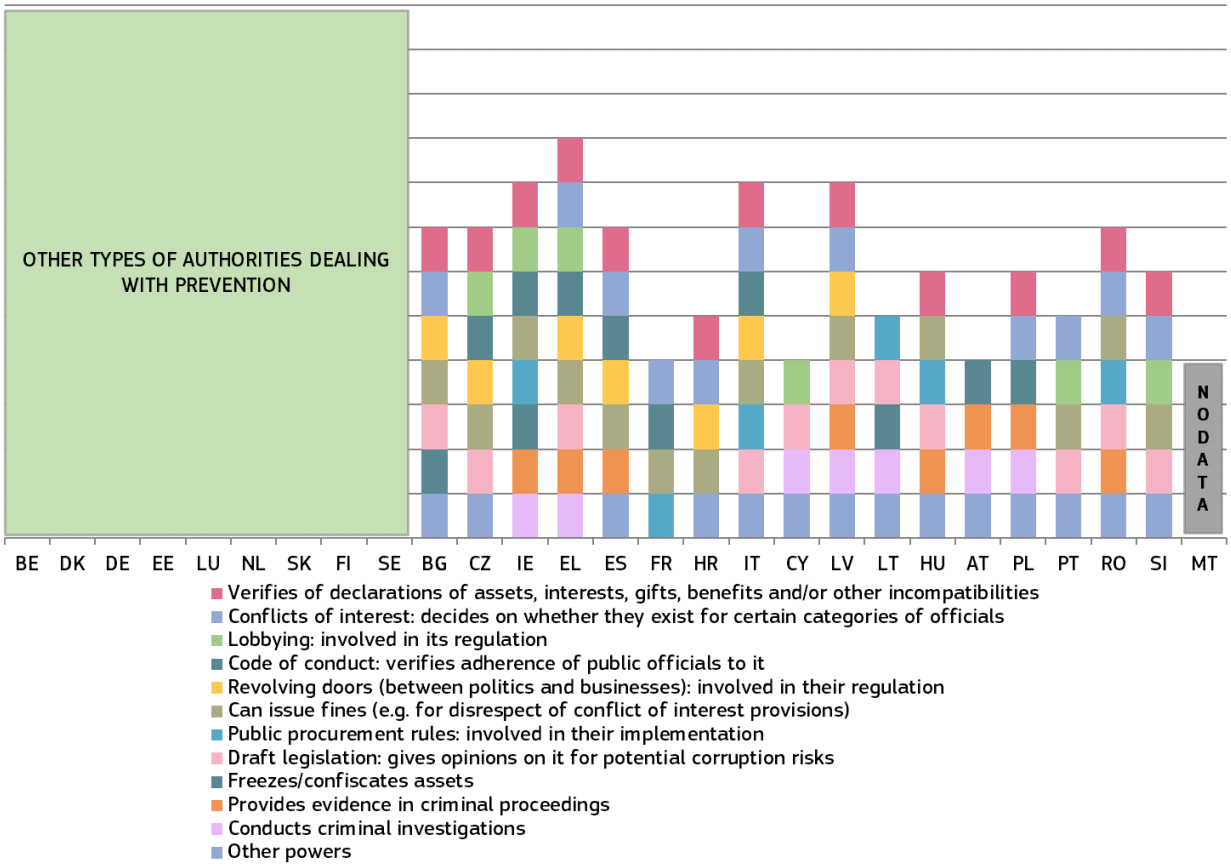
– Anti-corruption –

Corruption is a multi-faceted phenomenon, present both in the public and private sector. It has negative impacts on prosperity and economic growth, social cohesion, as well as on sustainable development. The national anti-corruption frameworks are being monitored by the Commission under the annual Rule of Law Report and also under the European Semester and the Recovery and Resilience Plans. On 3 May 2023, the Commission presented a Communication on the fight against corruption, as well as a proposal for a Directive on combating corruption by criminal law ([121]). For the first time, the 2023 EU Justice Scoreboard is presenting data on the bodies specialised in the prevention of corruption, giving an overview of the type of powers of such bodies (Figure 58) and of the rules on the appointment of these same bodies (Figure 59). Most Member States have one or more bodies that play a role in the prevention of corruption. Nine Member States did not report on the existence of a specialised preventive body but rather on authorities that, apart from their other tasks, also deal with prevention of corruption. Apart from the powers of the specialised

[121] Proposal for a Directive on combatting corruption COM (2023) 234 and Joint Communication on the fight against corruption JOIN(2023) 12 final.

bodies presented in the figure, other national authorities (may) have other powers in the field of prevention of corruption.

Figure 58: Powers of specialised bodies dealing with the prevention of corruption (*) *(Source: European Commission with the National Contact Points for Anti-corruption ([122]))*

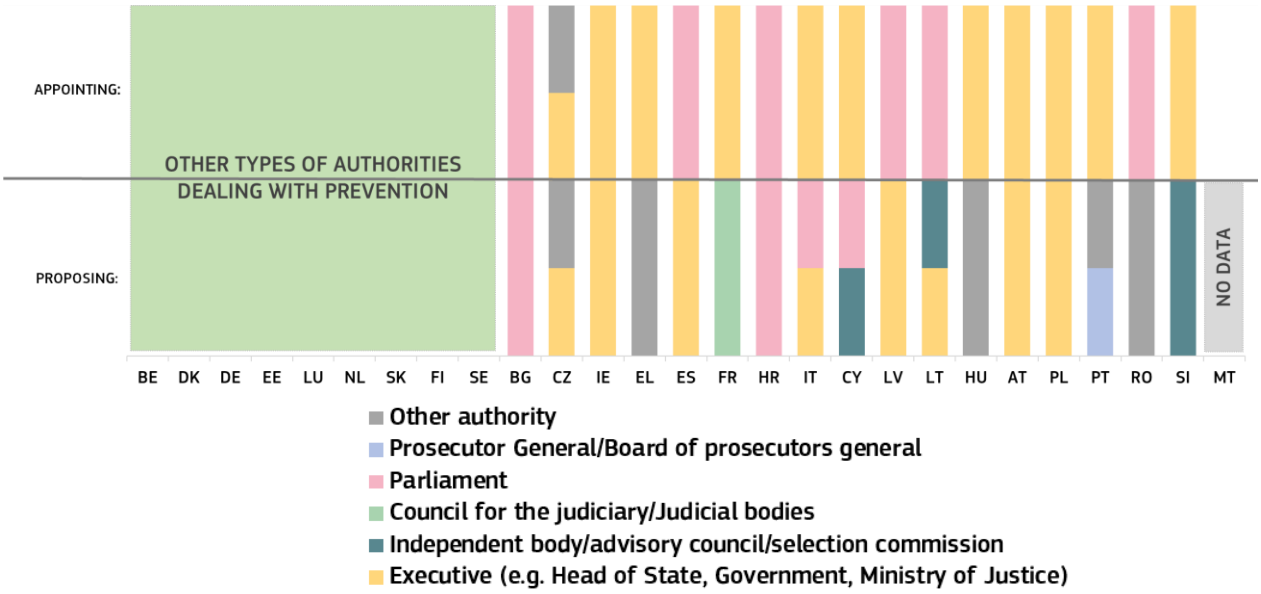


(*) Member States have one or several bodies that have at least some role in preventing corruption. For clarity and comparability, the chart only presents the powers of one authority for each Member State, which is specialised in preventing corruption. The authorities whose powers are represented are listed hereafter. Some Member States do not have such authorities, while others have several, with different competences. ***BE****: Unit for Integrity within the Federal Public Service for Policy and Support (FOD BOSA/FPS BOSA).* ***BG****: Commission on Combating Corruption and Forfeiture of Illegally Acquired Property (CCCFIAP).* ***CZ****: Conflict of Interests and Anti-corruption Department, (Ministry of Justice).* ***IE****: Standards in Public Office Commission. Garda National Economic Crime Bureau also has a role to play in the prevention of corruption.* ***EL****: National Transparency Authority.* ***ES****: Office on the Conflict of Interests.* ***FR****: There are two anti-corruption bodies - L'Agence française anticorruption (AFA) and la Haute Autorité pour la transparence de la vie publique (HATVP). They have complementary functions in relation to the prevention of corruption. The chart presents the powers of the AFA.* ***HR****: Commission for the Resolution of Conflicts of Interest.* ***IT****: National Anti-corruption Authority.* ***CY****: Independent Authority Against Corruption.* ***LV****: Corruption Prevention and Combating Bureau.* ***LT****: There are two authorities dealing with the prevention of corruption – Special Investigation Service (STT), which is presented in the chart, and the Chief Official Ethic Commission (COEC).* ***HU****: Integrity Authority. The competence to verify asset declarations of senior political executives was transferred to the Integrity Authority in 2022. The procedure under the Conditionality Regulation and Hungary's Recovery and Resilience Plan include, in addition, reforms to extend the Integrity Authority's powers to directly verify public asset declarations of all high-risk officials whose assets declarations are publicly available, and, for non-public asset*

[122] Data collected through a questionnaire drawn up by the Commission in close association with the National contact points in the fight against corruption.

*declarations, to request the competent bodies to carry out the verification and to obtain the verification results. There are two other authorities that play a role in terms of prevention of corruption – the National Protective Service and the Constitution Protection Office. **AT**: Federal Bureau of Anti-corruption (BAK). **PL**: The Central Anti-corruption Bureau. **PT**: National Anti-corruption Mechanism **RO**: The National Integrity Agency. **SI**: Commission for the Prevention of Corruption. **SE**: There is a decentralised approach in the prevention of corruption and SE has entrusted this task to many different agencies and bodies.*

Figure 59: Appointment of specialised bodies dealing with the prevention of corruption (*)
(Source: European Commission with the National Contact Points for Anti-corruption ([123]))



*(*) Member States have one or more bodies that play some role in preventing corruption. For clarity and comparability, the chart only presents the powers of one authority for each Member State, which is specialised in preventing corruption. The authorities whose powers are represented are listed hereafter. Some Member States do not have such authorities, while others have several. **BE**: Unit for Integrity within the Federal Public Service for Policy and Support (FOD BOSA/FPS BOSA). **BG**: Commission on Combating Corruption and Forfeiture of Illegally Acquired Property (CCCFIAP). **CZ**: Conflict of Interests and Anti-corruption Department, (Ministry of Justice). **IE**: Standards in Public Office Commission. Garda National Economic Crime Bureau also has a role to play in the prevention of corruption. **EL**: National Transparency Authority. **ES**: Office on the Conflicts on Interests. **FR**: There are two anti-corruption bodies -.L'Agence française anticorruption and la Haute Autorité pour la transparence de la vie publique (HATVP). They have complementary functions in relation to the prevention of corruption. The chart presents the appointment of the AFA. **HR**: Commission for the Resolution of Conflicts of Interest. **IT**: National Anti-corruption Authority. **CY**: Independent Authority Against Corruption. **LV**: Corruption Prevention and Combating Bureau. **LT**: There are two authorities dealing with the prevention of corruption – Special Investigation Service (STT), which is presented in the chart, and the Chief Official Ethic Commission (COEC). **HU**: Integrity Authority. The President and the Vice-Presidents of the Integrity Authority are appointed by the President of the Republic for a term of six years, on a proposal from the President of the State Audit Office. **AT**: Federal Bureau of Anti-corruption (BAK). **PL**: The Central Anti-corruption Bureau. **PT**: National Anti-corruption Mechanism **RO**: The National Integrity Agency. **SI**: Commission for the prevention of corruption. **SE**: There is a decentralised approach in the prevention of corruption and SE has entrusted this task to many different agencies and bodies.*

Public prosecution plays a major role in the criminal justice system as well as in cooperation between Member States in criminal matters. The proper functioning of the national prosecution

[123] Data collected through a questionnaire drawn up by the Commission in close association with the National contact points in the fight against corruption.

service is crucial for the effective fight against crime, including economic and financial crime, such as money laundering, and corruption. According to the case-law of the Court of Justice relating to the European Arrest Warrant Framework Decision ([124]), the public prosecutor's office can be considered a Member State judicial authority for the purposes of issuing and executing a European arrest warrant whenever it can act independently, without being exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as a Minister for Justice ([125]). The organisation of national prosecution services varies across the EU and there is no uniform model for all Member States. However, the Council of Europe has noted a widespread tendency to have a more independent prosecutor's office, rather than one subordinated or linked to the executive ([126]). According to the Consultative Council of European Prosecutors, an effective and autonomous prosecution service committed to upholding the rule of law and human rights in the administration of justice is one of the pillars of a democratic state ([127]).

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[124] Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

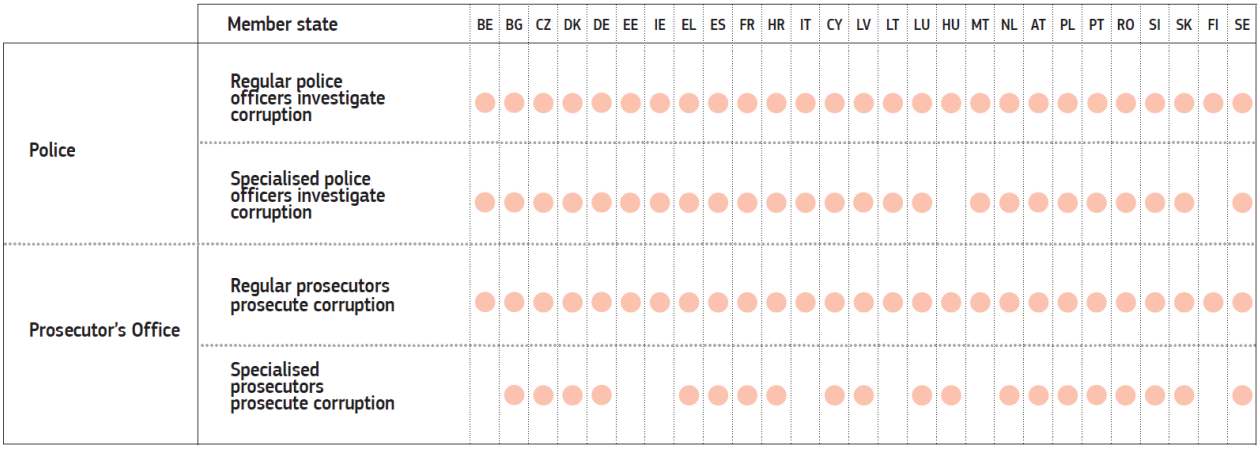
[125] Court of Justice, judgment of 27 May 2019, *OG and PI (Public Prosecutor's Office of Lübeck and Zwickau)*, Joined Cases C-508/18 and C-82/19 PPU, paras 73, 74 and 88, ECLI:EU:C:2019:456; judgment of 27 May 2019, C-509/18, para 52, ECLI:EU:C:2019:457; see also judgments of 12 December 2019, *Parquet général du Grand-Duché de Luxembourg and Openbaar Ministerie (Public Prosecutors of Lyon and Tours)*, in Joined Cases C-566/19 PPU and C-626/19, ECLI:EU:C:2019:1077; *Openbaar Ministerie (Swedish Prosecution Authority)*, C-625/19 PPU, ECLI:EU:C:2019:1078, and *Openbaar Ministerie (Public Prosecutor in Brussels)*, C-627/19 PPU, ECLI:EU:C:2019:1079; judgment of 24 November 2020, *AZ*, C-510/19, para 54, ECLI:EU:C:2020:953. See also judgment of 10 November 2016, *Kovalkovas*, C-477/16 PPU, paras 34 and 36, ECLI:EU:C:2016:861, and judgment of 10 November 2016, *Poltorak*, C-452/16 PPU, para 35, ECLI:EU:C:2016:858, on the term 'judiciary', 'which must […] be distinguished, in accordance with the principle of the separation of powers which characterises the operation of the rule of law, from the executive'. See also Opinion No. 13(2018) Independence, accountability and ethics of prosecutors, adopted by the Consultative Council of European Prosecutors (CCPE), recommendation xii.

[126] CDL-AD(2010)040-e Report on European Standards as regards the Independence of the Judicial System: Part II - the Prosecution Service - Adopted by the Venice Commission - at its 85th plenary session (Venice, 17-18 December 2010), para. 26.

[127] Moreover, in a democratic society, both courts and the investigative authorities must remain free from political pressure. The concept of independence means that prosecutors are free from unlawful interference in the exercise of their duties so as to ensure full respect for and application of the law and the principle of the rule of law and that they are not subjected to any political pressure or unlawful influence of any kind. Independence applies not only to the prosecution service as a whole, but also to its particular bodies and to individual prosecutors. Whatever the model of the national justice system or the legal tradition in which it is anchored, European standards require that Member States take effective measures to guarantee that public prosecutors are able to fulfil their professional duties and responsibilities under adequate legal and organisational conditions and without unjustified interference. See Consultative Council of European Prosecutors (CCPE) Opinion No. 15 (2020) on the role of prosecutors in emergency situations, in particular when facing a pandemic; Opinion No. 16 (2021) on the Implications of the decisions of international courts and treaty bodies as regards the practical independence of prosecutors, para. 13. See also Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system, adopted by the Committee of Ministers of the Council of Europe on 6 October 2000 (the 2000 Recommendation), paras. 4, 11 and 13. Opinion No. 13(2018) Independence, accountability and ethics of prosecutors, adopted by the Consultative Council of European Prosecutors (CCPE), recommendations i and iii; Group of States against corruption (GRECO), fourth evaluation round 'Corruption prevention - Members of Parliament, Judges and Prosecutors', a vast number of recommendations ask for the introduction of arrangements to shield the prosecution service from undue influence and interference in the investigation of criminal cases.

Corruption is often a complex crime and its investigation and prosecution and could require specialisation. This is also recognised in the Commission's proposal for a Directive on combating corruption through criminal law and the UN Convention against Corruption ([128]). Figure 60 presents a mapping of the bodies specialised in the investigation and prosecution of corruption. Whereas all Member States allow regular police and prosecutorial bodies to investigate and prosecute some forms of corruption, all but two Member States also have in place some form of a specialised police to investigate specific corruption cases, for instance when they are more serious, complex or relating to a certain category of suspects. When it comes to prosecution of corruption, all but 7 Member States have specialised prosecutors to deal with such corruption cases.

Figure 60: Authorities involved in the investigation and prosecution of corruption - overview (*) *(Source: European Commission with the National Contact Points for Anti-corruption ([129]))*



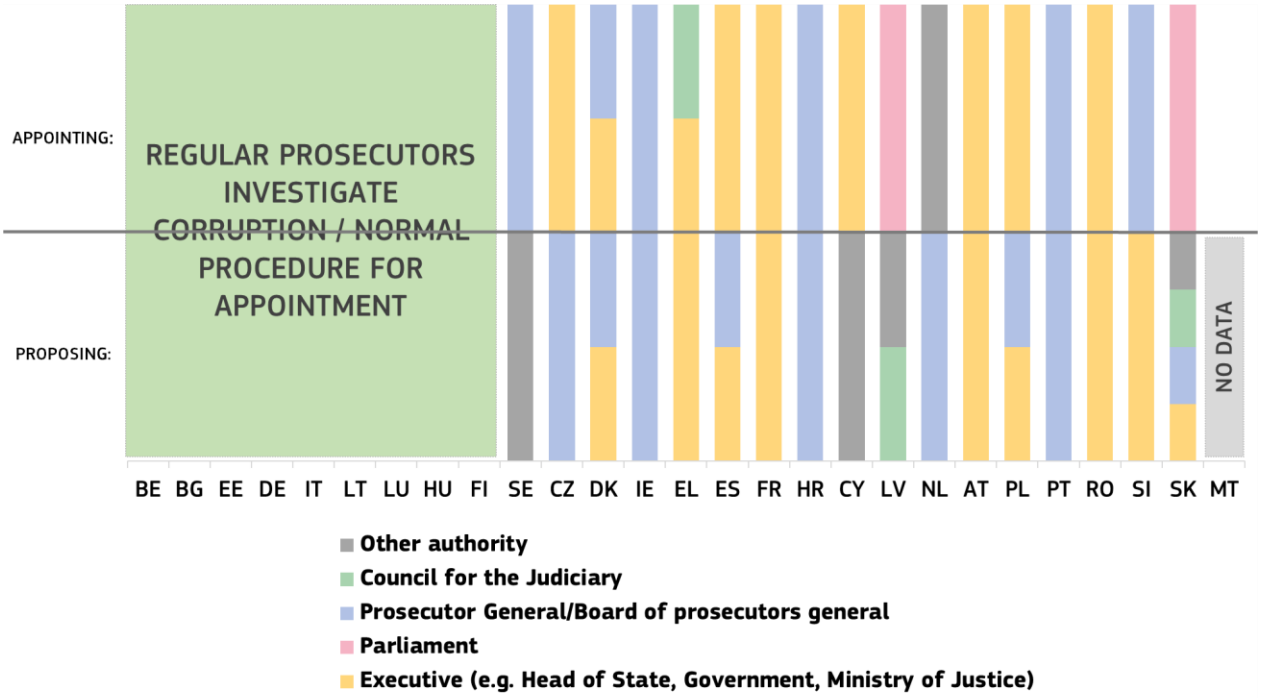
*(*) **ES**: There are two law enforcement authorities specialised in the investigation of corruption - National Police: Economic and Fiscal Crime Unit (UDEF) - Cuerpo Nacional de Policía, Unidad Central de Delincuencia Económica y Fiscal (UDEF) and Civil Guard: Central Operating Unit (UCO) - Guardia civil, Unidad Central Operativa (UCO).*
***IT**: There are no Public prosecutor offices specialised only in investigating and prosecuting corruption. However, some of them have working groups specialising in crimes against the public administration, which could include also corruption.*

Figure 61 presents the appointment procedures for the heads of prosecutor's offices specialised in dealing with corruption (where they exist). In 12 Member States, there is no specialised prosecutor's office or if there is one, the appointment of its head is conducted through the normal appointment procedure for appointment of heads or prosecutor's offices.

[128] Art. 36 of the UNCAC "Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

[129] Data collected through a questionnaire drawn up by the Commission in close association with the National contact points in the fight against corruption.

Figure 61: Appointment procedures for the heads of prosecutor's offices specialised for dealing with corruption (*) *(Source: European Commission with the National Contact Points for Anti-corruption ([130]))*

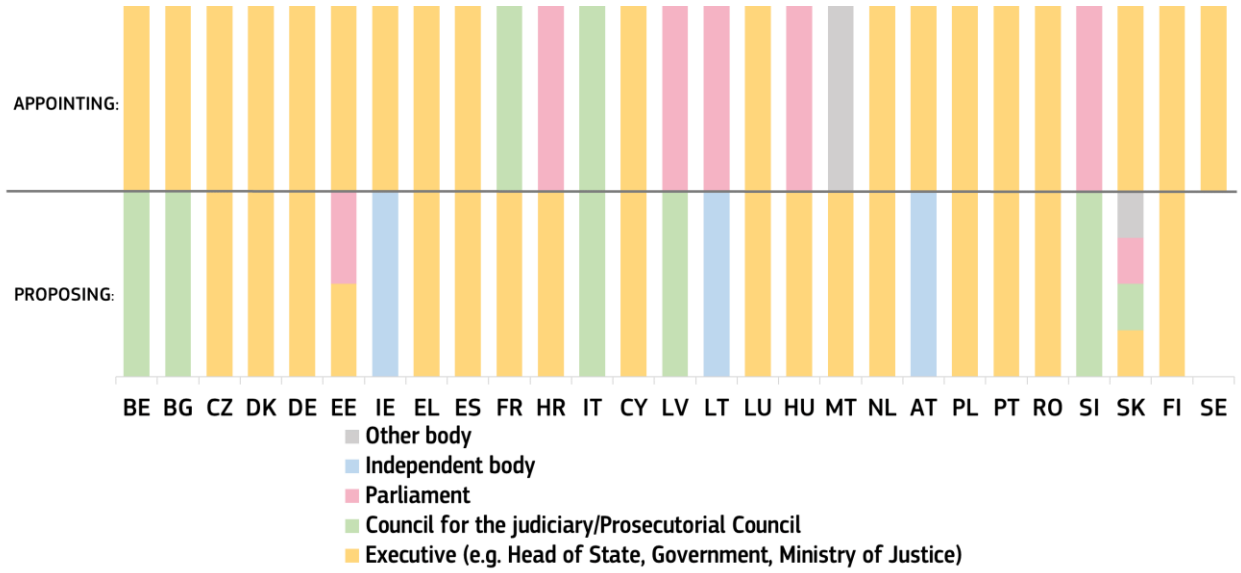


(*) The figure focuses only on the Member States that have a specialised prosecutor's office dealing with the repression of corruption regardless of the degree of specialisation. It presents different information than the mapping in the previous figure, which gives a more general overview of the specialisation. ***CZ****: High Prosecutor's Offices.* ***DK****: The National Special Crime Unit.* ***IE****: Anti-Bribery & Corruption unit, Garda National Economic Crime Bureau.* ***EL****: Financial Prosecutor's Office.* ***ES****: Special Public Prosecutor's Office against Corruption and Organised Crime.* ***HR****: State Attorney's Office, Office for the Suppression of Corruption and Organised crime (USKOK). Minister of Justice and Public Administration and Council in State Attorney's Office of the Republic of Croatia provide their opinion in procedure of appointment.* ***FR****: Parquet national financier (PNF).* ***CY****: Anti-corruption taskforce established under the competence of the Attorney General office, with specialised officers from relevant institutions.* ***LV****: Divisions for Coordination of the Corruption Combating of the Prosecutor General's Office and Prosecution Office for Investigation of Public Office Holders' Misconduct Offences.* ***NL****: The public prosecutors associated with the Anti-Corruption Team of the Public Prosecution Service work independently at the operational and functional level. All public prosecutors are selected (and proposed) by the Prosecutor's office. They are appointed by royal decree, however that is a formality (the king has no interference with the selection procedure for public prosecutors).* ***AT****: Central Public Prosecutor's Office for Combating Economic Crimes and Corruption (WKStA).* ***PL****: The Department for Organised Crime and Corruption of the National Prosecutor's Office.* ***PT****: Public Prosecution Service – Central Department for Criminal Investigation and Prosecution (DCIAP).* ***RO****: The National Anti-corruption Directorate* ***SI****: Specialised State Prosecutor's Office of the Republic of Slovenia.* ***SK****: Specialised Prosecutor's Office.* ***SE****: The National Anti-corruption Unit (NACU) (Riksenheten mot korruption).*

[130] Data collected through a questionnaire drawn up by the Commission in close association with the National contact points in the fight against corruption.

Figure 62 presents an overview of the bodies and authorities that propose candidates for their appointment as prosecutors general, the authorities that appoint them, and the authorities that are consulted.

Figure 62: Proposal and appointment of the Prosecutor General (*) *(Source: European Commission with the Expert Group on Money Laundering and Financing of Terrorism ([131]))*



*(*) **BG**: Preliminary proposals for candidates are made by at least three members of the Prosecutors Chamber of the Council for the Judiciary and the Minister of Justice. The Plenary of the Council for the Judiciary, after a selection procedure, sends the official proposal of one candidate to the President of the Republic who then appoints the Prosecutor General. The President has the right to veto the proposed candidate. Then the Plenary of the Council for the Judiciary has to vote again for the list of candidates that was proposed to them. If they re-elect the same candidate, the President is obliged to appoint them. **CZ**: The Minister/Ministry of Justice proposes the Prosecutor General, and the government appoints them. **DK**: The Minister/Ministry of Justice proposes the Prosecutor General, and the government's Hiring Committee appoints them. **DE**: The Federal Public Prosecutor General is appointed by the President of Germany on the proposal of the Federal Minister of Justice, which requires the approval of the Federal Council. **EE**: The Government of the Republic appoints the Prosecutor General to office on the proposal of the minister responsible for the area after considering the opinion of the Legal Affairs Committee of the Riigikogu. **IE**: A committee comprising the Chief Justice, the Chair of the Bar Council, the President of the Law Society, the Secretary General to the government and the Director General of the Attorney General's Office selects candidates for appointment following an open competition and interview. **EL**: The Minister/Ministry of Justice proposes the Prosecutor General, and the Council for the Judiciary appoints them, followed by a presidential decree. **FR**: Proposal for appointment: the Minister of Justice decides with a prior non-binding opinion of the Council for the Judiciary. **HR**: proposal: the government; appointment: Parliament based on an opinion of the competent parliamentary committee. **IT**: Decision for appointment: after the proposal of the Council, the Minister of Justice issues a ministerial decree, without any discretion not to appoint the proposed candidate prosecutor. **CY**: The Head of State proposes and appoints the Prosecutor General. **LV**: Proposal for appointment: Judicial Council. Decision for appointment: Parliament. **LT**: Proposal for appointment: the Prosecution Selection Commission (composed of two prosecutors nominated by the Collegiate Council, two prosecutors nominated by the Prosecutor General, and three other members, who are each nominated by the President of the Republic, the Speaker of the Seimas and the Prime Minister respectively). **LU**: Minister/Ministry of Justice proposes the Prosecutor General, and the Grand Duke appoints them. The procedure will change from 1 July 2023 when the Council for the Judiciary will start functioning. **NL**: Decision*

[131] Data collected through an updated questionnaire drawn up by the Commission in close cooperation with the Expert Group on Money Laundering and Financing of Terrorism.

for appointment is taken by royal decree (with an obligation to follow the proposal to appoint the candidate for the post of prosecutor). Decision for the dismissal is taken by royal decree. ***AT****: Proposal for appointment: independent personnel body. Decision for appointment: Federal President delegates the decision to the Minister of Justice.* ***PL****: The Minister of Justice is also the Prosecutor General. They are appointed and dismissed by the President of the Republic of Poland on the proposal of the Prime Minister.* ***RO****: The Minister/Ministry of Justice proposes the Prosecutor General, and the Head of State appoints them.* ***SI****: Proposal: State Prosecutorial Council; appointment: Parliament, after receiving an opinion from the government.* ***SK****: One proposal for the election of the candidate for the Prosecutor General can be submitted to the National Council by a member of Parliament, the Minister of Justice, the Public Defender of Rights, the Council of Prosecutors of the Slovak Republic, the professional organisation of lawyers, the faculty of law of a university based in the Slovak Republic and the Institute of State and Law of the Slovak Academy of Sciences.* ***SE****: There is no proposing authority involved.*

– Constitutional jurisdictions –

Constitutional justice is a key component of checks and balances in a constitutional democracy. Constitutional courts play a crucial role in the effective application of EU law, ensuring the integrity of the EU legal order, and determining the fundamental principles that constitute the rule of law. As early as 1970, the Court of Justice recognised the constitutional traditions common to Member States as the basis of European protection of fundamental rights ([132]). More recently, the Court of Justice pointed out that the principles of the rule of law, as developed in the case law of the Court on the basis of the EU treaties, have their source in common values that are also recognised and applied by Member States in their own legal systems ([133]).

The organisation of justice, including the establishment, composition and functioning of a constitutional court falls within the competence of Member States ([134]). In addition, constitutional courts, when they exist, may or may not be part of the judiciary. However, as pointed out by the Court of Justice, when exercising that competence, Member States are required to comply with their obligations deriving from EU law and, in particular, with the values on which the EU is founded ([135]). The Venice Commission has also noted that there is no general requirement to establish a constitutional court ([136]). Figure 63 presents a first overview of the different solutions adopted in Member States to ensure the protection of constitutional rights at highest instance.

[132] CJEU, judgment of 17 December 1970, *Internationale Handelsgesellschaft*, 11/70, EU:C:1970:114.

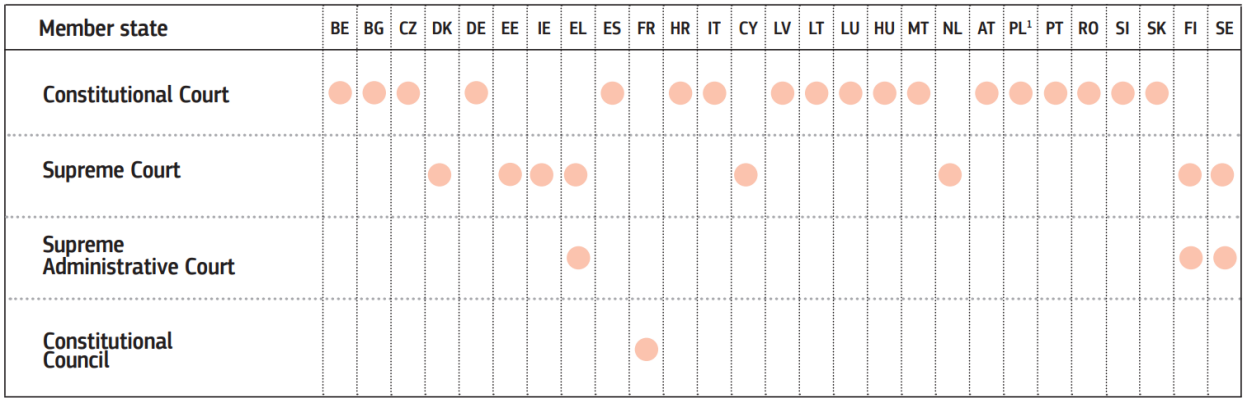
[133] CJEU, judgments of 16 February 2022, *Hungary* v *Parliament and Council*, C-156/21, EU:C:2022:97, para. 237, and of 16 February 2022, *Poland* v *Parliament and Council*, C-157/21, EU:C:2022:98, para. 291.

[134] CJEU, judgment of 20 April 2021, *Repubblika*, C-896/19, EU:C:2021:31.

[135] CJEU, judgment of 22 February 2022, *RS (Effect of the decisions of a constitutional court)*, C-430/21, EU:C:2022:99, para. 38.

[136] Venice Commission, Compilation of Venice Commission opinions, reports and studies on constitutional justice, p. 6.

Figure 63: Highest instance exercising constitutional jurisdiction (*) *(source: European Commission)*

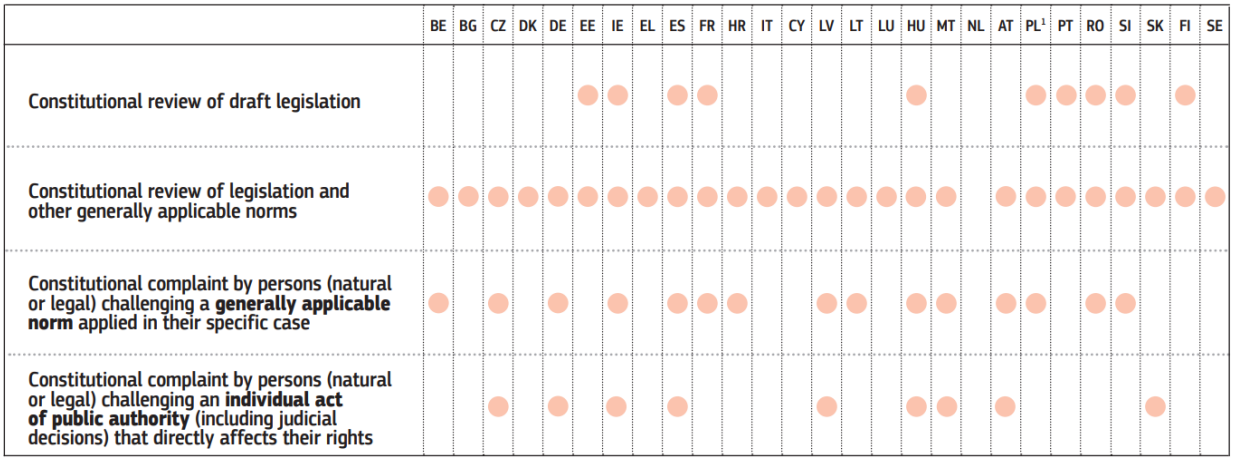


[1] It is recalled that on 15 February 2023, the Commission decided to refer Poland to the Court of Justice for the violation of EU law by its Constitutional Tribunal and its case law. The Commission considers i.a. that the Constitutional Tribunal does not meet the requirement of an independent and impartial court previously established by law in view of the irregular appointment of judges to the already occupied posts and due to irregularities surrounding the appointment of its current President.

(*) The jurisdictions considered for the purposes of this chart are: ***BE:*** *Cour Constitutionnelle, Grondwettelijk Hof (Constitutional Court of Belgium).* ***BG****: Конституционен съд на Република България (Constitutional Court of Republic of Bulgaria).* ***CZ****: Ústavní soud (Constitutional Court of Czechia).* ***DK****: Højesteret (Supreme Court of Denmark).* ***DE****: Bundesverfassungsgericht (Federal Constitutional Court). All courts are competent to review the constitutionality of legislation. The review consists of whether an act is adopted in accordance with the procedure laid down in the Constitution and the Standing Orders of the Parliament and if the content of the act complies with the Constitution.* ***EE****: Riigihokus (The Constitutional Review Chamber of the Supreme Court and the Supreme Court en banc).* ***IE****: Cúirt Uachtarach na hÉireann (Supreme Court of Ireland).* ***EL****: Areios Pagos (Supreme Court) and Symvoulio Tis Epikrateias (Council of State). There is no constitutional court. Each judge has the power to control the constitutionality of the law (Article 87, paragraph 2 of the Constitution: 'judges shall be subject only to the Constitution and the laws; in no case whatsoever shall they be obliged to comply with provisions enacted in violation of the Constitution').* ***ES****: Tribunal Constitucional de España (Constitutional Court of Spain).* ***FR****: Conseil Constitutionnel (Constitutional Council). HR: Ustavni sud Republike Hrvatske (Contitutional Court of the Republic of Croatia).* ***IT****: Corte Costituzionale (Constitutional Court).* ***CY****: Ανώτατο Δικαστήριο (Supreme Court of the Republic of Cyprus).* ***LV****: Latvijas Republikas Satversmes tiesa (Constitutional Court of the Republic of Latvia).* ***LT****: Lietuvos Respublikos Konstitucinis Teismas (Constitutional Court of the Republic of Lithuania).* ***LU****: Cour constitutionnelle de Luxembourg (Constitutional Court of Luxembourg).* ***HU****: Alkotmánybíróság (Constitutional Court of Hungary). All courts can carry out a decentralised form of 'constitutional' review against directly effective treaties.* ***MT****: Constitutional Court.* ***NL****: Hoge Raad der Nederlanden (Supreme Court of the Netherlands) -The Dutch Supreme Court functions as a court of cassation in civil, criminal and tax cases.* ***AT****: Verfassungsgerichtshof (Constitutional Court of Austria).* ***PL****: Trybunał Konstytucyjny (Constitutional Tribunal of Poland).* ***PT****: Tribunal Constitucional (Constitutional Court).* ***RO****: Curtea Constituțională (Constitutional Court of Romania).* ***SI****: Ustavno sodišče Republike Slovenije (Constitutional Court of the Republic of Slovenia).* ***SK****: Ústavný súd Slovenskej republiky (Constitutional Court of Slovakia).* ***FI****: Korkein oikeus ja Korkein hallinto-oikeus (Supreme Court and Supreme Administrative Court of Finland). There is no constitutional court in FI. All courts can carry out ex post constitutionality reviews in concrete cases, with the Supreme Court and Supreme Administrative Court being the highest instance in each branch of the judiciary.* ***SE****: Högsta Domstolen Högsta och Förvaltningsdomstolen (Supreme Court and Supreme Administrative Court of Sweden). All courts can review the compatibility of laws with the Constitution or with superior statutes when adjudicating concrete cases and must disapply any incompatible provisions.*

The competences assigned to these constitutional jurisdictions also vary, and there are no European standards applicable in this regard. The practice shows that the main role of Constitutional Courts in reviewing legislation and norms is accompanied in some Member States by a role in reviewing draft legislation ([137]). In some cases, national law also allows individuals and legal entities to appeal to the constitutional jurisdictions; this right may be limited to cases of alleged unconstitutionality of generally applicable legislation, whereas in other cases it may also cover the right to challenge individual acts. Figure 64 presents an overview of the different competences exercised by the highest constitutional jurisdictions of Member States, focusing on a selected set of competences commonly attributed to these jurisdictions.

Figure 64: Selected competences of the highest instance exercising constitutional jurisdiction (*) *(source: European Commission)*



[1] It is recalled that on 15 February 2023, the Commission decided to refer Poland to the Court of Justice for the violation of EU law by its Constitutional Tribunal and its case law. The Commission considers i.a. that the Constitutional Tribunal does not meet the requirement of an independent and impartial court previously established by law in view of the irregular appointment of judges to the already occupied posts and due to irregularities surrounding the appointment of its current President.

*(*) **CZ**: Ex ante review by the Constitutional Court occurs only when assessing the conformity of an international treaty with the Constitution and constitutional laws. An individual may challenge a general norm before the Constitutional Court only under limited circumstances. **DK:** All courts can review the constitutionality of legislation. The review consists of whether an act is adopted in accordance with the procedure laid down in the Constitution and the Standing Orders of the Parliament and if the content of the act complies with the Constitution. **IE:** Article 26 of the Constitution provides that the President of Ireland can refer draft legislation to the Supreme Court for an opinion on its constitutional validity. **EL:** There is no constitutional court. Each judge has the right and the duty to control the constitutionality of laws (decentralised constitutional control). A court can only declare the law under scrutiny as 'inapplicable' for the case at hand. **ES:** The Constitutional Court can exercise preliminary appeals of unconstitutionality in relation to proposals for reforms of statutes of autonomy. **IT:** Every ordinary and administrative judge can raise a question of constitutional validity of the norms that they have to apply to the case before it. State and regional governments can directly refer issues of constitutionality to the Court, claiming that its constitutionally guaranteed competences have been encroached. **LU:** A constitutionality check can be initiated when a party raises a question relating to the conformity of a law with the Constitution before ordinary or administrative courts. **CY:** Cyprus will have a constitutional court (Ανώτατο Συνταγματικό Δικαστήριο) as of July 2023. The legislation provides for a system of referral to the Constitutional Court by ordinary courts of questions relating to the constitutionality of a law. The Constitutional Court cannot review individual complaints. **HU:** Ex ante review of draft laws may be requested by Parliament or the President of the Republic. Ex post review of laws can be initiated by the government, a quarter of the members of Parliament, the Commissioner for Fundamental Rights (ombudsperson), the president of the Kúria*

[137] Venice Commission, CDL-AD(2011)001 Hungary - Opinion on three legal questions arising in the process of drafting the New Constitution, paragraph 37.

(Supreme Court) and the Prosecutor General. ***NL:*** *Ordinary courts can carry out a decentralised form of constitutional review in the absence of a centralised Constitutional Court. While acts of Parliament may not be reviewed against the Constitution, review is possible against directly effective treaties. The Advisory Division of the Council of State provides independent advice on draft legislation, including as regards its compatibility with the Constitution.* ***PT:*** *Ex post review includes a constitutional check of the omission to adopt the necessary legislative measures to execute constitutional norms.* ***SI:*** *On a proposal from the President of the Republic, the government or one third of the members of the National Assembly, the Constitutional Court issues an opinion on an international's treaty conformity with the Constitution, during the treaty's ratification process. The National Assembly is bound by the opinion of the Constitutional Court.*

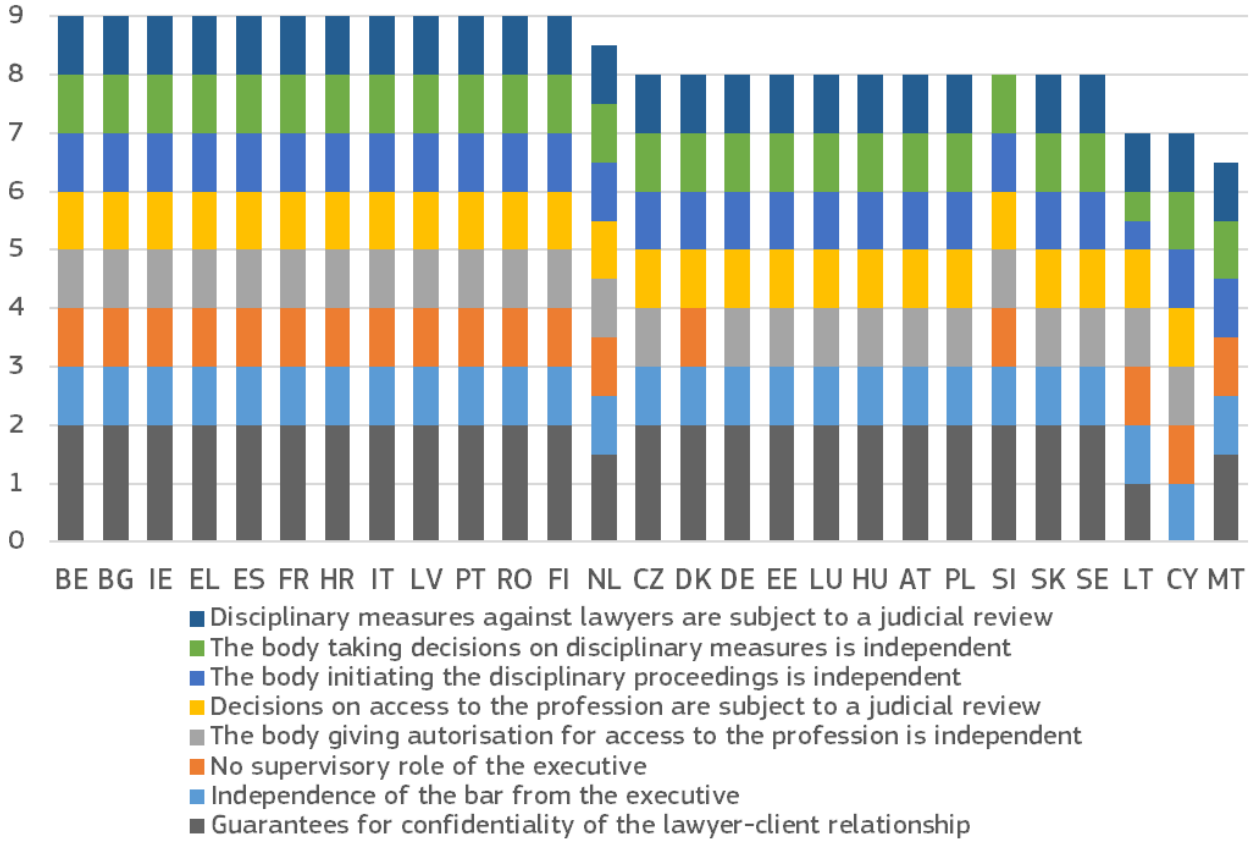
– Independence of bars and lawyers in the EU –

Lawyers and their professional associations play a fundamental role in ensuring the protection of fundamental rights and the strengthening of the rule of law ([138]). A fair system of administering justice requires that lawyers be free to pursue their activities of advising and representing their clients. Lawyers' membership of a liberal profession and the authority deriving from that membership helps maintain independence, and bar associations play an important role in helping guarantee lawyers' independence. European standards require, among others, the freedom of exercise of the profession of a lawyer and the independence of bar associations. These standards also lay down the basic principles for disciplinary proceedings against lawyers ([139]).

[138] 'Lawyers play an important role in protecting the rule of law and judicial independence, while respecting the separation of powers and fundamental rights.', '*Access to a lawyer and rule of law*', Presidency discussion paper for the meeting of the Justice and Home Affairs Council on 3 and 4 March 2022: https://data.consilium.europa.eu/doc/document/ST-6319-2022-INIT/en/pdf.

[139] Recommendation No. R(2000)21 of the Committee of Ministers of the Council of Europe.

Figure 65: Independence of Bars and lawyers, 2022 (*) *(source: European Commission with the CCBE ([140]))*



*(*) Based on the survey results, Member States could score a maximum of 9 points. The survey was conducted at the beginning of 2023. For the question on guarantees for confidentiality of the lawyer/client relationship, 0.5 points were awarded for each scenario fully covered (search and seizure of e-data held by the lawyer, search the lawyer's premises, interception of lawyer/client communication, surveillance of the lawyer or their premises, tax audit of the law firm and other administrative checks). For all other criteria fully met, 1 point was awarded. No points were awarded if the criterion was not met. **MT:** 2020 replies, adapted to the new methodology. **EE:** The Ministry of Justice has broad supervisory powers over the organisation of the legal aid system. **LT:** According to the Law on the Bar, disciplinary action against lawyers can be taken by the Bar Council. However, it also lays down that the Minister of Justice also has such a right. If the Minister of Justice decides to initiate disciplinary action against a lawyer, the Bar has no say in such proceedings, and the case goes directly to the Disciplinary Court. Furthermore, the Disciplinary Court consists of five lawyers, who are members of the Bar. Three of the five are elected by the General Assembly of the Bar, and another two are appointed by the Minister of Justice. **PL:** The Ministry of Justice has a supervisory role over the Bar, organising bar examinations and controlling the scheme on minimal legal fees. **SI**: Disciplinary proceedings are conducted exclusively within the Bar Association itself. An appeal is possible against the decision of the Disciplinary Committee of the first instance, which is considered by the Disciplinary Committee of the second instance. There is no possibility of appeal against the decisions of the Disciplinary Committee of the second instance. This is determined in Article 65 of the Attorneys Act: 'The decisions of the disciplinary bodies of the Bar Association shall be enforceable.'; **SK**: Primarily, it is the independent Supervision Committee of the Slovak Bar Association that files a petition based on the complaint. However, the Minister of Justice may also initiate a disciplinary proceeding if 'a lawyer performed an action which might be viewed as a professional misconduct under the legal rules which were in force so far, the Chair of the Supervision Committee or the Minister of Justice (acting in their capacity of a petitioner) may submit an application for the commencement of the disciplinary proceeding under this Act to the appropriate Bar´s governing body within the time limit which applied to commencement of the disciplinary proceeding under the legal rule which was in force so far.'*

[140] 2022 data collected through replies by CCBE members to a questionnaire.

3.3.3. Summary on judicial independence

Judicial independence is a fundamental element of an effective justice system. It is vital for upholding the rule of law, the fairness of judicial proceedings and the trust of citizens and businesses in the legal system. For this reason, any justice reform should uphold the rule of law and comply with European standards on judicial independence. The 2023 Scoreboard shows trends in the general public's and companies' perceptions of judicial independence. This edition also presents some new indicators on appointment of Supreme Court Presidents and Prosecutors General, on bodies involved in prevention and repression of corruption, and on highest instances exercising constitutional jurisdictions. The structural indicators do not in themselves allow for conclusions to be drawn about the independence of the judiciaries of the Member States, but represent possible elements which may be taken as a starting point for such an analysis.

a) The 2023 Scoreboard presents the developments in **perceived independence** from surveys of the general public (Eurobarometer FL519) and companies (Eurobarometer FL520):
    - The eight Eurobarometer survey among the general public (Figure 49) shows that the perception of independence has *improved* in 15 Member States when compared to 2016. The general public's perception of independence has *improved* in 8 of the Members States facing specific challenges when compared to 2016. Compared to last year, the general public's perception of independence *improved* in 12 Member States as well as 8 of the Members States facing specific challenges, although in two Member States, the level of perceived independence remains particularly low.
    - The eight Eurobarometer survey among the companies (Figure 51) shows that the perception of independence has *improved* in 12 Member States compared to 2016. However, compared to last year, the companies' perception of independence *decreased* in 13 Member States and in 9 Members States facing specific challenges. In two Member States, the level of perceived independence remains particularly low.
    - Among the reasons for the perceived lack of independence of courts and judges, the *interference or pressure from government and politicians* was the most stated reason, followed by the *pressure from economic or other specific interests*. Compared to previous years, both reasons remain notable for the two Member States where perceived independence is very low (Figures 50 and 52).
    - Among the reasons for good perception of independence of courts and judges, nearly four fifths of companies and of the general public (equivalent to 38% and 42% of all respondents, respectively) named the *guarantees provided by the status and position of judges*.
b) Since 2022, the EU Justice Scoreboard presents the results of a Eurobarometer survey on how companies perceive the **effectiveness of investment protection by the law and courts** as regards, in their view, unjustified decisions or inaction by the State (Figure 53). Administrative conduct, stability and quality of the law-making process, as well as effectiveness of courts and property protection still remain key factors of comparable significance for confidence in investment protection (Figure 54). Compared to last year, confidence in investment protection improved in 16 Member States.

c) Figure 55 presents an updated overview of the main powers of Councils for the Judiciary in countries where such bodies exist.

d) Figures 56 to 57 present the situation regarding the appointment of Supreme Court Presidents in all Member States. Figure 56 shows the authorities proposing candidates for their appointment as Supreme Court Presidents and the authorities that appoint them. Figure 57 presents the competence of the executive power and parliament in appointing Supreme Court Presidents upon submission from the proposing authorities.

e) For the first time, the EU Justice Scoreboard presents a series of indicators dedicated specifically to anti-corruption. Figures 58 and 59 show a comparative view of the powers and appointment of the specialised bodies dealing with the prevention of corruption. Figures 60 and 61 present a first overview of bodies regarding their specialisation in the repression of corruption and the appointment procedures for the heads of prosecutor's offices specialised in dealing with corruption.

f) Figure 62 presents, for the first time, the authorities involved in the appointment of Prosecutors General.

g) Figures 63 and 64, as a novelty of this edition of the Scoreboard, present a first overview of the different solutions adopted in Member States to ensure the protection of constitutional rights at highest instance and their selected competences.

h) Figure 65 shows that although in nine Member States the executive plays some supervisory role as regards the Bar, the independence of lawyers is generally guaranteed, allowing lawyers to be free in pursuing their activities of advising and representing their clients.

4. CONCLUSIONS

The 2023 EU Justice Scoreboard presents a diverse picture of the effectiveness of justice systems in the Member States. It shows that efforts to improve the efficiency, quality and independence of the justice systems are underway in many jurisdictions. However, challenges remain to ensure full trust of citizens in the legal systems of all Member States. The information in the EU Justice Scoreboard contributes to the monitoring carried out in the framework of the European Rule of Law Mechanism and feeds into the Commission's annual Rule of Law report.