Bench Marking in an International Perspective

An International Comparison of the Mechanisms and Performance of the Judiciary System

Assignment by the Netherlands Council for the Judiciary

ECORYS-NEI
Labour & Social Policy

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Preface

Balancing efficiency and quality in the judiciary system is the subject of frequent discussion in many European countries. Therefore, The Netherlands Council for the Judiciary has requested ECORYS-NEI to design and implement a method to periodically compare the judiciary system in The Netherlands with that in other countries, using quantitative indicators for the utilisation of resources (i.e. expenditure and staff) and performance.

ECORYS-NEI was pleased to accept this challenging assignment. This report is the result of our research. It gives an insight in the multitude of problems of comparing different judiciary systems. There are many differences in institutional settings, and data, particularly on resources, are hard to gather. Nevertheless, the study presents some interesting global differences between European countries and includes recommendations for useful further research.

I would like to express my gratitude to Kristiaan Kerstens. With his expertise in this field he was able to provide us with some very helpful hints to gather the relevant information. Further, he gave us helpful comments on parts of the report.
I would also like to thank the members of the Steering Committee of this project for their helpful and valuable comments on previous drafts: Esther Backbier (department of justice), Frans van Dijk (The Netherlands Council of the Judiciary), Bob Kuhry (The Netherlands Social and Cultural Planning Office), Bert Maan (President of the Court of Law Zwolle) and Paul Smit (WODC).

Lastly, I would particularly like to acknowledge the help we received from Frank Van Tulder, who supervised the project from The Netherlands Council for the Judiciary. He provided us with many helpful suggestions on data collection, the outline of the study and many institutional details. We have benefited greatly from his extensive experience in the field of the judiciary.

Jos Blank
April, 2004
Summary

Balancing efficiency and quality in the judiciary system is the subject of frequent discussion in many European countries and the US. For instance, the Council for Europe has established the *European Commission for the Efficiency of Justice* (CEPEJ), which is to develop such tools as new indicators for efficiency or performance evaluation of the judiciary system.

As a rule, performance of the judiciary system depends on quantitative factors with respect to the resources used and services delivered. As they both depend on numerous factors, they are difficult to quantify. Consequently, performance can only be assessed indicatively. The primary aim of this study, therefore, is to conduct general research, with more in-depth research conducted at a later stage. To begin with, an indication is needed of the performance of the Dutch judiciary system as compared to other countries.

The project’s objective is to design and implement a method to periodically compare the judiciary system in The Netherlands with that in other countries, using quantitative indicators for the utilisation of resources (i.e. expenditure and staff) and performance (i.e. number of cases concluded per euro spent or per employee). The data apply to the judiciary system as a whole and are, where possible, differentiated according to sector (civil, administrative and criminal).

The key research questions are:
- How do the judiciary systems perform (expressed in terms of the number of cases concluded per euro spent)?
- To what extent and in what way are resources in terms of staff and expenditure used?
- How does the performance of the judiciary system in The Netherlands compare to that of other countries?
- What should be taken into account (as far as the organisation of the judiciary systems in the various countries is concerned) when interpreting the findings?

In addition to The Netherlands, the study will, in principle, involve ten other countries: Germany, Austria, Poland, France, Italy, Denmark, Sweden, Belgium, England/Wales and Finland.

Although it might be of great interest, the study neither brings into focus the characteristics of best practice technology, such as economies of scale, economies of diversification and technical change. Variations in scale, for instance, are probably much more pronounced within countries than between countries. The report also does not focus on management issues, such as outsourcing or hiring temporary personnel. The primary interest lies with the influence of system or environmental factors. It is clear that this one-
sided focus on system or environmental factors can only shed very limited light on performance differences across countries.

Apart from primary legal rules, the judiciary system comprises rules about the use and interpretation of ‘law’, legal processes, specialised institutes for drafting and formulating laws, legal personnel to administer laws and legal culture. As a concept, the judiciary system encompasses all these different aspects, or layers, of a judiciary system. So judiciary systems can be described along various criteria. In this study we developed sixteen judiciary system’s descriptors, such as federal/unitary state, court structure, specializations within courts, presence of lay juries and requirements to concentrate and substantiate.

The main conclusion from the system descriptors is that most countries have a rather similar judiciary system, at least at a global level. Differences do exist, in particular when it comes to filter mechanisms. For instance, it is interesting to note the relative extreme positions of England and Germany. Germany has almost no entry barriers for prospective litigants seeking to use the judiciary system. As a result, many light cases slip into the system. This may lead to high performance figures. However, performance may be mitigated by the complex court structure. England/Wales, by contrast, have a high threshold for entering the judiciary system, as a result of which only complex cases will ultimately be addressed by the judiciary. As a consequence, performance outcomes tend to be rather low.

The major empirical finding of this study is that there is a distinct lack of consistent data made available by the countries under review. Consequently, it is nearly impossible to compare the performance measures of each country’s judiciary system. Surprisingly, collecting data on resources proved the most problematic. Most countries publish extensive, detailed data on the judiciary’s service provision. Denmark, Germany, Italy and France offer extremely detailed data on services. The Netherlands and Belgium offer somewhat less detailed data.

Another striking aspect of data collection in some countries is the lack of aggregate data. Although information was available at the district level in some countries, no aggregate figures were found. In some countries, judiciary system performance does not seem to be a key policy issue.

Another bias comes from the fact that judiciary systems are not identical. Although an attempt was made to establish consistent boundaries between different types of jurisdiction, some serious shortcomings remain.

In spite of the data’s shortcomings and the differences among judiciary systems, the key figures presented in this study do reveal some extreme exceptions. The main conclusions from the key figures are:

Expenditures as a percentage of GDP range from 0.05 percent to 0.40 percent. Poland and Italy are the clear frontrunners. Denmark’s expenditures rank the lowest. The Netherlands take a middle position with 0.15 percent. In terms of judges per capita, Germany and
Sweden are the leaders, while England/Wales, Denmark and The Netherlands are at the other end of the spectrum.

Numbers of concluded cases per capita vary strongly across countries indicating serious differences in the filter mechanisms determining whether or not cases are submitted to court. Strong filter mechanisms lead to cases in court with large case load on average. The filter mechanism is an important determinant of performance differences: a stronger filter mechanism coincides often with lower performance. It is also an important determinant of differences in the costs of the judiciary system: a stronger filter mechanism coincides often with lower total costs of the judiciary system.

Performance measures (i.e. cases concluded per euro spent or per employee) reveal no clear picture. Poland enjoys very high overall performance, whereas Sweden has a generally low level of performance. All the other countries studied offer a mixed picture for different types of judiciary. Germany, for instance, has the lowest number of concluded cases per employee for criminal law, whereas it has a middle ranking in terms of civil law. In general The Netherlands take a middle position with in an exception in administrative law. The Netherlands have the lowest number of concluded cases per euro in administrative law.

Shifts were also noted in the ranking of countries depending on the definition of performance. Differences between the number of concluded cases per employee and the number of concluded cases per Euro spent (CCE) occur due to varying average personnel costs per employee and the composition of personnel (i.e. judges and other personnel). The number of concluded cases per employee in The Netherlands, for instance, is about average, while CCE is very low. This can largely be attributed to high personnel costs per employee.

Substantial differences were discovered between diversions by the state attorney and the appeals rate. Both figures provide insight into the severity of cases. In countries where the prosecution authority has discretionary power, only serious cases come before the courts. In countries with a high appeals rate, the completion of cases corresponds to extensive utilisation of resources.

From a simple inspection of coherence graphs one might conclude that there is a negative correlation between the criminal law appeals rate and CCE. For civil and administrative law, there is no systematic coherence between the factors at all. Further, other graphs show a clear relationship between average personnel costs per employee and CCE. Another graph also suggests a relationship between CCE and the number of other personnel per judge for civil law. A larger number of personnel per judge results in lower CCE. However, this relationship is not substantiated by the graphs for criminal and administrative law.

From the annotations mentioned before, it is quite clear that far-reaching conclusions about judiciary systems with high performance are not possible. Aside from the data problems and differences in the services provided by the judiciary, performance differences cannot be extensively analysed. Aggregate data are not well suited for this. Chapter 3 discusses all the relevant aspects of performance differences and performance
changes through time, such as economies of scale, economies of diversification, technical change and business approach. The latter refers to issues such as the use of ICT, outsourcing of various tasks, the reduction of absenteeism, etc. Estimating the effects of these production process aspects on performance should preferably be analysed using disaggregated data, for example, at the district court level. Pooling these micro-data for a number of countries may not only provide much better insight into individual (i.e. district court) factors underlying performance, but also into judiciary system factors. From these micro-data, it is possible to determine and compare best practice technologies in various countries. By selecting a few types of courts, the comparison could be based on a more homogeneously defined set of services. The previous discussion shows that pooling micro-data for various countries is a feasible approach. A number of countries – including Sweden, Denmark, Germany and The Netherlands provide excellent district court level data. A less far reaching approach is to select two or three countries and investigate these systems in depth. Such study is now being conducted by Tak for Denmark. An earlier study was done by Tak and Fiselier (2002).

In the perspective of tuning various European judiciary systems the availability of comparable data are a conditio sine qua non. This study includes some leads for improvement in data collection. The improvement in data collection and fine tuning of definitions could be supported and facilitated by the EU-chairmanship of The Netherlands in the second half of 2004.
1 Introduction

1.1 Background

The Netherlands Council for the Judiciary is the executive body of the judiciary in The Netherlands. As such, it represents the judiciary and supervises its operation and financial management. One of the tasks of the Netherlands Council for the Judiciary is to assess and where possible improve the efficiency and quality of judicial procedures. The balance between efficiency and quality is also the subject of frequent discussion in other European countries and the United States. For instance, the Council for Europe has established the European Commission for the Efficiency of Justice (CEPEJ), which is to develop, among other things, new indicators for efficiency evaluation. England and Wales, The Netherlands and the German state of North Rhine-Westphalia are considered European leaders in the endeavours to enhance efficiency.

As a rule, efficiency of the judiciary system depends on quantitative factors in proportion to the resources used. As they both depend on numerous factors, they are difficult to quantify and efficiency can only be assessed indicatively. For this reason, the approach chosen by the Council for the Judiciary system is to conduct general research first and then proceed to in-depth research. To begin with, an indication is needed as to the degree of efficiency of the judiciary system in The Netherlands as compared to other countries. This may be an impetus for carrying out in-depth research into the reasons for differences in efficiency as measured in the initial studies. Research conducted by Van Dijk and De Waard (2000), for instance, triggered further research into the efficiency of the judiciary system in The Netherlands and North Rhine-Westphalia\(^1\). In-depth research may involve various issues, such as the choice between prosecution, dismissal or settlement, taking testimonies or hearing witnesses during trials, the administrative handling of cases or passing of judgement, giving brief or extensive grounds for court decisions, settling disputes in court, out of court, by mediation or by taking recourse to lay judges, et cetera.

General comparative research deliberately aims at forming abstractions of these quantity and quality considerations. It is essential at this stage that quantitative factors and the usage of resources be measured in a similar way, which is not easy when several different countries are compared given that each country organises the judiciary system differently. This calls for a systematic approach, if only to delineate the various systems.

It is against this backdrop that the Council for the Judiciary system has given ECORYS-NEI the assignment for a quantitative comparative study of the systems of

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administering justice in different countries on the basis of key figures. This study presents the findings of ECORYS-NEI on this research.

1.2 Objective

The objective of the project is to design and implement a method for the periodic comparison of the judiciary system in The Netherlands with that of other countries, using quantitative indicators for the usage of resources (expenditure and staff) and performance (number of cases concluded, lead times). The data apply to the system of administering justice as a whole and are, where possible, differentiated according to sector (civil, administrative and criminal).

The term ‘performance’ refers primarily to the number of concluded cases. A research precondition is the use of accessible, public and consistent data, resulting in a transparent and reproducible study.

1.3 Research questions

We have translated the research elements of the initial policy document into eight research questions. Some of these questions relate to the research method to be designed, others refer to the comparative research findings.

The comparative research method

• How are the concepts of expenditure, staff and concluded cases and lead times defined in the various countries?
• Is there an analogous method to delineate or further delineate the systems of administering justice systems in the various countries?
• Which assumptions are used to bring the concepts in line with each other in terms of content?
• Which assumptions are used to make up for missing data, if any?

The comparative research findings

• What are the performances of the judiciary systems in terms of the number of concluded cases and lead times?
• To what extent and in what way are resources used in terms of staff and expenditure?
• How does the performance of the system of administering justice in The Netherlands compare to that of other countries?
• Which considerations should be taken into account regarding the organisation of the systems of administering justice in the various countries when interpreting the findings?

In addition to The Netherlands, the study in principle involves ten other countries: Germany, Austria, Poland, France, Finland, Italy, Denmark, Sweden, Belgium and England/Wales.
1.4 Outline of the study

Besides the general introduction this study contains three other chapters. Chapter 2 addresses some methodological issues concerning the description of judiciary systems. Here a list of descriptors of the judiciary system is presented. It also describes the judiciary systems of the countries chosen based on these descriptors. Chapter 3 provides some methodological issues on the measurement of performance. In this chapter we go into the definitions of performance and the drawbacks and pitfalls of performance measurement. This chapter also presents the empirical outcomes of the performance measurement in the various countries.
2 Comparison of judiciary systems

2.1 General annotations

The subject matter of this study, the judiciary system, is not frequently encountered in comparative legal research. The bulk of legal research focuses on just one particular aspect of legal systems, i.e. primary legal rules (‘law’ in the narrow sense of the word); in other words, the rules stating the desired outcome of balancing the interests of (prospective) disputants. However, these rules are created, interpreted, invoked, applied and enforced. In this sense, ‘law’ is only part of a larger system, the legal system, which in turn is a sub-system of society. Apart from primary legal rules, the legal system comprises:

- rules about the use and interpretation of ‘law’ (secondary rules);
- legal processes (such as in-court litigation, but also private initiatives to prevent or settle legal disputes);
- specialised institutes for drafting and formulating laws (such as courts, legislatures, law schools);
- legal personnel to administer laws (i.e. the ‘actors’, such as judges, advocates, civil-law notaries, and the roles they play);
- legal culture (deeply rooted attitudes about the role of law in society, and the way law should be applied and taught – Merryman 1999); a given legal culture may either encourage or discourage the use of law as a means of settling conflicts;

As a concept, the legal system encompasses all these different aspects or layers. One may wonder whether the key methodological device generated in comparative legal research (which focuses on primary legal rules) is still helpful in this context. That methodological device is ‘functionality’ or the principle of functional equivalence. It compels the comparatist to ask himself, ‘Which rule (or concept or institution) in system B performs an equivalent function to the one under survey in system A?’. Functional equivalence aims to ensure a justified comparison (i.e. ‘comparing like with like’). It starts from the assumption that many societies face similar problems. The function of legal rules (or concepts or institutions) is to address such problems. For historical and political reasons, laws (and legal institutions) tend to differ greatly. As a consequence, the legal means by which problems are targeted will differ greatly between legal systems, although the results are often similar. As a result, a comparatist should omit any reference to technical-legal concepts from his own system, rephrasing his research question in terms of the common problem under review.

Specialised legal institutions and personnel - which are at the heart of the present study - may each combine particular functions in historically unique ways. Since it is impossible to split a given institution or professional group into artificial parts, it has been argued
that, especially in regard of legal institutions and personnel, functional equivalence will have to be combined with a structural approach, leaving individual, institutional or group structures intact.

An example illustrating this combined methodological approach: if one were to compare the German labour court with the Irish labour court, one would find the function of the former being the binding adjudication of individual employment disputes over rights, and the function of the latter being an advisory body intervening in collective employment disputes over interests. In order to involve the function of adjudication in individual employment rights disputes in Ireland, one would have to extend the survey to include the regular Irish courts. To involve the non-binding intervention in collective employment disputes in Germany, one would have to extend the German survey to the Schlichtungsstelle there.

In order to ‘compare like with like’, all functions (i.e. rendering advisory opinions on collective disputes and adjudicating individual disputes over rights) should be combined to serve as a starting point for analysis. Next, the respective (quasi-)judicial institutions in both Ireland and Germany, which lack individual congruency, should be combined in the analysis. This is the only way to achieve functional equivalence of these institutions.

The fact that the description permeates entire legal systems implies that problems of comparability, such as the one discussed above, will be exacerbated.

There are two additional complications. First, the present study is not limited to two legal systems, as in the example, but involves ten. At this point, one may wonder whether the comparability problem can be addressed by introducing the concept of legal families.

Comparatists have categorised the multitude of legal systems in the world into a small number of major legal families, or traditions, such as the common law family, and the civil law or continental-European family (sometimes distinguished into Romanistic and Germanic branches). Criteria for classifying systems into families are a shared historical development, political ideology, and set priorities placed into particular sources of law (such as codified statute law or, by contrast, judge-made law).

In the common law tradition, which originated in England, the judiciary system has created a nationwide legal framework, building upon precedents. The role of judges as the primary lawmakers is reflected in the style of court decisions. In view of their huge responsibilities, only highly experienced barristers (QCs) will qualify for appointment to the Bench. As a consequence, the number of professional judges in England & Wales tends to be relatively small. By contrast, in the continental European tradition, the legislator is the primary lawmaker. The framework of the legal system is laid down in the major codes, containing systematized statutory provisions extending to large, well defined areas. The style of court decisions on the continent is conducive to downplaying the role of the individual judge, while magnifying the statutory framework. Many judges have started their career shortly after graduation from law school, taking the special vocational training for intending judges.

These differences tie in with a more liberal legal culture in common law countries and a more paternalistic, protectionist culture in continental European countries. Historically,
common law judges will be passive umpires, leaving much initiative (cross-examination of witnesses) to the parties. By contrast, the continental European judge tends to be more interventionist, the result being two parties each having a dialogue with the judge.

All legal systems belonging to the civil law family use more or less similar divisions of the law into (statutorily) well-defined main areas – an important aspect in view of judicial statistics. Legal systems belonging to common law, however, are not familiar with these main divisions. Yet, in some other respects, membership to a legal family is not necessarily decisive. The presence of a system for review of constitutionality, for instance, seems to coincide primarily with a federal structure (including the US and Germany, but excluding France and England). Another example, which is highly relevant to the present study, concerns the laws of procedure. Although the civil law-common law distinction still determines whether procedural laws are codified or not, the judge in some common law systems has ceased to be a passive umpire and has increasingly assumed an interventionist role, similar to that of his civil-law brethren, illustrated by the 1999 English Civil Procedure Rules. Consequently, the concept of legal families as a device to limit the complexity of multi-system comparison is to be used with caution.

A second, further complication lies in the fact that the real focal point of this study is not merely a comparison of the legal system, but a comparison of the inputs into, and outputs from the judiciary system. An attempt to measure and compare such figures involves problems of comparability within as well as outside the legal domain.

As the sociologists of law Felstiner, Abel and Sarat have contended, concluded cases in courts only form the tip of a huge iceberg of dispute (Felstiner, Abel and Sarat, 1980). In order to properly interpret figures relating to court cases, one ought to go down to the very foot of this iceberg, where disputes arise in the first place, and trace down all the intermediate steps (and mechanisms) for naming, blaming and claiming, including the mechanisms for informal dispute resolution outside the court system. Surprisingly, perhaps, very few attempts have been made so far to map out the dispute resolution iceberg – and even then, these rare attempts only relate to a single legal system (Genn, 1999).

Caseload figures will also be tainted by differences in national practices of selecting, counting, merging or subdividing cases. Similar problems crop up in the figures relating to expenditures. These entail additional problems of comparability as a consequence of different budgeting strategies and cost perceptions.

In summary, the problems of comparability that the present study faces are manifold. It will be impossible to address all these problems in detail within the parameters laid down for this project. Much more extensive, in-depth research will be needed. However, this brief study may have a positive role to play in creating awareness of these problems and of particular lacunae or inconsistencies in national data collection and reporting that may be addressed in the near future, e.g. in relevant European (judicial) committees or task forces.

For the purpose of this study, and while acknowledging the remaining problems of comparability outlined above, the following list of descriptors of the judiciary system has been compiled.
2.2 Describing judiciary systems: list of descriptors

The present study focuses on the publicly financed adjudicating bodies in a country. Three groups of descriptors have been selected. The first group relates to expenditures and personnel, the second to cases decided and concluded, and case processing time. The third group is a combination of the two.

2.2.1 Descriptors relating to Expenditures and Personnel (E+P)

General
1. Is the judiciary system part of a unitary state or a federation (involving a federal court structure)?
2. Are the publicly financed adjudicating bodies also financed for (public) services other than adjudication?

Specialist areas of law (theoretical and practical)
3. Which formal distinctions of law are made? Are these distinctions reflected in a specialised court structure?
4. (where information is available): Which actual specialisations operate within the courts, taking account of chambers, panels and appointments?

Categories of legal personnel
5. To what extent can personnel be subdivided into genuine adjudicators (presiding sessions in court, rendering judgement) and crypto adjudicators (designated support staff, but in charge of intake and selection, or research for or even drafting of judgements)?
6. To what extent are the genuine adjudicators composed of professional full-timers, professional part-timers, external legally qualified chairpersons/judges (part-time) and lay judges (usually lay assessors)?
7. Do judges sit alone (unus iudex) or in panels?
8. Do permanent education requirements apply to the judiciary? Who is financially responsible for such education?
9. Is a lay-jury system maintained? If so, for which categories of cases? What are the financial implications?

2.2.2 Descriptors relating to Cases Concluded and Processing Time (C+T)

Procedural law (general)
10. What is the style of (civil, criminal and administrative) procedural law? How are the roles between judge and parties (counsel) divided? Does it involve a written or oral procedure? Is it multi-stage or trial-centred? How are proceedings instituted? Are parties (counsel) required to concentrate and substantiate their claims at an early stage?
Alternatives within court procedure
11. Are judges allowed to encourage parties to settle and then supervise these settlements? Is this strategy frequently practised?
12. Does the law of procedure offer opportunities for special summary procedures? Do people often make use of these opportunities?

Alternatives outside court procedure
13. Are judges allowed to refer parties to mediation schemes?
14. Are there any schemes for quasi-judicial decision-making (not involving the courts)? If so, for which areas (criminal, e.g. ministère public; administrative, e.g. the administration itself; civil and commercial, e.g. institutionalised arbitration)?

2.2.3 Descriptors relating to E+P+C+T
15. How many and what types of lawyers (per capita) are active in each judiciary system? How are these lawyers remunerated? Are there any operative legal aid schemes?
16. How many adjudicators (per capita) are there in each judiciary system?
17. What are the costs involved for prospective litigants in pursuing a case (further) in court or settling a dispute?

2.3 The array of judiciary systems under review

The choice of judiciary systems has been determined by the Council. The judiciary systems belong to the common law, civil law, Nordic (Scandinavian), or to the Eastern European family. The latter is characterised by the transition from a former socialist to a modern market-based civil law judiciary system. The Scandinavian tradition combines the presence of a statutory framework with a pragmatic, egalitarian approach to the legal process, involving considerable lay participation. The legal process there reflects an emancipated, collectivised and pragmatic society, traditionally emphasizing social responsibilities.

The choice of judiciary systems was based on two considerations: The countries should have a similar political and economic system, i.e. a liberal democracy based on a free market economy. Lack of similarity in this respect would render a comparison of the judiciary systems fruitless. However, the countries selected should be sufficiently diverse in order to gain insight into relevant variations. Here, it was considered helpful to involve judiciary systems representing all the major legal families (or traditions) in Europe, i.e. the common law tradition, the continental European (civil) law tradition and the Nordic tradition. Also, it seemed beneficial to involve one or two Eastern European countries, as these countries have recently re-created their judiciary systems, modelled on the civil law tradition.

The two considerations or criteria mentioned above had to be refined by a third, practical consideration: the availability of data. In the course of this research project, data collection proved particularly cumbersome in some of the Eastern European countries initially selected (Hungary in particular).
2.3.1 List of countries / judiciary systems

Based on the above-mentioned considerations, the following countries have been selected:

- England/Wales, particularly the judiciary system of England and Wales, representing the common law tradition.
- France, Belgium and Italy, representing the Romanistic branch of the civil law tradition. Belgium is of particular interest, as the direct neighbour of The Netherlands.
- Germany and Austria, representing the Germanic branch of the civil law tradition.
- Denmark, Finland and Sweden, representing the Nordic tradition.
- Poland, representing the aspiring EU member states from Eastern Europe. Hungary, as a second country in this category, had to be left out for lack of available data (decision made by the Steering Committee).

This specific selection of countries has the further advantage that the four major (politically and economically influential) nations in Europe, i.e. England/Wales, France, Germany and Italy, are included. At the same time, smaller countries comparable in size to The Netherlands, such as Belgium, Austria and Denmark, have also been included.

2.4 Plotting the judiciary systems under survey

2.4.1 Descriptors relating to Expenditures and Personnel (E, P)

Applying the descriptors to the judiciary systems under survey gives the following results.

Unitary State/Federation
The overwhelming majority of judiciary systems studied is part of a unitary state. Only Germany constitutes a federal state, with a genuinely federalised judiciary system. Belgium, too, is a federal state, but lacks a fully developed federal court system (the Court of Arbitration having limited jurisdiction). The United Kingdom does not really constitute a federal state, but it is composed of fairly autonomous judiciary systems (i.e. England & Wales, Scotland and Northern Ireland), with only the House of Lords assuming jurisdiction over all three judiciary systems.

Interestingly, the distinction between federal and unitary does not turn out to be completely decisive for the presence of a review of constitutionality, be it full fledged or limited in scope. Apart from Germany and Italy, and in theory also Denmark, none of the countries has fully fledged constitutional review systems.

Non-adjudicatory services
In all systems under survey, courts have responsibilities of a non-adjudicatory nature, such as authenticating certain documents or administering. Such responsibilities are found particularly in the areas of company law, and family law: appointing guardians,
maintaining custody registers and so on. Noteworthy in the criminal law domain is the coroner’s enquiry under English law. Compared to adjudicatory work, these responsibilities are, however, very limited in size and scope. Where the non-adjudicatory tasks were at all incorporated in the judicial statistics, these activities (such as the Grundbuchsachen in Austria) were consistently left out from the comparative analysis.

**Formal areas of law and court structure**

This important descriptor unites two elements: distinctions as to areas of law and specialised court structures. Gross formal distinctions tend to be made in most of the continental European systems, but not so much in the Nordic countries (Denmark, Sweden) and even less so in England/Wales. However, this dogmatic indicator is not necessarily reflected in specialised court structures. Although England/Wales has a single regular court system, there are many specialised branches within the superior courts in particular (Queen’s Bench Commercial, Queen’s Bench Admiralty, Family, etc.), while a network of specialised Tribunals (from which appeal lies to the regular courts) co-exists with the official court system. The Netherlands, too, is characterised by a single, regular court system (with the various administrative appeal courts as a remarkable exception). Here, too, a host of semi-public institutions, such as the consumer complaints boards, co-exist with the courts. Denmark and Sweden have specialised labour courts, while Italy, Belgium and France have a great many other specialised courts, with commercial, labour and administrative disputes dealt with outside the regular court systems. Germany arguably represents the highest degree of specialisation among courts, although the number of specialised semi-public institutions is lower here than in, for instance, The Netherlands. It could be argued, therefore, that specialisation has been formalised to a higher extent in Germany than elsewhere.

It is important to note that in judiciary systems which share a particular distinction into areas of law, the precise criteria for such a distinction may well differ. For example, both Germany and France distinguish administrative law from private law, yet in France formal criteria of distinction will be used (is a public law agency involved) whereas in Germany substantive criteria will be used (is the dispute focussed on a public law decision, or, instead, on a contract or tortuous act). Needless to say, that such different demarcation lines will result in equally different caseloads in the administrative court systems of France and Germany.

**Specialisations within courts**

Countries with a unified single court system seem to have more panels and subdivisions to meet the demand for specialist knowledge. All in all, seven de facto specialities become manifest: juvenile delinquency, family law, commercial and admiralty, employment, social security, tax law, and administrative law in general.

**Genuine and crypto adjudicators**

In virtually all systems under review, court registrars or greffiers engage in significant preparatory work, e.g. during the stage of instruction of the case. Insight into the precise contribution of crypto adjudicators would require in-depth interviews on location.
Professional judges and lay judges
Lay judges are almost ubiquitous. The highest participation of lay judges can be found in England/Wales. Here 30,000 (part time) lay judges staffing the Magistrates' courts contrast remarkably to 2,500 professional judges. These judges are not remunerated. Yet, this particular aspect may help to explain the increasing difficulties in recruiting fresh judges, from more varied layers of society (Department of Constitutional Affairs, 2003). Lay judges are also abundant in France, Italy, Belgium, Sweden and Germany, where extensive lay participation can be found in specialised courts and tribunals (commercial and labour in particular and, in Germany, administrative, tax and social security as well). Higher level courts, however, are exclusively staffed by professional judges. Lay judges are less prevalent in Poland, and in The Netherlands the judiciary consists exclusively of professionals. However, there may be a new trend to replace lay judges with professionals in some countries. In Italy, for example, the former lay conciliatori have now been replaced with legally qualified giudici di pace. Part-time judges are encountered frequently, but data on the full-time / part-time relationship are not collated systematically in all countries surveyed.

Unus iudex and panels
One can cautiously conclude that a trend has emerged in which panels of (usually three) professional judges are replaced by a single professional judge in first instance cases. France, for example, recently embarked on a programme to systematically introduce the unus iudex in the regular civil courts.

Permanent education and Central Councils for the Judiciary
The concept of permanent education is gradually spreading amongst the judiciary. This trend seems to coincide with a growing concern for quality management, and accountability both towards the treasury and the public at large (Fabri, Langbroek & Pauliat, 2003). A parallel trend is the remarkable proliferation of Councils for the Judiciary, or judicial councils. In the last 15 years, such Councils were introduced in Poland, Sweden, Denmark, Belgium and The Netherlands. Councils in Italy and France already exist for many years.

Lay juries
Lay juries are particularly found in England/Wales, but their role is restricted to a mere 4 percent of serious criminal cases (in which the defendant pleads not guilty) at the Crown Court level or higher, and in less than 1 percent of all civil cases (only those involving fraud or libel). Lay juries for criminal law are also found in e.g. Belgium.

2.4.2 Descriptors relating to Cases Concluded and Processing Time (C, T)

Requirements to concentrate or substantiate
It is extremely difficult to generalise in answering this question. Apart from differences between countries, there are differences within countries between distinct areas of law. Moreover, major reform projects have changed or are likely to change the landscape considerably. The most striking change arguably occurred in the English law of civil procedure following implementation of the 1999 Woolf reforms, which transformed judges from passive umpires into rather active case managers. The Woolf reforms also
ended the old multi-stage procedural system, now compelling counsel to concentrate and substantiate their claims at an early stage. The Woolf reforms have been paralleled to some extent in France by the Coulon reforms, where the underlying motivation was the same (i.e. enhance efficiency) but the departure from past practice much less drastic. Germany preceded France and England with its Vereinfachungs-Novelle. Arguably The Netherlands, however, has witnessed the most far-reaching exercises to increase efficiency through law reform. Here, within a 10-year period, administrative procedure, as well as criminal procedures (regarding diversion of traffic offences), as well as civil procedures were reformed.

The concern with efficiency and cost management is high on the agendas of specialist committees within the European Union and the Council of Europe, spreading from there to all the Member States. Yet, in many countries, particularly in southern Europe, there is still ample opportunity for lawyers to protract and delay civil procedure. It has often been stated that civil procedure in common law countries is largely oral, whereas it is largely written in civil law countries. In criminal procedure, the resemblance in this respect is much higher between civil and common law countries. Here, procedural safeguards require the prosecution to concentrate and substantiate its charge. This will influence the amount of preparatory work invested in preceding stages. Under the influence of Strasbourg case law, administrative procedure is increasingly formalised. The formerly widespread practice of exclusive appeal within the administration has given way to formal procedure before an independent tribunal or court of law, possibly preceded by a preliminary internal objection or review procedure.

Initiating and supervising settlements by judges
Judges in all continental European countries have the authority to initiate and supervise settlements. Usually, the codes of civil procedure require the judge to investigate the prospects for an amicable solution. In practice, the frequency of encouraging settlement seems to depend on the persona of the judge, and, to a lesser extent, the particular area of law involved.

Summary procedures
Summary procedures exist in many countries, e.g. the Mahnverfahren in Germany, the fast-track procedure in England/Wales and the référé in France. Summary procedures are widely available, particularly in the area of family law, small claims and debt collection.

It is important to note that another distinction runs right across the distinction between ordinary and summary procedures, that is: the distinction between cases where judgment is rendered in a defended action, as opposed to cases where judgment is rendered by default. The latter category is likely to entail considerably less work for the judiciary than the former. Judicial statistics however do not always clearly distinguish between these particular two categories.

Mediation schemes
Mediation schemes exist on a semi-mandatory basis in England/Wales, in Germany in small claim procedures, and in France in employment disputes. These schemes are operated on a voluntary basis for civil disputes in The Netherlands, and in France.
Quasi-judicial decision-making

Quasi-judicial decision-making schemes exist in all countries, in all three main areas of law (civil, criminal, administrative), but in varying degrees.

In criminal law, prosecution authorities may enjoy a certain amount of discretion to drop cases. However, such prosecutorial discretion does not exist in all countries. Another avenue is for the prosecution to settle a case by having the offender pay a fine (which is particularly widespread in traffic offences) or to conclude a case by way of a reprimand (e.g. juvenile delinquency). In a number of countries, victim-offender mediation schemes are operated under the guidance of the prosecution authorities. In some countries, the police is also in charge of prosecution (e.g. in Denmark, with its politimester, and to some extent England/Wales, although under the guidance of the Director of Public Prosecutions). In other countries, a separate body, usually the ministère public, is in charge of prosecution. In these countries, the police is involved as a separate filter mechanism.

In administrative law, there is widespread proliferation (and use) of internal objection and review procedures. Moreover, almost every country has ombudsmen or ombudsmen-like institutions in place to handle complaints against civil servants. In civil procedure, virtually all countries have special bodies in situ for handling consumer complaints. For commercial disputes, arbitration is a widely used option in some segments of industry and the commodities trade. Institutions such as Chambers of Commerce may play a role in mediating commercial disputes or in liaising with an arbitration centre.

Lawyers and legal aid schemes

In England/Wales, a compartmentalised profession exists with solicitors serving as primary legal advisors and barristers enjoying the exclusive right of audience before the superior courts. In continental European countries, primary legal advice and representation at all court levels is essentially united in a single profession. Only in Germany are lawyers remunerated on a fixed-fee basis. Legal aid schemes exist in all countries. In recent years, several countries have raised the qualification threshold.

Cost of litigation

It turned out that there is very little (empirical) information available regarding this rather vital issue. Some scattered surveys suggest that litigation is relatively expensive in England/Wales (due to the necessity of engaging two professionals, the fees charged by London city firms and court delays), and relatively inexpensive in Germany (due to the fixed-fee system, as well as the remarkably high percentage of citizens benefiting from a legal expense insurance).

For completeness sake, court fees should also be mentioned here as a cost element. Yet, despite differences between judiciary systems and sporadic attempts to increase these fees to constitute an additional threshold for litigation, these costs tend to be negligible compared to lawyers fees.
2.5 Conclusions

Table 2.1 summarises the key features of judicial administrations, grouping countries according to these features.

Table 2.1 Key features of judicial administrations

<table>
<thead>
<tr>
<th>Descriptor</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unitary state/federation</td>
<td></td>
</tr>
<tr>
<td>federal and constitutional review</td>
<td>Germany (Belgium)</td>
</tr>
<tr>
<td>unitary and constitutional review</td>
<td>Denmark, Italy</td>
</tr>
<tr>
<td>unitary and no constitutional review</td>
<td>Austria, England/Wales, France, Poland, Sweden, The Netherlands</td>
</tr>
<tr>
<td>Court structure</td>
<td></td>
</tr>
<tr>
<td>highly specialised</td>
<td>Germany</td>
</tr>
<tr>
<td>moderately specialised</td>
<td>Belgium, France, Denmark, Italy, Sweden</td>
</tr>
<tr>
<td>generalist</td>
<td>Austria, England/Wales, Poland, The Netherlands</td>
</tr>
<tr>
<td>Specialisations within courts</td>
<td></td>
</tr>
<tr>
<td>highly specialised</td>
<td>Austria, England/Wales, Poland, The Netherlands</td>
</tr>
<tr>
<td>moderately specialised</td>
<td>Belgium, France, Denmark, Italy, Sweden</td>
</tr>
<tr>
<td>generalist</td>
<td>Germany</td>
</tr>
<tr>
<td>Lay judges</td>
<td></td>
</tr>
<tr>
<td>many</td>
<td>Belgium, England/Wales, Sweden, France, Germany, Italy</td>
</tr>
<tr>
<td>few or none</td>
<td>Austria, Denmark, Poland, The Netherlands</td>
</tr>
<tr>
<td>Central Councils for the Judiciary</td>
<td></td>
</tr>
<tr>
<td>present</td>
<td>Belgium, Denmark, France, Poland, Sweden, The Netherlands, Italy</td>
</tr>
<tr>
<td>not present</td>
<td>Austria, England/Wales, Germany</td>
</tr>
<tr>
<td>Civil Procedure requirement to substantiate</td>
<td></td>
</tr>
<tr>
<td>fairly strict</td>
<td>England/Wales, The Netherlands</td>
</tr>
<tr>
<td>no such requirement</td>
<td>Austria, Belgium, Denmark, France, Germany, Sweden</td>
</tr>
<tr>
<td>hardly any requirements</td>
<td>Italy, Poland</td>
</tr>
<tr>
<td>Initiating and supervising settlements</td>
<td></td>
</tr>
<tr>
<td>no opportunity</td>
<td>England/Wales</td>
</tr>
<tr>
<td>opportunity exists</td>
<td>Austria, Belgium, Denmark, France, Germany, Poland, The Netherlands</td>
</tr>
<tr>
<td>Referral to mediation by judge</td>
<td></td>
</tr>
<tr>
<td>mandatory</td>
<td>England/Wales</td>
</tr>
<tr>
<td>voluntary</td>
<td>France, The Netherlands</td>
</tr>
<tr>
<td>not present</td>
<td>Austria, Belgium, Denmark, Germany, Italy, Poland, Sweden</td>
</tr>
<tr>
<td>Quasi-judicial decision-making (by prosecution)</td>
<td></td>
</tr>
<tr>
<td>large discretionary power</td>
<td>The Netherlands</td>
</tr>
<tr>
<td>intermediate discretionary power</td>
<td>Austria, Belgium, Denmark, England/Wales, France, Italy, Poland, Sweden</td>
</tr>
<tr>
<td>limited or non-existent discretionary power</td>
<td>Germany</td>
</tr>
<tr>
<td>Cost of litigating</td>
<td></td>
</tr>
<tr>
<td>expensive</td>
<td>England/Wales</td>
</tr>
<tr>
<td>intermediate</td>
<td>Austria, Belgium, Denmark, France, Italy, Poland, Sweden</td>
</tr>
<tr>
<td>inexpensive</td>
<td>Germany</td>
</tr>
</tbody>
</table>
The question arises what can be expected in terms of performance regarding these features. Most countries have a rather similar judicial administration at least at a global level. Differences do exist, but only on a detailed level. It is interesting to note the relative extreme positions of England and Germany. Germany has almost no entry barriers for prospective litigants seeking to use the judiciary system. As a result, many light cases slip into the system. This may lead to high performance figures. However, performance may be mitigated by the complex court structure. England/Wales, by contrast, have a high threshold for entering the judiciary system, as a result of which only complex cases will ultimately be addressed by the judiciary. As a consequence, performance figures tend to be rather low.

From this example it will have become clear that low performance figures are by no means indicative of the efficiency of a judiciary system. It may well be argued that a judiciary system that succeeds in filtering out the less complex cases is exactly for that reason highly efficient.

The comparative matrix above encompasses a large amount of variables. With such a multiplicity of variables operative at any time, explanation of differences and similarities becomes a cumbersome exercise. It may be worthwhile to reduce the number of variables in future, follow-up research, for instance by focussing on costs and production in one or two narrowly defined areas of law (perhaps family law, or debt collection) in just a few well-documented judiciary systems (such as Denmark, Sweden, The Netherlands, and England & Wales). Significant correlations and deviations, indicative of causal relationships, could then be identified more properly.
3 Empirical description: key figures

3.1 Sources and data availability

This section discusses the sources and availability of data. This study’s technical report contains a full description of all sources. The main conclusion is that there are only a few official statistics available on the production and cost of the judiciary system. Even in countries that generally have well-organised statistics offices, there is a lack of consistent, reliable and well-defined data in this area. This leads to the conclusion that the condition defined in chapter 1 (i.e. ‘[..] accessible, publicly available and consistent data, resulting in a transparent and reproducible study’) cannot be met. In some cases this gap of information is filled by the departments of justice or the Councils for the Judiciary.

Due to a lack of official data, it was in many instances necessary to search for unpublished or ‘unofficial’ data. Table 3.1 presents the availability of data.

Table 3.1 Data availability

<table>
<thead>
<tr>
<th>Country</th>
<th>Production</th>
<th>Judges</th>
<th>Other Personnel</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Y</td>
<td>Y/C</td>
<td>Y/C</td>
<td>N/C</td>
</tr>
<tr>
<td>Belgium</td>
<td>Y</td>
<td>UR/C</td>
<td>UR/C</td>
<td>Y/C</td>
</tr>
<tr>
<td>Denmark</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>England/Wales</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y/C</td>
</tr>
<tr>
<td>Finland</td>
<td>Y</td>
<td>?</td>
<td>?</td>
<td>Y</td>
</tr>
<tr>
<td>France</td>
<td>Y</td>
<td>Y/C</td>
<td>Y/C</td>
<td>Y/C</td>
</tr>
<tr>
<td>Germany</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y/C</td>
</tr>
<tr>
<td>Italy</td>
<td>Y</td>
<td>C</td>
<td>N</td>
<td>Y/C</td>
</tr>
<tr>
<td>Poland</td>
<td>Y</td>
<td>Y/C</td>
<td>Y/C</td>
<td>N/C</td>
</tr>
<tr>
<td>Sweden</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y/C</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>Y</td>
<td>Y/C</td>
<td>Y/C</td>
<td>Y/C</td>
</tr>
</tbody>
</table>

a. Y=officially published; C=calculated/estimated figures; UR=available upon request; N=not found or impossible to determine.
b. Cost distinctions are based on different sources.
c. Only aggregate information on Judges, Other Personnel and Costs was available (no distinction between criminal and civil law). Decomposition of cost is based on figures for the Hamburg district.
d. Judges and Costs only available as totals.
e. Administrative law is incomplete. As regards judges, no distinction is made between criminal and civil law.

A general conclusion is that there is ample and sometimes very detailed information on production, whereas the information on costs is lacking. Even in countries with a good reputation regarding statistics in general, such as The Netherlands, the information on costs is scant. This implies that in a number of cases it was necessary to allocate information on costs to personnel and sometimes personnel in turn to the various types of production. The technical report (in Dutch) discusses and explains the methods used to allocate information on costs and personnel, and to impute missing data.
In particular, it is hard to find consistent expenditure data for Italy. Although the Italian ministry of justice and the Worldbank present some data they are not adequate for our purpose and they are certainly not recent (1999 and 2000). The data include the expenditure for prisons and a simple check of personnel, average salaries and the total budget shows an inconsistency. Though we cleaned the Italian data to the best of our ability (see technical report), we present them with reservation.

Table 3.2 summarises the official publications on the judiciary systems in various countries.

<table>
<thead>
<tr>
<th>Country</th>
<th>Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Statistisches Jahrbuch Österreichs (Rechtspflege) (Statistik Österreich, 2003)</td>
</tr>
<tr>
<td>Belgium</td>
<td>Justitie in cijfers (Bourlet, 2003)</td>
</tr>
<tr>
<td></td>
<td>Kerncijfers van de gerechtelijke activiteit (Bourlet, 2003 sept)</td>
</tr>
<tr>
<td>Denmark</td>
<td>Danmarks domstole Virksomhedsregnskab (Danmarks domstole, 2003)</td>
</tr>
<tr>
<td></td>
<td>Statistical Yearbook (social conditions, health and justice) (Statistics Denmark, 2003)</td>
</tr>
<tr>
<td>England/Wales</td>
<td>The Court Service Annual Report (The Court Service)</td>
</tr>
<tr>
<td></td>
<td>Magistrates’ Courts Business Report, Annual Report (Department for Constitutional Affairs)</td>
</tr>
<tr>
<td></td>
<td>Judicial Statistics (The Lord Chancellor’s Department)</td>
</tr>
<tr>
<td></td>
<td>Criminal Statistics (Home Office)</td>
</tr>
<tr>
<td>Finland</td>
<td>OIKEUSTILASTOLLINEN vuosikirja 2002 / Yearbook of justice statistics 2002</td>
</tr>
<tr>
<td></td>
<td>(Tilastokeskus, 2003)</td>
</tr>
<tr>
<td></td>
<td>Le budget de la Justice (Ministere de la Justice, 2004)</td>
</tr>
<tr>
<td></td>
<td>Annuaire statistique de la justice (Ministere de la Justice 2003b)</td>
</tr>
<tr>
<td>Germany</td>
<td>Zahlen aus der Justiz (Bundesministerium der Justiz)</td>
</tr>
<tr>
<td></td>
<td>Statistisches Jahrbuch (Statistisches Bundesamt)</td>
</tr>
<tr>
<td></td>
<td>Rechtspflegestatistik (Statistisches Bundesamt)</td>
</tr>
<tr>
<td>Italy</td>
<td><a href="http://www4.worldbank.org/legal/database/Justice/Pages/jsBrief0.asp?Country=2595">http://www4.worldbank.org/legal/database/Justice/Pages/jsBrief0.asp?Country=2595</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.giustizia.it/statistiche/statistiche_dog/2002/penale/nazionalepen.xls">http://www.giustizia.it/statistiche/statistiche_dog/2002/penale/nazionalepen.xls</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.giustizia.it/statistiche/statistiche_dog/2002/civile/nazionaleciv.xls">http://www.giustizia.it/statistiche/statistiche_dog/2002/civile/nazionaleciv.xls</a></td>
</tr>
<tr>
<td></td>
<td>Concise Statistical Yearbook of Poland (Central statistical office Poland)</td>
</tr>
<tr>
<td>Sweden</td>
<td>ÅRSREDOVISNING 2002 (Domstolsverket)</td>
</tr>
<tr>
<td></td>
<td>Facts about the Swedish judiciary (Domstolsverket)</td>
</tr>
<tr>
<td></td>
<td>Statistical Yearbook, judiciary system (Statistics Sweden)</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>Rechtspraak in Nederland (Centraal Bureau voor de Statistiek 2003)</td>
</tr>
<tr>
<td></td>
<td>Jaarverslag Raad voor de Rechtspraak (Raad voor de rechtspraak 2003)</td>
</tr>
</tbody>
</table>

Besides these annual publications by national statistical offices and the departments of justices there are also a number of other interesting one-shot publications. Examples are Breen (2001) and Saglio (2001) for France and Douat (2001) for six European countries.
3.2 Global characteristics

This section discusses several global aspects of the judiciary system in various countries. These aspects reflect a number of important features of the judiciary system. It shows, for example, the relative importance of the judiciary system in the economy as a whole or the ‘demand’ for the judiciary system. The following figures present the following series of indicators:

- judiciary system expenditures as a percentage of GDP;
- judiciary system expenditures as a percentage of tax revenues;
- number of judges per capita;
- number of cases concluded per capita.

Figure 3.1 shows the judiciary system expenditures as a percentage of GDP in 2001\(^2\). These figures represent to a certain extent the relevance of the judiciary system, revealing the extent to which a society calls upon professional, government-regulated jurisdiction. The figures may also reflect the inefficiency or ineffectiveness of the official judicial administration.

Figure 3.1 shows that judiciary system expenditures as a percentage of GDP varies between 0.04 percent (Denmark) and 0.36 percent (Poland). Italy, Austria and Germany also spend a relatively large percentage of GDP on judiciary system. The bandwidth of the remaining six countries’ expenditures is fairly narrow, ranging from 0.11 to 0.16 percent.

High rates of expenditures may reveal a strong judicial society, in which a large number of conflicts/disputes are solved by the official judiciary system rather than by means of mediation or arbitration. When it comes to criminal law, a low rate of expenditures may

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\(^2\) Including national expenditures on taxes and social security contributions. For some countries, financial accounts report expenditures net taxes (e.g. England/Wales). In these cases, figures were upgraded.
reflect the relative authority given to the state attorney or other institutions. A striking example in this respect involves what are known as ‘Mulder cases’ in The Netherlands. Many small offences are settled by the Central Fine Collection Agency (abbreviated to CJIB in Dutch). Comprising 95 percent of all criminal offences, Mulder cases are not handled by courts of law. The state attorney in The Netherlands settles two thirds of the remaining criminal offences. In the end, only 2 percent of all criminal cases appear in court. A similar scenario is found in France (i.e. ‘amendés forfaitaires majorées’).

Germany is known for its low entry barriers for the judiciary system (see Chapter 2), while Italy is known for its long, inhibitory procedures and Poland for the multitude of summary offences and simplified court proceedings. These facts may account for the high rate of expenditure (as a percentage of GDP) of all three countries. Additional figures on the judiciary system will better clarify these differences.

Figure 3.2 presents total judiciary system expenditures as a percentage of total public expenditures. This reflects the judiciary’s relevance in the public sector.

As expected, figure 3.2 is similar to figure 3.1. Denmark and Poland are at the extremes of the distribution. However, the figure also reflects some slight differences. England/Wales has shifted to the right as a result of their relatively small tax revenues.

Figure 3.3 presents the expenditure of the judiciary system per capita.
According to figure 3.3 there are some remarkable differences across countries. Denmark has far and away the lowest judiciary system expenditure per capita (about € 14). The highest expenditure per capita is found in Italy (€ 80), Germany (€ 60) and Austria (€ 64).

Figure 3.4 reflects the number of judges per capita. The figure reveals information similar to that of figure 3.3. However, these figures make allowances for wage differences between countries. Figure 3.4 also gives an impression of the way cases are handled within the judiciary system. Some countries allow clerks or even automated computer systems (for summary offences and simplified court proceedings) to conclude cases.

Figure 3.4 shows that Denmark has the lowest number of judges per 100,000 inhabitants (i.e. five). Germany has over four times as many judges per 100,000 inhabitants (i.e. 22) as Denmark. The situation in Germany is not necessarily extreme; Poland, Italy, Belgium and Sweden have about 20 judges per 100,000 inhabitants. In comparison with figure 3.4 Italy has lost its ‘front’ position indicating that the Italian judiciary faces expenditures
that are unrelated to the number of judges. A possible explanation is the relative large share of other personnel. We come to these explanations in section 4.4.

Figure 3.5 is presented to compensate for possible efficiency effects, showing the number of cases concluded per capita split up in criminal, civil and administrative law. Measuring the services of the judiciary system by the number of cases concluded implies that non-judicial tasks are left out. A striking example is Austria, where ‘Executionsachen’ and ‘Grundbuchsachen’ are not included.
Figure 3.5 reveals great differences across countries and types of law in terms of the number of cases concluded per 1,000 inhabitants. Sweden, Germany, The Netherlands, Finland and Austria have less than 15 concluded criminal cases per 1,000 inhabitants indicating strong filter mechanisms in criminal law. England/Wales, Poland and Italy have only weak filter mechanisms for criminal law: over 40 criminal cases per 1,000 inhabitants are concluded.

There is a different pattern in civil law. Large number of cases per 1,000 inhabitants are found in Austria and Germany. Poland is the absolute frontrunner here as well partly due to the registration of cases. For instance in Poland the real estate registrations (in 2001 more than 2 million cases) are counted as civil cases. Sweden has a strong filter mechanism in criminal and civil law, but a total lack of filters in administrative laws. This probably is a consequence of the Swedish culture in which everyone has a possibility for public comment. Furthermore, there are broad possibilities for appeal; Sweden has the highest percentage appeals in administrative law. Another explanation is the type of cases; for example psychiatric cases, alcohol and drug abuse are counted as administrative cases.

3.3 Conclusions

The major finding of this chapter is that there is a distinct lack of consistent data made available by the countries under review. Surprisingly, collecting data on resources proved the most problematic. Most countries publish extensive, detailed data on the judiciary’s service provision. Denmark, Germany, Italy and France offer extremely detailed data on services. The Netherlands and Belgium offer somewhat less detailed data.

Another striking aspect of data collection in some countries is the lack of aggregate data. Although information was available at the district level in some countries, no national figures were found. In some countries, judiciary system performance does not seem to be a key policy issue.
Another bias comes from the fact that judiciary systems are not identical. Although an attempt was made to establish consistent boundaries between different types of jurisdiction, some serious shortcomings remain. For instance, for Belgium and Denmark, it was impossible to distinguish administrative law statistics from those for civil law. As a result, the civil law performance measures of these two countries will deviate from the other countries. Further, we have our doubts about the reliability of some of the Italian data.

Bearing in mind the data’s shortcomings and the differences among judiciary systems, the key figures presented in this chapter reveal some striking outcomes. The main conclusions from these key figures are:

Expenditures as a percentage of GDP ranges from 0.05 to 0.40 percent. Poland and Italy are the clear frontrunners. Denmark’s expenditures rank the lowest. In terms of expenditure per capita or judges per capita, Germany, Belgium, Italy and Sweden are the leaders, while Denmark is at the other end of the spectrum with remarkable low numbers.

Chapter two described the judiciary system in terms of qualitative descriptors. Special attention was paid to features of the system influencing the flow of cases into the judiciary system. In this chapter we used a global measure for these filter mechanisms: the number of cases concluded per capita. The figures reveal great differences across countries and types of law. Sweden, Germany, The Netherlands, Finland and Austria have strong filter mechanisms in criminal law. Conversely, England/Wales, Poland and Italy have only weak filter mechanisms for criminal law: Civil law shows a different pattern. Large number of cases per 1,000 inhabitants are found in Austria and Germany due to low entry barriers. Poland is the absolute frontrunner in this respect.
4 Empirical description: performance figures

4.1 Introduction

This chapter discusses the relation between resources and services delivered by the judiciary system. To this purpose we introduce the concept of productivity. The term productivity often has a negative connotation, in the sense that it refers to bad management and/or employees with a low motivation or bad work ethics. However, productivity generally refers to organisational structures and social preferences. To get a better understanding of the productivity concept we discuss some elementary aspects of productivity and provide some general explanations for productivity differences (Section 4.2). Then we present some empirical outcomes of these measures in terms of cases concluded per employee and cases concluded per Euro (Section 4.3). The final section summarises the most important outcomes of this chapter.

4.2 Methodological issues: performance measurement

4.2.1 Performance measurement

This study is concerned with the measurement of the performance of judiciary systems. The judiciary system, consisting of courts of law and other judicial institutions, converts resources (judges, clerks, buildings) into services (concluded cases). The performance of the judiciary system can be defined in many ways. A natural measurement of performance is the productivity ratio.

In measuring the performance of public sector enterprises, one should bear in mind that performance is a relative concept. The performance of any service provider is always evaluated relative to that of other providers in the sample. Yet the possibility remains that the latest technology has not yet been fully incorporated by any of the providers, so that all of them could conceivably realize better performance. Although performance measurement is applied mainly to providers at the micro level, it is also possible to make comparisons at higher levels of aggregation, such as a branch of the public sector either through time or across regions or countries.

As stated before, one of the most popular concepts in performance measurement is productivity. In a single-resource single-service sector, productivity is measured as the ratio of service provided to resource consumed.

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3 For an extensive discussion of these matters see Blank and Lovell (2000: 11-12).
However most public sector entities provide multiple services and use multiple resources. In such a case services and resources must be aggregated into quantity indexes. Ideally the service and resource quantity indexes would include service and resource prices to act as weights, but these are often missing in the public sector.

\[
\text{productivity} = \frac{\text{services}}{\text{resources}}
\]

Then the next questions arise. On the one hand, how many, and which, resources and services should be included in the analysis and how should they be weighted in the aggregation process. Indeed, the selection of relevant or useful resources and services is of great importance. On the other hand, we have to face data limitations. In that case, measured productivity may be a reflection of a failure to incorporate the right variables and constraints.

In this study we use the number of cases concluded as a measure of services of the judiciary system. However, services of the judiciary system are very heterogeneous. Accept for the distinction criminal, civil and administrative law, we do not take these differences into account. Within each type of the judiciary system different types of cases are weighted equally. As a result, differences in case mix between countries may cause measured productivity differences.

Since we are lacking sensible weights we are not able to aggregate different types of resources. Instead we use cost deflated by the Purchasing Power Parity. This is probably also a very poor proxy for actual differences in resource prices. When interpreting the results below we have to bear these shortcomings in mind.

Unfortunately, researchers are sometimes forced to use partial measures of productivity, such as the quantity of a single service provided per employee, or the number of concluded cases per employee. Although these are easy to compute and to understand, they yield a two-dimensional characterization of an inherently multidimensional problem. Moreover, alternative partial productivity measures, such as the number of concluded cases per employee and total factor productivity, can send conflicting signals concerning relative performance, and so they must be interpreted with extreme caution. Since this is the case in this study we have to interpret the outcomes with great care and make clear that the aim of this study is providing some very global insights into existing differences in productivity between judiciary systems. Furthermore, it provides an inventory of possibilities of a more profound study of the productivity of courts in a limited set of countries.

Productivity depends on the structure of the service provision technology, the efficiency with which the technology is implemented, and the characteristics of the operating

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For a detailed discussion on these matters see e.g. Lovell (1993: 3-9).
environment in which service provision occurs. In the next section we discuss each of these issues. In the final section we present some annotations and limitations of this study resulting from the theoretical concept presented here.

4.2.2 Explaining differences in productivity

Economies of scale
Service delivery technology is characterized by scale economies, or by increasing returns to scale, if each provider is undesirably small. In that case each provider is capable of expanding service delivery by proportionately more than it expands its resource base. The solution may be to amalgamate providers. Fewer providers, each with an expanded resource base, can provide a more than proportionate increase in services, even though each was operating efficiently to begin with. Exploitation of scale economies enables an increase in service provision, without an increase in resources, and without increases in individual provider efficiency. Thus, restructuring the service delivery network serves as a substitute for improving the efficiency of individual providers.

Of course, some of the potential gains may be partially offset by efficiency declines associated with the difficulties of managing larger agencies, but this is not guaranteed. In addition, a network comprised of fewer larger agencies may lead to a reduction in accessibility and customer convenience, although this is not certain either. It is the responsibility of central management to weigh the costs and benefits of amalgamation in the presence of scale economies.

A similar scenario can be constructed for the opposite case in which service delivery technology is characterized by diseconomies of scale, or by decreasing returns to scale.

According to Goudriaan (2003), it seems that in judiciary systems the presence of economies of scale is slightly dominating. In a literature survey he concludes, however, that the impact of these scale effects is rather small. In particular, Scandinavian studies indicate that operating at optimal scale could only save about 5 percent of inputs. Furthermore, the optimal scale seems to depend heavily on the product mix: i.e., the type of judicial cases conditions the optimal scale. Finally, one study indicates that increasing the scale of production may well deteriorate the quality (defined in terms of revisions and citations of court decisions). Given the scantiness of the literature, this should make one extremely prudent in interpreting the above conclusions.

Economies of diversification
Another characteristic of the structure of service delivery technology is the nature of economies or diseconomies of diversification. Economies of diversification are present if the cost of providing a range of services jointly is less than the sum of costs of providing each service (or a subset of services) individually. The presence of economies of diversification makes it desirable to operate a network of diversified courts providing ‘one-stop shopping’. Conversely, diseconomies of diversification are present if the cost of

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5 Large parts of this text are borrowed from Lovell (2000: 42-44).
providing a range of different case types collectively exceeds the sum of costs of providing each case type (or a subset of cases) in separate courts.

In Chapter 2 we discussed the aspect of specialized courts. Therefore, we will appeal to this element in the discussion of the figures in Section 4.3.

Goudriaan (2003) also discusses the few studies available on this matter. After criticizing some studies on methodological grounds, he concludes that the remaining (mainly Dutch) studies indicate that there are hardly any economies of diversification. In The Netherlands, this may be partly explained by the rotation system aimed at the formation of all-round judges: this bureaucratic ideal may well inhibit specialization.

**Technical change**

Another characteristic of the structure of the service delivery technology is the way it improves through time. *Technical progress* is a fact of life, as is its adaptation and diffusion. Improvements in service delivery technology, and its diffusion through the service delivery network, both allow for increases in service provision at proportionately smaller increases in operating cost. It is the responsibility of central management to weigh the cost of adopting and installing new technology against the benefits of increased service provision and increased customer convenience.

In the judiciary systems, in particular, the role of information and communication technology may be relevant. The survey of the literature in Goudriaan (2003) reports two longitudinal productivity studies. These studies indicate that productivity in both The Netherlands and Sweden has declined over time, especially since the mid nineties. Other studies seem to imply that technical change (frontier shifts) is the driving force in productivity change, while changes in technical efficiency are of minor importance. This scant evidence requires further corroboration.

**Efficiency and management quality**

Aside from the characteristics of the technology low productivity may be a consequence of bad management. As a result of bad management optimal values of services and resources are not accomplished. This is known as inefficiency and it can be defined as the ratio of observed to maximum feasible service provision obtained from given resources, or vice versa.

Examples of causes of low efficiencies are expensive purchases, wrong mix of resources, high absenteeism and low occupancy rates as a result of inadequate planning.

According to Goudriaan (2003), the measured inefficiencies in many of the studies surveyed are so high that they either point out enormous heterogeneities in productive performance, or simply errors in the setup of the analysis and/or in the data. Prudence is again necessary because most studies do not attempt to explain the observed inefficiencies, and the few that do fail to explain anything at all of the observed performance differences. Another reason for caution is that most studies do not properly account for backlogs in production, even though this has become an almost permanent trait of many court systems around the world.
Environmental and organisational factors
Aside from services and resources, prices and budgets, there is another category of variables that affect efficiency. These are the uncontrollable features of the operating environment that influence the ability of management to convert resources into services and have an impact on the measurement of performance. Since these environmental/organisational features may vary across service providers (countries) and influence performance, they must be ideally accounted for. If differences in the operating environment are neglected, providers (countries) that operate under unfavourable circumstances are evaluated poorly when they might be performing well and vice versa.

In the present context of comparing performance of judiciary systems environmental factors mainly refer to social and cultural differences. A general issue concerns the way people, companies and government handle their differences. Are they capable of settling their differences in a non-judiciary way or do they meet in court for each trifle. These matters influence the severity of cases that come to court. Another important social aspect is the public opinion about the requirements for qualitative good or acceptable jurisdiction. Most of these social and cultural aspects are translated into regulations and form of the judiciary system. Regulations do not only dictate the judicial procedures, but also the room for the management of courts to operate efficiently. The budgeting system and capacity planning determine to a large extent the economic behaviour of the management. The issue of regulation and form of the judiciary system has been extensively discussed in chapter 2.

4.2.3 Annotations
Although it might be of interest, we do not focus or only laterally on the characteristics of best practice technology, such as economies of scale, economies of diversification and technical change. Variations in scale, for instance, are within countries probably much larger than between countries. A cross section analysis within countries, for example at the level of counties or districts, would be a more clear way to proceed. Neither we focus on management issues, such as outsourcing or hiring temporary personnel. A cross section analysis is to be preferred in this case as well. Our primary interest goes to the influence of environmental or organisational factors.

Aside from all the methodological issues and data availability problems the above makes clear that the one-sided interest on environmental/organisational factors can only shed a limited light on performance differences amongst countries.

4.3 Empirical outcomes
This section presents performance indices for the countries under review, in which a distinction is made between:
- criminal law (indicated by a);
- civil law (indicated by b);
- administrative law (indicated by c).
Another distinction is made according to the type of performance index:
- the number of concluded cases per employee, including judges (figure 4.1);
- the number of concluded cases per judge (figure 4.2);
- the number of concluded cases per euro spent (figure 4.3).

For some countries data are not available, in particular data on administrative law. These missing values appear on the right side of these figures.

Figure 4.1a  Concluded cases per employee (criminal law) 2001

Figure 4.1b  Concluded cases per employee (civil law) 2001
Figure 4.1c  Concluded cases per employee (administrative law) 2001

Figure 4.1 shows a great deal of variation across countries in terms of the number of concluded cases per employee. For example, the number of concluded cases per employee in Denmark for criminal law is about five times as high as in Germany. According to Figure 3.5a, Sweden is a non-judicial society for criminal law. Cases that are brought before the court are expected to involve relatively serious criminal offences. This results in a higher average caseload than in other countries. Poland is at the other extreme. Figure 3.5 clearly shows that many disputes and offences are decided by jurisdiction. Consequently, the number of concluded cases per employee in Poland is high. Using this line of reasoning, one can conclude that Germany will also reflect a high level of concluded cases per employee in civil law.

For the other countries, the picture is less pronounced. Countries have different rankings depending on the type of case involved. While these shifts in relative position may in part be attributed to system characteristics, they are also the result of artefacts in data. As stated in Section 3.1, it was not possible to distinguish between resources for different types of jurisdiction. Consequently, it was necessary to allocate resources to different types of jurisdiction according to general indicators. The distinction between types of jurisdiction is not always clear, as is the case for the simplified proceedings in Germany and Austria (known as ‘Mahnsache’), which are classified as civil cases in both countries.

Figure 4.1 also shows that in most countries the number of concluded cases per employee in criminal law is lower than of civil law. For the few countries for which the number of concluded cases per employee data are available in administrative law, one can conclude that the associated number of concluded cases per employee is in most instances substantially lower than for criminal and civil law.

Figure 4.2 depicts the number of cases concluded per judge.
Figure 4.2a  Concluded cases per judge (criminal law) 2001

Figure 4.2b  Concluded cases per judge (civil law) 2001

Figure 4.2c  Concluded cases per judge (administrative law) 2001
Figure 4.2a shows that the number of criminal law cases concluded by judges ranges from fewer than 200 cases a year in Germany to 900 cases a year in England/Wales.

Figure 4.2b reveals that in Poland, the most civil law cases per judge were concluded. In general, administrative law entails a lower number of concluded cases per judge.

Figures 4.1 and 4.2 reveal similar patterns. There are a few aspects that requires further investigation. The concluded cases of civil law judges in France is low compared to the concluded cases per employee presented in Figure 4.1c. This can only be explained by the high number of other personnel. The same holds for criminal law in England/Wales. Figure 4.6 addresses this issue.

Figure 4.3 presents the number of cases concluded per euro spent (CCE) on the judiciary system. Since a euro in Italy does not have the same intrinsic real value as a euro in France, monetary expenditures are converted using the Purchasing Power Parities (PPP) index published by the OECD. Since PPP only serve as a rough proxy for wage differentials between countries, CCE figures may still include these wage differentials.

The aim of CCE is to reflect the ratio of service provision and total resource utilisation. In general, CCE is a more complete quantification as it also takes material supplies and capital services into account. In particular, differences in ICT utilisation may contribute to a high number of concluded cases per employee. The number of concluded cases per employee, however, ignores the expenditures related to ICT (see also Goudriaan 2003). CCE is expressed in terms of the number of cases per EUR 1,000 (PPP in The Netherlands = 1).

Figure 4.3a  Concluded cases per Euro (criminal law) 2001
Figure 4.3 shows that the number of criminal law CCE varies between 0.5 and 8.0. Civil law CCE ranges from 1.0 to 8. However, CCE in Poland is clearly an extreme. Poland clearly leads the rest due to the low personnel costs per employee (see figure 4.7) and a high number of concluded cases per employee (see figures 4.1-4.3). The Netherlands, Sweden and Italy are at the other extreme. One can expect that, in The Netherlands and Sweden in particular, more extreme and serious cases are brought before the court and have high labour cost per employee (see figure 4.7).

### 4.4 System and quality indicators

This section discusses a number of indicators that affect the number of concluded cases per employee or per Euro spent of the judiciary system. They reflect differences in judiciary systems’ legal requirements and quality. The system and quality indicators are:
- number of appeals as a percentage of concluded cases;
- number of judges as a percentage of total employees;
• average personnel costs per employee;
• average duration of concluded cases.

Figure 4.4 represents the number of appeals as a percentage of concluded cases. This is an indicator of the quality of justice, as well as a measure of appeal barriers (e.g. cost) and cultural preferences (e.g. honour, equity). There are two reasons why the rate of appeals serves as a key indicator for ‘explaining’ differences. First, appeals generally require more means of production. Second, a low rate of appeals may reflect high quality justice, which may correspond to high costs for the initial cases.

Figure 4.4a  Appeals as a percentage of concluded cases (criminal cases) 2001

Figure 4.4b  Appeals as a percentage of concluded cases (civil cases) 2001
Figure 4.4c  Appeals as a percentage of concluded cases (administrative cases) 2001

Figure 4.4 shows that the percentage of criminal and civil law appeals varies between 1 and 13 percent. The share of administrative law appeals is much higher in some countries, for instance France, Austria and Sweden. In The Netherlands, the ability to appeal in civil and administrative law cases is extremely limited. The same holds for Poland in criminal and civil law.

Figure 4.5 presents the percentage of referrals by the state attorney in terms of the total number of criminal cases concluded (including administrative fines). These figures reveal existing pre-selection mechanisms in the justice system. Some summary offences, such as tickets for speeding, do not come before the court.

Figure 4.5 shows that France and in particular The Netherlands have a very high rate of referrals by the state attorney. In The Netherlands, about 90 per cent of the criminal cases is concluded by the state attorney by means of an administrative fine or settlement.
Figure 4.6 shows the number of other personnel per judge and provides some insight into the allocation of the means of the judiciary system. These figures may show the relevance of administrative and other personnel in assisting judges.

**Figure 4.6a  Number of other personnel per judge (criminal law)**

![Bar chart](image)

**Figure 4.6b  Number of other personnel per judge (civil law)**

![Bar chart](image)
According to Figure 4.6, the number of other personnel per judge for criminal law lies between 2.0 and 5.5. For civil and administrative law, this figure varies between 1.3 and 4.2. The figures of each country are not consistent across each type of law.

Figure 4.7 presents the average personnel costs per employee (adjusted for PPP). These figures may offer additional insight into the factors explaining differences in CCE. Although the costs used to calculate CCE were adjusted for PPP, wage differentials could still contribute to differences in CCE. Since wage differentials are largely due to general preferences and labour market relations (mainly within the public sector), only one figure is presented for each country, without distinguishing between the different types of jurisdiction.

Figure 4.7 reveals large wage differentials. Average personnel costs per employee in The Netherlands is three times as high as in Poland. As a consequence, the CCE figures for Poland are high, while the CCE figures for The Netherlands are relatively low (see Figure 4.3).
Average processing time

The intention was to present figures on the average processing time as well. Although many countries present figures referring to average processing time, it was not possible to construct numbers that were even remotely consistent. This was due in large part to that fact that:

- some countries publish no figures on average processing time;
- some countries only publish data for a limited number/type of cases, such as divorces or asylum cases;
- countries use various definitions of processing time, e.g. processing time starting in a calendar year (Germany) or processing time of open instead of concluded cases (Poland);
- there was large variation in processing time according to the types of cases involved.

The significant variation in duration for the different types of cases in particular may cause substantial aggregate differences. For instance, misdemeanours have a duration of one day or one week, whereas asylum applications may take five years or longer. Including/excluding these cases cause substantial differences. In many cases, publications do not explain the figures presented in detail.

Coherence between the characteristics of judiciary systems

An interesting question is how the figures presented are interrelated. Section 4.1 clearly states why a sound coherent analysis is not possible at this stage. However, it is possible to derive tentative conclusions by combining variables.

Figure 4.8 shows a breakdown of CCE and concluded cases per capita. In Chapter 2 we discussed the role of filter mechanisms in the judiciary system. The number of concluded cases per capita may reflect some of the filter mechanisms. It is to be expected that a large number of concluded cases per capita corresponds to a high ratio of concluded cases per euro spent. The figures have been divided into four quadrants. According to our expectations countries should appear in the lower left and the upper right corner. The upper left corner represent countries combining high CCE and strong filter mechanisms. In the lower right quadrant countries combining low CCE and weak filter mechanisms show up.
Figure 4.8a  CCE and concluded cases per 1.000 inhabitants (criminal law)

Figure 4.8b  CCE and concluded cases per 1.000 inhabitants (civil law)

Figure 4.8c  CCE and concluded cases per 1.000 inhabitants (administrative law)
Figure 4.8 shows that most countries are in the lower left and upper right quadrant of the figure. Countries, such as Sweden and The Netherlands, are countries with strong filter mechanisms. Only relatively severe cases come to court resulting in a low number of cases per euro spent on the judiciary system. In the contrary quadrant we find Poland, a country with a lack of filter mechanisms and a large number of concluded cases per euro spent. There are a few exceptions. In criminal law England/Wales and Italy show a large number of concluded cases per capita and a low number of concluded cases per euro spent. In civil law these bad practices are represented by Belgium, Italy and Austria. Good practices in civil law are Denmark, Finland and England/Wales.

Figure 4.9 depicts the results of combining CCE and appeals rate data. On the one hand, the idea behind this presentation of this figure is that in countries with large shares of appeals CCE is lower than in other countries, since appeal cases require more resources. On the other hand the share of appeals may also indicate low quality of the judiciary system in first instance and may be connected to low usage of resources.
No serious conclusions can be drawn from Figure 4.9. However, one might interpret that there is a correlation between the criminal and civil law appeals rate and CCE. High appeal rates diminish the performance of the judiciary system. For administrative law, there is no systematic coherence between the factors at all.

Figure 4.10 presents a breakdown of CCE and average personnel costs per employee in 2001. Earlier we stated that PPP is a poor proxy for wage differentials between countries. Therefore, CCE may be substantially affected by wage differentials that are not reflected in PPP.
Figure 4.10 shows a clear relationship between average personnel costs per employee and CCE for criminal and civil law. This evidence supports the idea that wage differentials are not taken into account properly.

Figure 4.11 presents the relationship between CCE and the number of other personnel per judge. On the one hand, the number of other personnel per judge indicates how much support judges receive. In a well-organised judiciary system good support may affect CCE positively. On the other a large number of other personnel may also reflect abundant overhead which may affect CCE negatively.
Figure 4.11a  CCE and number of other personnel per judge (criminal law)

Figure 4.11b  CCE and number of other personnel per judge (civil law)

Figure 4.11c  CCE and number of other personnel per judge (administrative law)
Figure 4.11 suggests a negative relationship between CCE and the number of other personnel per judge for civil law. A larger number of personnel per judge results in lower CCE. This indicates an over-utilisation of other personnel. However, this relationship is not substantiated by the figures for criminal and administrative law.

4.5 Concluding remarks

Performance measures reveal no clear picture. Poland enjoys very high overall performance, whereas Sweden has a generally low level of performance. All the other countries studied offer a mixed picture for different types of judiciary system components. Germany, for instance, has in criminal law the lowest number of concluded cases per employee, whereas it has a middle ranking in terms of civil law.

Shifts were also noted in the ranking of countries depending on the definition of performance. Differences between the number of concluded cases per employee and CCE occur due to varying average personnel costs per employee and the composition of personnel (i.e. judges and other personnel). The number of concluded cases per employee in The Netherlands, for instance, is about average, while CCE is very low. This can largely be attributed to high personnel costs per employee.

Substantial differences were discovered between diversions by the state attorney and the appeals rate. Both figures provide insight into the severity of cases. In countries where the prosecution authority has discretionary power, only serious cases come before the court. In countries with a high appeals rate, the completion of cases corresponds to extensive utilisation of resources.

One might expect that CCE and the number of concluded cases per capita coincide. Large numbers of cases per capita indicate weak filter mechanisms which in turn implies a low complexity of cases on average. However, there are a few exceptions. In Finland, Denmark and England/Wales, for instance, high CCE in civil law corresponds to low number of cases per capita. These countries can be regarded as ‘good practices’. On the other hand, Austria, Belgium and Italy show a correspondence between low CCE and high number of cases per capita in civil law.

From a simple inspection of coherence graphs one might conclude that there is a correlation between the criminal law appeals rate and CCE. For civil and administrative law, there is no systematic coherence between the factors at all. Further, other graphs show a clear relationship between average personnel costs per employee and CCE. Another graph also suggests a relationship between CCE and the number of other personnel per judge for civil law. A larger number of personnel per judge results in lower CCE. However, this negative relationship is not substantiated by the graphs for criminal and administrative law.

From the annotations mentioned before, it is quite clear that far-reaching conclusions about efficient judiciary systems are not possible. Aside from the data problems and differences in the services provided by the judicial administrations, performance differences cannot be extensively analysed. Aggregate data are not well suited for this
purpose. Chapter 3 discussed all the relevant aspects of performance differences and performance changes through time, such as economies of scale, economies of diversification, technical change and business approach. The latter term refers to issues such as the use of ICT, outsourcing of various tasks, the reduction of absenteeism, etc. Estimating the effects of these production process aspects on performance should preferably be analysed using disaggregated data, for example, at the district court level. Pooling these micro-data for a number of countries may not only provide much better insight into individual (i.e. district court) factors underlying performance, but also into judiciary system factors. From these micro-data, it is possible to determine and compare best practice technologies in various countries. By selecting a few types of courts, the comparison will be based on a more homogeneously defined set of services. The previous discussion shows that pooling micro-data for various countries is a feasible approach. A number of countries – including Sweden, Denmark, Germany, and The Netherlands provide excellent district court level data.

A less far reaching approach is to select two or three countries and investigate these systems in depth. Such study is now being conducted by Tak for Denmark. An earlier study was done by Tak and Fiselier (2002)

In the perspective of tuning various European judiciary systems the availability of comparable data is a *conditio sine qua non*. This study includes some leads for improvement in data collection. The improvement in data collection and fine tuning of definitions could be supported and facilitated by the chairmanship of The Netherlands in the second half of 2004.
Appendix A Technical report
A1 Introduction

This appendix contains the technical substantiation of the calculations in Chapter 4 of the report. The key aspects in Chapter 4 are labour productivity (LP), judges’ productivity (JP) and concluded cases per euro spent (CCE). These are defined as follows:

\[
LP = \frac{\text{cases concluded}}{\text{utilisation of personnel}}
\]

where utilisation of personnel is measured in full-time equivalents.

\[
JP = \frac{\text{cases concluded}}{\text{utilisation of judges}}
\]

The number of judges working on cases is again measured in full-time equivalents.

\[
CCE = \frac{\text{cases concluded}}{\text{total cost}}
\]

The total costs were converted into ‘Dutch’ euros via purchasing power parities. For countries that do not use the euro, we used currency exchange rates.

These equations were applied to three different sectors of the judiciary system, i.e.:
- criminal law;
- civil law;
- administrative law.

Furthermore, a number of indicators were derived from general quantities, such as the size of the population, the gross domestic product and total tax revenues. These were all obtained from the OECD. The other variables required the help of ‘local’ sources, which is why each chapter in this technical report contains descriptions of the calculations for a specific country. Each chapter is divided into a number of sections:
- sources;
- calculation of production information;
- calculation of personnel information;
  - calculation of information on judges;
  - calculation of information on other personnel;
- calculation of expenditures;
  - calculation of personnel costs;
  - calculation of non-personnel costs.

In addition to this information, we also looked at case processing times, but since we were unable to construct comparable figures, this variable was not examined further.
A2 Austria

A2.1 Sources

Two primary sources were used:

- data from Statistik Austria;
- data found on the website of the Ministry of Justice.

There are minor differences between the two sources where production data are concerned. Incidentally, the data from Statistik Austria were supplied by the Ministry. The data concern 2002. Data on production for 2001 are available, data on personnel are not.

A2.2 Production

General

Four levels can be distinguished (BG, LG, OLG, OGH)\(^6\). LG is the only type of court that handles both first instance cases and appeal cases. BG only handles first instance cases, OLG and OGH only appeal cases. The statistics are broken down per type of court and distinguish between first instance and appeal cases.

Civil law

Civil production was based on the number of civil court cases, labour law and employment law cases and the Mahnsachen (in so far as the decision is legally binding). The vast majority of production concerns civil court cases (approximately 95 per cent). Not included in civil production were the non-contestable cases (Table 34.06) such as Exekutionssachen (attachment) and Grund-/Firmenbuch (land registry). Production in the civil sector is very high because there are many cases that are handled at the lowest level. The number of cases per judge is probably as high as it is because of the many simple cases included in the data.

Criminal law

The numbers for first instance cases as they are listed in the statistics differ from those of the Ministry of Justice. This report uses the figures from the statistics office.

Administrative law

The statistics only distinguish between Verwaltungsgericht and Verfassungsgericht, whereas the Ministry’s overview distinguishes four layers of ‘Justizverwaltungssachen’. This report uses Verwaltungsgericht and Verfassungsgericht. Given the fact that the administrative law data are quite uncertain, we decided to disregard them.

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\(^6\) Bezirksgericht, Landesgericht, Oberlandesgericht and Oberster Gericht.
A2.3 Personnel

Personnel figures were obtained primarily from the Ministry, although they had to be adapted. The data were aggregated into a group for judges and a group for other personnel (Rechtspraktikanten were excluded, shadow data show that this was an obvious choice). Next, the data were divided among the four levels (BG, LG, OLG, OGH) based on the 2000 division. Finally, these data were divided on the basis of a second division as made in 2000 into civil, criminal and administrative for BG and LG. This final step also took into account an item ‘other’ that was not included in production (civil) either (inputs and output are exactly the same). For the OLG and OGH, judges were classified as criminal, civil or administrative based on the number of cases concluded. Division data for 2000 were derived from a presentation held by the Ministry.

A2.4 Expenditures

It was difficult to find proper data on expenditures. The source that was used for personnel data (Ministry website) lists different budgetary details for the judiciary system as a whole. Based on shadow data (efficiency site of the Austrian government), we finally decided to use an amount of EUR 521 million, a figure that is corroborated by a simple calculation in which the total costs of the judiciary system are decreased by the costs of Justizanstalten (institutions). The costs were divided on the basis of the number of cases.
A3  Belgium

A3.1  Sources

The officially published sources are:


A3.2  Production

Data refer to the number of cases that have been filed, are pending and have been concluded for each type of court, such as subdistrict courts, police courts, commercial courts, etc. Details are known at court level, aggregated information at district and national level is also presented.

The data on first instance cases and appeal cases can be distinguished on the basis of the type of court. Belgium has what they refer to as courts of appeal. All cases dealt with in these courts are considered appeal cases.

The Belgian statistics only distinguish civil and criminal cases. No meaningful distinction can be made according to allocation of cases either. Labour courts, for instance, handle both civil and administrative cases, which may include cases on dismissal conflicts as well as on the granting of social security benefits.

A3.3  Personnel

Official statistics do not include personnel information. At our request, the personnel affairs department of the Directorate-General for the Judiciary of the Ministry of Justice provided extensive information on the number of personnel, categorised according to the ranks and positions per type of court. This overview also includes data on the number of full-time and part-time employees and the number of permanent appointments and employees working on a contract basis. Incidentally, these are estimates, not the actual utilisation of personnel resources.

The overview does not include data on the total number of personnel in terms of full-time equivalents. The number of full-time equivalents was calculated, therefore, by aggregating the number of full-timers and part-timers, with a part-timer position representing two-thirds of a full-time position.
A3.4 Expenditures

The (estimated) personnel expenditures were also provided by the above-mentioned department of the Ministry of Justice. Costs can be itemised according to ranks and positions. However, data on material use and accommodation are lacking at this level and can only be deduced from national statistics, which show that the material costs represent approximately 35 per cent of personnel costs, so total costs per type of court were calculated by increasing personnel costs by a factor of 1.35. The figures provided on personnel costs are exclusive of the employers’ social security premium contributions, etc. Upon inquiry, it appears that this is an average surcharge of 25 per cent, which was also taken into account in the figures.
A4 Denmark

A4.1 Sources

There are two sources for Denmark: the statistics office and the annual report of the ‘domstole’. We used the report, as it is more complete than the data from the statistics office. The data concern 2002 and do not include the Faroe Islands and Greenland. In addition to the annual report, we used an overview of the number of judges per court (also available from the domstole website).

A4.2 Production

Denmark has no administrative law. There is a distinction between criminal law and civil law, which incorporates maritime and commercial law. Expenditures indicate that this is logical, as less maritime and commercial costs only represent 2 per cent of criminal law costs.

The lowest level (‘byretter’) also registers the following cases: bailiff, partition of property, notarial and land registry (Skiftesager, Fogedsager, Tinglysning, Notarial). Production does not include these cases, nor the resources used for this production (see personnel and costs).

Appeals are based on the cases brought before higher courts (a small portion of cases, an estimated 1 to 2 per cent, can be brought before a higher court even in the first instance). There is a significant discrepancy between the annual report and ‘Denmark statistic’, but this is primarily the result of definitions used (annual report: cases concluded versus cases concluded in the first instance).

A4.3 Personnel

Judges

The figures in the annual report distinguish between legal personnel, office personnel and other personnel. To determine the number of judges, we used a second source (see sources). We assumed that the part-time factor is 1. Legal personnel (and, consequently, total other personnel) is balanced with the number of judges.

Data for the lowest court (‘byretten’) were obtained from table 1, appendix 4 (2002 Annual Report, page 75). It was assumed that maritime court and commercial court judges were included in these data. The table distinguishes between: criminal, civil, bailiff, auctions, land registry and other not allocated (i.e. lawyers and office personnel). In addition to non-allocated legal and office personnel, there is a third segment of non-allocated personnel (main text, table I.3.16, page 31). The item ‘legal personnel and non-allocated office personnel’ and the item ‘non-allocated general’ were allocated to civil and criminal and other specified items (which, incidentally, are not discussed) on the basis of the proportions in personnel composition.
For the *Landsretterne*, allocation to civil and criminal was based on weighted production (appendix 3, page 73 lists the weights for criminal and civil cases). For judges, the second source was used, assuming that the part-time factor is 1.

For the high court (Højesteret), allocation to civil and criminal was based on time spent before the supreme court (table I. 3.13, page 22). For judges, the second source was used, assuming that the part-time factor is 1. It was also implicitly assumed that time that was not directly allocated could be allocated to criminal and civil proportionally.

### A4.4 Expenditures

Denmark uses krone instead of euros. Sometimes, amounts have to be converted to euros using the exchange rate, as was the case for expenditures as a percentage of GDP, sometimes using the purchasing power parity. The exchange rate was based on the rate on 1 January and the rate on 31 December divided by 2. Purchasing power parities were based on the standard pattern.

Information on costs in Denmark is available at a detailed level, viz. per type of case and court (cross table; appendix 6, table 1, page 83). As a result, there also may be costs that relate to a certain type of case but cannot be allocated to a court. Conversely, court costs that cannot be allocated to a certain case are also shown (court overhead costs). Direct costs were allocated according to court and type of case (criminal and civil) and overhead costs according to court. The overhead costs of the courts were allocated to criminal and civil based on cost shares. Costs according to type of case not allocated to courts were not considered. Civil, for instance, does not include the costs of *fri proces* counsel (free legal aid).

Costs in Denmark are low compared to other countries, as they are broken down to an extremely detailed level. What cannot be allocated to criminal or civil was not included (and is, incidentally, not included in production either). Likewise, what cannot be allocated to the courts is not included either. The amounts not included are substantial. Expressed in percentages, 44 per cent was allocated, 33 per cent are cases that are neither criminal nor civil, and 23 per cent are costs that are not allocated to a court (primarily free legal aid). It should be noted that 33 per cent of the costs that are not criminal and civil are not included in production and that the number of cases per € 1,000 is a net figure.
A5 England/Wales

A5.1 Sources

In the United Kingdom, England/Wales, Scotland and Northern Ireland each have their own legal system. These legal systems differ so dramatically that we opted to only analyse data for England/Wales. Organisationally, the judiciary system in England/Wales comprises three parts:

- the Court Service;
- Magistrates’ Courts;
- House of Lords.

The data for these separate parts have to be obtained from different sources. The House of Lords is the highest court of appeal, also for Scotland and Northern Ireland.

Data on The Court Service come from three sources:

- the Court Service Annual Report 2001-2002;
- the Court Service Business Plan 2001-2002;

The first two reports refer to the financial year running from April 2001 to March 2002. The business plan was used because it is more detailed at some points. Statistics on the judiciary system concern production in the 2001 calendar year.

Data on the Magistrates’ Courts were also obtained from two sources:

- Magistrates’ Courts Business Report 2001-2002, Annual Report (Department for Constitutional Affairs);
- criminal Statistics 2001 (Home Office).

Here, too, the first report covers the financial year from April 2001 to March 2002 and the criminal statistics cover production in the 2001 calendar year, including that of the administration of justice in the Magistrates’ Courts.

For the purpose of future research, we would like to point out that The Lord Chancellor’s Department has become the Department for Constitutional Affairs.

A5.2 Production

Data on cases concluded are given for each type of court and, for higher courts, per division. We used the following differentiation according to criminal, civil and administrative:

- Criminal: Magistrates’ Courts, Crown Court, Administrative Court within the High Court, the Criminal Division of the Court of Appeal and the Criminal Division of the House of Lords.
- Civil: the County Courts, Family Proceedings Courts, the Civil Division of the Court of Appeal, the Civil Division of the House of Lords and the other divisions of the
High Court: Bankruptcy and Companies, Queen’s Bench, Chancery Divisions, Divisional Court in so far as civil, Admiralty and Commercial Court, Family Division, Supreme Court Office.

- Administrative: Tribunals, Divisional Court in so far as it concerns appeal cases from tribunals.

Production data were included as follows.

**Criminal law**

The Magistrates’ Courts process criminal cases as well as cases that in The Netherlands would be considered civil law (guardianship, equity law) or administrative law (equity law, which primarily concerns the right to use land). However, several publications estimate that 95 per cent of all cases before Magistrates’ Courts are criminal cases, which is why we included the Magistrates’ Courts entirely in the criminal law sector.

Both the cases and the proceedings of the Magistrates’ Courts and the Crown Court were included. Cases are jury trials, which are standard for indictable offences. Proceedings are cases that are handled by a court, but often not by a judge, as is standard for summary offences. All cases and proceedings before the Magistrates’ Courts were considered as first instance cases. The statistics of the Crown Court distinguish between jury trials (cases) in the first instance and appeals against decisions by Magistrates’ Courts. All Crown Court proceedings were considered first instance cases.

The Administrative Court’s task is ‘the supervisory and appellate jurisdiction overseeing the legality of decisions and actions of inferior courts, tribunals, local authorities, Ministers of the Crown and other public bodies and officials’7. However, all reports include this court in the criminal sector, and we decided to do the same.

The following concluded cases (disposals) of the Criminal Division of the Court of Appeal were included: ‘dealt with by full court’ and ‘considered by single judge’. Not included are cases handled as ‘applications renewed’, as the cases themselves have not changed, only the way in which they are processed.

**Civil law**

For the civil sector, we considered cases of the following divisions as first instance cases:

- County Courts;
- Family Proceedings Courts (Children Act and adoption cases);
- Queen’s Bench and Chancery Divisions of the High Court;
- Admiralty and Commercial Court of the High Court;
- Family Division of the High Court;
- Supreme Court Offices.

The Supreme Court Offices handle cases for individuals that cannot stand up for themselves, such as the mentally handicapped and, in exceptional cases, children. Unlike the name suggests, this is not a high court of justice.

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7 The Court Service Annual Report.
Cases handled by the following courts were considered appeal cases
- Bankruptcy and Companies Court of the High Court;
- Appeals from County Courts to the Divisional Court of the High Court.

This differentiation into cases in the first and second instance was based on the available data from the Court Service reports and descriptions in these reports. As it later turned out, the numbers of first instance cases and appeal cases were listed exactly in the Judicial Statistics. It is possible, therefore, that the actual percentage of appeal cases differs from the percentage mentioned in this report.

For the County Courts, both the claims handled by a judge and the ‘claims disposed by default’ were included. These settlements are civil claims brought before the court. Claims are automatically awarded if the other party does not object within a fortnight. These claims by default represent half of all civil cases processed. We also included all decisions, decrees etc., opting for decrees nisi made (provisional decisions) in divorce cases – the final decisions were not included a second time – and for orders made, exclusive of orders made pending further orders.

Of the Bankruptcy and Companies Court and the Queen’s Bench Division, only filed cases are known and were used. All cases handled were included.

Administrative law
The cases of all tribunals were included in the administrative sector. An exception could have been made for the Employment Appeal Tribunal (1,542 cases concluded in 2001) but this number is small, especially in relation to the number of civil cases, but also in relation to the number of other cases concluded in the tribunals (92,450) and that clearly belong in the administrative sector.

The appeals of the tribunals in the High Court were also included in the number of administrative cases.

A5.3 Personnel

As regards personnel, certain numbers of judges could be allocated to a sector directly, the remainder was allocated on the basis of the number of cases.

Criminal law
The number of lay magistrates was converted into full-time jobs by using the expected number of half-day sessions as a basis (35 according to www.dca.gov.uk/magist/faqs.htm), which was then related to an arbitrary standard of 200 days. Added to this were the numbers of district judges and deputy district judges employed by the Magistrates’ Courts. For these professional judges, a full-time ratio of 90 per cent was assumed.

Civil law
The numbers of Circuit Judges, District Judges, Recorders and Deputy District Judges were all allocated to the civil sector. A full-time ratio of 90 per cent was assumed.
Administrative law
Judges employed by tribunals were included in the administrative sector. This number was multiplied by the assumed full-time factor of 90 per cent.

Subdivision of other judges into criminal, civil, and administrative law
The numbers of High Court Judges (106 in the High Court), Lord Justices of Appeal (35 in the Court of Appeal) and the Heads of Division (4 in the House of Lords) are determined by law. These were subdivided into the criminal, civil and administrative sectors in proportion to the total number of cases processed by the court. In hindsight it would have been better to use the division of appeal cases as a basis, for which we later found the exact numbers, and certainly to disregard the claims disposed by default in the County Courts and the proceedings in the Magistrates’ Courts. However, these numbers are so small that the effect is negligible. These numbers, too, were weighted with a full-time factor of 90 per cent.

Other personnel
Other personnel is known for all separate courts. Staff personnel in the High Court is divided in proportion to the total number of professional judges (i.e. exclusive of lay judges in the Magistrates’ Courts).

A5.4 Expenditures
Magistrates’ Courts
It is essential that data on the expenditures of the Magistrates’ Courts be taken from the annual report of the Magistrates’ Courts instead of from the national budget, as 20 per cent of the general grants is awarded by local authorities. Moreover, income from reserves (Criminal Justice Service Reserve and Netting off Reserve) was also included.

The personnel expenditures of the Magistrates’ Courts include the ‘staff related costs’ and expenditures for magistrates, which primarily concerns their training.

The Court Service
Court Service expenditures are justified per division. As divisions were allocated in their entirety to one of the sectors criminal, civil or administrative, the same was done for expenditures. Expenditures in the accounts are exclusive of:

- notional staff costs;
- depreciations;
- interest payable.

Notional staff costs are pension and benefit payments. These are paid from general funds. The annual accounts list the notional employers’ contributions to social security separately. We added the notional staff costs and the interest payable to the expenditures in the accounts. Even though notional staff costs are not direct expenditures, the figures for England/Wales are made comparable to those in The Netherlands by including them, since in The Netherlands the government pays the employers’ premiums. Depreciations
are also listed separately, but we did not include these because the budgets and annual accounts of many other countries do not state depreciations (implicitly or explicitly).

Personnel expenditures of the Court Service are staff costs (including judges as well as other personnel), increased by notional staff costs.

**Missing expenditures**
Expenditures for the House of Lords and the Family Proceedings Courts are missing. As the cases processed in these courts are minor, the amounts involved may be minor, too.

**Pounds and euros**
For the following indicators, judiciary system expenditures were converted into euros using purchasing power parities:
- expenditures per capita;
- personnel expenditures per full-time job;
- cases concluded per € 1,000 spent.

Tax revenues and Gross Domestic Product data (GDP) were obtained from the OECD. Using exchange rates, these figures were converted back into pounds for the following indicators:
- expenditures in pounds as a percentage of GDP;
- expenditures in pounds as a percentage of tax revenue.

Next, both figures, which apply to the UK as a whole, were corrected in proportion to the population (share of England/Wales in total UK) to achieve an estimate of the GDP for England/Wales.
A6 Finland

A6.1 Sources

The data are for 2002. Three sources were used:
- The output data from the national statistics office (can be downloaded for free from the Internet and published in the 2002 statistical yearbook for the judiciary (OIKEUSTILASTOLLINEN vuosikirja 2002).
- Information on personnel in the judiciary sent by the Ministry of Justice.
- The Ministry of Justice’s annual report.

A6.2 Production

Output data are freely available on the Internet.

Civil law
For civil law, we used the number of civil cases, which is a slightly larger collection than the number of civil law cases. Civil cases also include petitions. We assumed that the appeal court (‘hovioikeudet’) and the highest court (‘korkein oikeus’) only handle appeal cases.

Criminal law
Data on the number of cases concluded are freely available on the Internet. We assumed that the appeal court (‘hovioikeudet’) and the highest court (‘korkein oikeus’) only handle appeal cases.

Administrative law
Administrative law in Finland is organised in separate courts (‘Hallinto-oikeus’ and ‘Korkeimman hallinto-oikeuden’). Data on the number of court cases are freely available on the site of the Finnish statistics office. We assumed that the Korkeimman hallinto-oikeuden only handle appeal cases.

A6.3 Personnel

Data on personnel in Finland was based on two sources. Firstly, data supplied directly by the Ministry, and secondly, data from the annual report (Chapter 8, Table 7). The data from the Ministry are differentiated according to judges and other personnel, but data for the highest court are lacking. Data from the annual report are total personnel numbers according to level of the court. We primarily used the data from the Ministry, but used the annual report for data on the highest courts. Based on the proportions at the lower level, the totals were divided among judges and other personnel (for criminal and civil: hovioikeudet, and for administrative law: hallinto-oikeudet).
The data distinguish between criminal and civil on the one hand, and administrative law on the other. Criminal and civil personnel are divided over these two based on the number of cases.

A6.4 Expenditures

No direct, accurate data on expenditures are known, so these were calculated using two methods. Firstly, expenditures were calculated by taking 37 per cent (annual report, Chapter 8, Figure 24) of the budget for the Ministry of Justice. Secondly, expenditures were calculated on the basis of personnel costs. Personnel expenditures can be calculated accurately based on the number of hours, average hourly wage and a surcharge for social security premiums (23.8 per cent) (annual report, Chapter 8, table 8). Personnel expenditures are compared with expenditures calculated using the budget, a comparison that shows that the calculation based on the budget is plausible.
A7 France

A7.1 Sources

The officially published sources are:


An interesting explanation of French justice statistics can be found in:

A7.2 Production

Data generally concern the number of cases per sector (criminal, civil and administrative law). The data were published at national level and broken down into types of court: Tribunaux administratifs, Tribunaux de commerce, Tribunaux de travail, Conseils de prud'hommes, Tribunaux d'instance, Tribunaux des affaires de sécurité sociale, Tribunaux pour enfants, Tribunaux de police, Tribunaux de premiere instance, Tribunaux de grande instance, Tribunaux superieurs d'appel, Tribunaux correctionels, Cours d'assises, Cours administratifs d'appel, Cours d'appel, Conseil d'état, Cour de cassation.

It is also possible to distinguish between first instance cases and appeal cases in the statistics. This means we have information per type of court per type of case per type of instance.

A7.3 Personnel

Personnel data are not available from the official statistics, although the Ministry of Justice does publish national totals for the number of judges and other personnel, without splitting this up into type of court or instance. The totals that are presented only distinguish between pénale et civile, on the one hand, and administrative, on the other. First, personnel are divided between pénale and civile based on the number of cases concluded. The resulting numbers are expressed in full-time equivalents.

By definition, then, the number of cases concluded per judge is the same for criminal law and civil law.
A7.4 Expenditures

No direct figures are available on the expenditures for courts, types of court and instance, although the Ministry of Justice does present budget data for the total of the judiciary system, indicating which portion is reserved for the courts (=36.45 per cent). From the budget figures, it is possible to derive which portion is earmarked for personnel, material and accommodation (=26 per cent). This enabled us to distinguish between personnel and non-personnel expenditures. The expenditures can be split into pénale and civile on the one hand, and administrative, on the other. Costs of pénale and civile are split on the basis of the number of judges.
A8 Germany

A8.1 Sources

By far the most important source is the Statistisches Bundesamt, which collects data on the individual federal states and presents these in national total figures. Most figures, including the number of judges, production and costs, can be found in the Statistisches Jahrbuch. More detailed figures on numbers of personnel can be found in the Statistisches Bundesamt’s Rechtspflegestatistik. The publication ‘Zahlen aus der Justiz’ from the Bundesministerium der Justiz is based on figures from the Statistisches Bundesamt. This latter publication offers some additional details on personnel and also includes case processing time information.

The breakdown of figures according to the different sectors of the judiciary system, particularly criminal and civil, requires additional information that is only available at the level of the individual federal states or even the individual courts. The breakdown is based on data for the federal state of Hamburg and its individual courts, the deciding factor being the availability of all required information, i.e.:

- Case allocation plans (Geschäftsverteilungspläne) of eight individual Amtsgerichte, the Landgericht and the Oberlandesgericht for the differentiation of judges according to criminal and civil.
- The 2002 Haushaltsplan for cost breakdown.

A8.2 Production

Details on the number of cases concluded (Erledigungen) were obtained from the Statistisches Bundesamt. The statistics already differentiate between Straf, Zivil, Familie, Verwaltung, Arbeit, Sozial, Finanz and the Bundespatentgerichtshof. Cases before the Familie court and the Arbeitsgericht were allocated to the civil sector, those before the Verwaltung, Sozial, Finanz en Bundespatentgerichtshof courts were included in the administrative sector. The numbers of cases in Verfassungsgericht (constitutional law) and Disziplinargericht (military law) are not included in the standard statistics, nor have we considered them. Incidentally, the distinction between criminal and civil is not the same in Germany as it is in The Netherlands. Building land cases, for instance, are covered by administrative law in The Netherlands, while Baulandsachen in Germany are Zivil cases. For Germany, we used the German distinction of cases according to criminal and civil.

The statistics do not include the following three categories, which are only brought before Amtsgerichte:

- Mahnsachen. These are simplified proceedings handled by a senior clerk (Rechtspfleger) or, increasingly often, by computer, which is often located in one of the court buildings of a federal state. Although the judiciary and the Public Prosecution Service share the same building, Mahnsachen are allocated to the judiciary as they were originally handled that way. Mahnsachen include traffic offences, for instance. However, the footnote in the statistics that Mahnsachen are not
included is made under Zivilsachen. Consequently, the estimated number of Mahnsachen was allocated entirely to the civil sector. We have not been able to find an annual publication of the number of Mahnsachen, only an indication from a publication by the Bundesministerium des Innern. This figure for 2002 totals 8.2 million cases.

- Bußgeldverfahren. If a criminal case is disposed of by imposing a fine, a new case is opened that will be concluded once the offender has paid the fine. The publication ‘Zahlen aus der Justiz’ shows that this involved 367,662 filed cases (Neuzugänge) in 2000. We have not included these cases. Freiwillige Gerichtbarkeit (12 million Grundbuchsachen, 1.6 million Vormundschaftsangelegenheiten) were not included either.

The statistics distinguish first instance cases, so we did not have to make any assumptions to further specify them.

A8.3 Personnel

Judges

Details on personnel were obtained from the Rechtspflegestatistik of the Statistisches Bundesamt. These are year-end figures. The above statistics are published in even years, which means that the figures for 2001 are averages of the year-end figures for 2000 and 2002. Like the numbers of concluded cases, these data do not include constitutional law and military law. Both the 40 Richter and the 64 technische Richter (as listed in the publication ‘Zahlen aus der Justiz’) of the Bundespatentgerichtshof were included.

A complication is that the numbers of judges are only known according to type of court. Using the case allocation plans (Geschäftsverteilungspläne), a distinction could be made between criminal court judges and civil court judges for the ordentliche Gericht (Amtsgerichte, Landgerichte, Oberlandesgerichte, Bundesgerichtshof) for 2003. The Bundesgerichtshof’s allocation plan is presented in numbers of persons and in terms of full-time jobs. For persons serving in more than one section (e.g. both criminal section and civil section), the prioritised section is presented. In the allocation plans of the ordentliche Gerichtshofe in Hamburg, persons working for both the criminal and the civil sections are allocated to each sector for 50 per cent.

Moreover, the Rechtspflegestatistik of the Statistisches Bundesamt does not distinguish between personnel in the Bundesgerichtshof and in the Bundespatentgerichtshof. As this is important for breakdown of the numbers of judges according to criminal and civil based on the Bundesgerichtshof’s case allocation plans, we used the figures for 2002 from Zahlen aus der Justiz.

A factor of 90 was used for conversion of the numbers of judges into full-time equivalents for all courts. This approximates the figures for the Bundesgerichtshof and

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those included in various publications by the federal states. The full-time jobs factor is often slightly higher at 92 to 94 per cent.

Lay judges (Schöpfenrichter in criminal cases at the Amtsgerichtshöfe, Handelsrichter in commercial cases in the Landgerichte and the Oberlandesgerichte, and various Ehrenamtliche Beisitzer in the Sozialgericht, the Arbeitsgericht, the Finanzgericht and specific civil sections) were not included, as they never pronounce judgements independently but only attend court sessions. In terms of numbers, these lay judges far exceed the professional judges: there are 60,000 Schöpfenrichter alone, as opposed to over 20,000 professional judges. Converted into full-time jobs, however, their role is limited. Schöpfenrichter, for instance, are expected to assess six criminal cases a year.

Other personnel
The personnel numbers from the 2002 Statistisches Jahrbuch are presented according to full-timers and part-timers according to Gebietskörperschaften (Bund and Länder) and according to Aufgabenbereichen, with the Rechtsschutz being most relevant for the purposes of this project. Rechtsschutz comprises the judiciary, the Public Prosecution Service and the prison system. The figures are those for 30 June 2000, as the Statistisches Jahrbuch 2003 was not published until December 2003 and could not be used for this study.

If we assume that part-timers work 50 per cent of a full-time job, the implied part-time factor of all employees in the ‘Rechtsschutz’ estimate is 92 per cent for the country as a whole and 93 per cent for the federal states.

First of all, based on data from Hamburg, the numbers of full-time jobs of all personnel employed by the Länder were corrected for personnel working for the prison system. Two methods were used. Firstly, based on a distribution of personnel costs. This produces an underestimation of the total number of prison personnel, as, according to the Rechtspflegestatistik, approximately 10 per cent of the Gerichtsvollzieher and Gerichtsvollziehungsbeamten is employed by Amtsgerichte. After adding these numbers to prison personnel, the prison system employed an estimated 58,800 full-timers in 2001. Secondly, the number of judges in Hamburg was estimated on the basis of the number of personnel in the Hamburg prison system (via internet publications). Extrapolating this ratio to the national number of judges, there were some 60,500 full-time jobs in 2001. We used the first estimate.

Subsequently, total personnel exclusive of the prison system was divided into judiciary and Public Prosecution Service. As both are housed in the same building, this division was made on the basis of the ratio between judges and public prosecutors. ‘Other personnel’ in the judiciary was calculated by deducting the number of judges from the above estimate. Next, other personnel was divided according to sector, starting with the administrative law sector. The share of other personnel in the Finanzgerichte, Sozialgerichte and Verwaltungsgerichte in total other personnel is known for the urban state of Hamburg. This proportion was applied to total other personnel.

The remainder of other personnel (in Arbeitsgerichte and ordentliche Gerichte) was corrected for personnel in the Freiwillige Gerichtbarkeit, mostly registration cases. These
cases are not handled by judges, and personnel responsible for Freiwillige Gerichtbarkeit should, therefore, not be included in the judiciary system. According to a strategic personnel allocation plan of the court of Hamburg Mitte, which co-ordinates personnel policy for the entire urban state of Hamburg, approximately a quarter of all personnel in the ordentliche Gerichte of the urban state of Hamburg is responsible for the Freiwillige Gerichtbarkeit. As such, another 25 per cent was deducted from the above estimate of total personnel. In this correction, we decided not the separate other personnel in the Arbeitsgerichte. The corrected remainder of other personnel was broken down into criminal law and civil law in accordance with the numbers of judges in both sectors.

A8.4 Expenditures

General
Details on the expenditures incurred for administration of justice in 2001 were estimated on the basis of the data in the 2002 Statistisches Jahrbuch. In this publication, total expenditures are known up to and including 2001, but the differentiation into Aufgabenbereichen (and Gebietskörperschaften: Bund and Länder) is given for 1999 only. The following two Aufgabenbereichen are of importance:

- Ordentliche Gerichte und Staatsanwaltschaften;
- Sonstiger Rechtsschutz.

Based on the proportion of judges in the ordentliche Gerichte and the number of public prosecutors we divided expenditures for Ordentliche Gerichte und Staatsanwaltschaften into judiciary and public prosecution service. The remainder of Rechtsschutz comprises:

- Verfassungsgericht (constitutional justice);
- Disziplinargericht (military justice);
- Justizvollzugsanstalten (prison system);
- Versorgungsbezüge (pensions and certain benefits).

Based on the extremely detailed cost itemisation of Hamburg, these costs can all be separated, except for the Disziplinargericht. Military justice expenditures are assumed to be negligible. The correction for the prison system was made for all expenditures (both of the Länder and of the Bund).

This produced the ‘direct expenditures’ (exclusive of pensions and benefits) for 1999 for regular judicature (criminal + civil) and for specific judicature (administration, social, tax, labour). To estimate the direct expenditures for 2001, we assume the growth rate of these expenditures for the 1999 – 2001 period to be equal to the growth rate of the total expenditures.

Personnel expenditures
Personnel costs include expenditure incurred for personnel and what are known as Versorgungsbezüge. Personnel-related expenditures are inclusive of expenditures for lay judges (Ehrenamtlich Tätige). The Versorgungsbezüge are pensions (Ruhegehalt, Hinterbliebenenversorgung) and Unfallfürsorge (indemnification of nursing costs and disability pension in the event of occupational accidents).
The above pensions and benefits are budgeted and there is no payment into a general fund. The state is not required to pay employers’ premiums on wages. Moreover, civil servants do not pay taxes and social premiums on their wages, i.e. their gross wages equal their net wages.

To make personnel expenditures for the German judiciary comparable to those in The Netherlands, we assume that the expenditures for *Versorgungsbezüge* are equivalent to employers’ premiums and that direct personnel expenditures (exclusive of *Versorgungsbezüge*) must be increased by fictitious employee costs in line with the market sector in Germany.

Expenditures on *Versorgungsbezüge* are divided over *ordentliche Gerichte* and the respective *Fachgerichte*, constitutional justice and the prison system in proportion to direct personnel expenditures. It was implicitly assumed that the ratio between retired civil servants and working civil servants is the same in all courts and in the prison system.

*Other expenditures*

Other expenditures on the judiciary were calculated as the difference between total expenditures and expenditures on judiciary personnel (excluding the fictitious employee costs). Actual total expenditures are exclusive of the *Zweckbestimmungen*, the money earmarked for investments during the year to come.

*Breakdown according to sectors*

Total expenditures, including fictitious employee costs, on administrative justice were divided in accordance with the share of the expenditures by the *Finanzgerichte*, *Sozialgerichte* and *Verwaltungsgerichte* in the total of expenditures on justice. The remainder of expenditures was decreased by 25 per cent to correct for the *Freiwillige Gerichtsbarkeit* and was subsequently divided into criminal and civil in proportion to total personnel.
A9 Italy

A9.1 Sources

Plenty of data can be found on production. The data used were obtained from the Italian statistics office. Data from the Ministry were used as shadow information. Comprehensive tables can be downloaded from the site of the statistics office.

Hardly any information can be found on input data. Almost all information on the Italian situation is written in Italian. Only one single page of information is available in English. The World Bank’s site also contains data, but these were obtained from the Ministry of Justice.

A9.2 Production

For production, we used the number of cases concluded (an important aspect in Italy, where cases may run for several years). Moreover, it was assumed that cases before the corte di appello are appeal cases.

**Civil law**

Cases from the following judicial institutes were included:
Not included were: Tribunale per i minorenni and Adozione.

**Criminal law**

Cases from the following judicial institutes were included:
Corte di Appello, Corte di Assise di Appello, Corte di Assise, Tribunale e relative sezioni, Gip presso il Tribunale and Giudice di pace.
Not included were:
Sezione Minorenni per la Corte di Appello, Procura Generale, Tribunale per i minorenni, Procura presso il Tribunale per i Minorenni, Gip presso il Tribunale per i Minorenni, Gup presso il Tribunale per i Minorenni and Procura presso il Tribunale.

**Administrative law**

Based on data from the Italian statistics office:
- Movimento dei procedimenti presso i Tribunali Amministrativi Regionali (T.A.R) per regione e per materia - Anno 2001.
- Movimento dei procedimenti presso il Consiglio di Stato ed il Consiglio di Giustizia Amministrativa per la Regione Siciliana in grado di appello, per regione, per materia e per decisioni pubblicate - Anno 2001.
A9.3 Personnel

Only total personnel figures are available: the total number of judges, total number of justices of the peace and total number of other personnel. The most recent data are for 2002. We used the data from the Ministry of Justice (key figures), which are the most recent figures and match other figures from the Ministry. It remains to be seen, however, whether these figures do not underestimate or overestimate personnel numbers (to what extent do personnel and production overlap).

We decided against a further division according to court level based on a second source, as that division would be artificial given the different levels for criminal law and civil law. Justices of the peace were allocated, as there is a clear distinction between criminal and civil for these judges. Personnel were divided into criminal, civil and administrative based on the number of cases.

A9.4 Expenditures

Costs are available as total figures (Ministry of Justice) and concern 2000. The total costs are corrected for the prison system. The World Bank’s site also presents a figure on costs. These figures are comparable, except that our figure was corrected for the prison system.

Costs were divided into criminal, civil and administrative based on the number of cases.
A10 Poland

A10.1 Sources

For Poland, two publications were used: ‘ewid say 2002’ and personnel data from the Ministry of Justice downloaded from the Internet. Moreover, emails (in Polish) were sent to the Ministry of Justice and the Council for Higher Administrative Law. Finding data on administrative law proved a difficult task. Little is known about the differentiation of resources into criminal and civil.

A10.2 Production

We assumed that the district courts handle first instance cases and that higher courts (regional and national) only handle appeal cases.

Civil law
The following cases were included for civil:
- normal (NB: this includes property, representing approximately 2 million cases);
- labour law cases;
- commercial law cases;
- family law cases;
- social security cases.

It should be noted that a great many cases not included in production in other countries were grouped under the heading of civil court cases. This has considerable impact (the 2 million property cases represent over 30 per cent of all cases).

Criminal law
No particulars.

Administrative law
There were 70,367 administrative law cases in the 10 courts and the supreme court. This information was supplied by the Polish Council for Administrative Law. Social security cases, which have now been classified under civil, could be classified as administrative as well.

A10.3 Personnel

For Poland, data on judges are available at three different levels (district, regional and national). Data on other personnel is available at national level and, jointly, for district and regional. Other personnel for district and region were divided according to district and region based on the number of judges. Next, the number of judges and other personnel were classified into criminal and civil based on the number of cases.

There are no data on the number of judges for administrative law.
A10.4 Expenditures

As there are no data on expenditures in Poland, we calculated them by increasing personnel expenditures by a surcharge for other expenditures. Data on personnel include both numbers (personnel) and an overview of the average gross monthly salaries. Personnel expenditures were calculated by converting the monthly salaries to annual salaries and multiplying the result by the number of personnel. Next, these expenditures were increased by 35 per cent to obtain total expenditures. That 35 per cent is the average of other countries that do distinguish between personnel and other costs.
A11 Sweden

A11.1 Sources

The data are for 2002. Two basic material sources were used alongside two sources of shadow data:

- Domstolstatistik 2002, output data (Domstolsverket).
- Arsredovisning 2002 (judiciary system annual report), used for the inputs and weights used for formulas for differentiation into criminal and civil (domstolsverket).
- Facts about the Swedish judiciary 2003, Data on resources used and production data were used to verify the ratios between the figures (Ministry of Justice).
- Statistics office, production data, check.

A number of tasks of the Swedish judiciary system have been specialised (usually civil law tasks). Sometimes such courts are physically separated, sometimes they are part of a general court. Not including the specialised courts naturally affects the different indicators, as well as productivity, if it concerns very simple or extremely complex cases. The current trend is toward concentration of cases.

A11.2 Production

A number of tasks of the Swedish judiciary system have been specialised (usually civil law tasks). Sometimes such courts are physically separated, sometimes they are part of a general court. In general, we included everything for which we also know the resources used (personnel) in order to keep the indicators as accurate as possible.

Not including the specialised courts naturally affects the different indicators, as well as productivity, if it concerns very simple or extremely complex cases. The current trend is toward concentration of cases.

The percentage of appeals was calculated on the basis of the assumption that courts of appeal and the highest courts only handle appeals.

Civil law

Civil production comprises civil law (tvistemal, 52 per cent of cases at district level), civil cases (domstolsarenden, 46 per cent), property cases (Fastighetsmal, 1 per cent) and maritime courts (Miljomal, 1 per cent).

Not included were:
Bankruptcy, Registration authorities (land/land registry), rent & leasehold tribunal, labour law, commercial law.

Remarkably, half of all court of appeal cases are ‘other’ cases, with Ovriga mal comprising as many cases as civil and criminal together. These cases were added to civil, as a result of which 75 per cent of cases at this level are ovriga mal. This phenomenon also occurs at the level of the highest court. Here, too, Ovriga mal was added to civil.
There is also an item ‘non-allocated’ for the highest court (approximately 500 cases). Based on the annual report, in which these cases were listed under *ovriga*, these cases were allocated to civil.

**Administrative law**

Production for administrative comprises the following cases:

- **Fastighetstaxeringsmål**: property (assessment);
- **Skattemål**: taxes;
- **Körkortsmål**: driving licences;
- **Socialförsäkringsmål**: social insurance/security;
- **Psykiatrimål**: psychiatry;
- **Målenligtsocialtjänstlagen**: social security;
- **LVU- och LVM-mål**: lvu= youth, lvm = drink and drugs;
- **Övrigamål**: other.

**A11.3 Personnel**

Data on personnel was obtained from the annual report. Civil and criminal were not considered separately and were divided on the basis of the number of cases. The data do not include lay judges. The annual report also includes production data (in the data, resources used and production are synchronous).

There is a separate category for administrative law personnel.

**A11.4 Expenditures**

Sweden uses Krona instead of euros. Sometimes, amounts have to be converted to euros using the exchange rate, sometimes using the purchasing power parity. The exchange rate was based on the rate on 1 January and the rate on 31 December divided by 2. Purchasing power parities were based on the standard pattern.

Expenditures are taken from the annual report (total expenditures deviate from those in the fact sheet on Sweden - in the annual report, expenditures are 5 per cent higher). Expenditures for civil and criminal were not considered separately and were divided on the basis of the weights which are, in turn, based on cost price and volume. For the other cases (which were allocated to civil), an adjusted weight was used.

There is a separate category for administrative law costs.
A12  The Netherlands

A12.1  Sources

The officially published sources are:


A12.2  Production

Data generally concern the number of cases concluded per sector (criminal law, civil law, administrative law). Data were published at national level, split according to type of court, such as Kanton (subdistrict court), Arrondissement (district court), Gerechtshof (court of appeal) and Hoge Raad (supreme court).

The statistics also distinguish between first instance cases and appeal cases. This means we have information per type of court per type of case per type of instance.

A12.3  Personnel

The availability of personnel data in the official statistics of Statistics Netherlands (abbreviated to CBS in Dutch) is limited to numbers of personnel (not FTEs), without specifying this into judges and other personnel. These data are available in the annual report at court level. National overviews can be found in the annual reports of the Raad voor de Rechtspraak (Netherlands Council for the Judiciary).

To harmonise all data, supplementary assumptions are required. It is not possible to make a distinction per type of case per type of court per type of instance, or to make a distinction at this level between judges and other personnel. An appropriate allocation can be made using a variety of formulas. The ratio between other personnel and judges and public prosecutors for the judiciary and public prosecutors is known and it is assumed that the same ratio applies to judges. The Netherlands Council for the Judiciary’s draft contribution on 2003 to the CBS publication Rechtspraak in Nederland also presents data on judges and other personnel per type of court. This division was applied to the 2001 figures. Next, personnel were divided over types of court based on the number of cases. Thus, some of the variation – viz., that part that results from differences within a type of court – is lost. Differences that occur because courts of appeal use more judges per case than subdistrict courts do remain visible.
The figures mentioned are expressed in full-time equivalents.

A12.4 Expenditures

The (estimated) personnel expenditures were also supplied by the Raad voor de Rechtspraak. Costs can be broken down into different ranks and positions, but no data are available at this level on the use of material resources and accommodation. These can only be deduced from the national figures, which show that the ratio between material expenditures and personnel expenditures is approximately 35 per cent (see List 2 of the draft contribution to the CBS publication *Rechtspraak in Nederland*). Total expenditures per type of court were calculated by increasing personnel expenditure by a factor of 1.35.
# Table A13.1
Data from figures 3.1 to 3.5 inclusive, 2001

<table>
<thead>
<tr>
<th>Country</th>
<th>Figure 3.1</th>
<th>Figure 3.2</th>
<th>Figure 3.3</th>
<th>Figure 3.4</th>
<th>Figure 3.5</th>
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# Table A13.2
Data from figures 4.1 to 4.2 inclusive, 2001

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### Table A13.4  Data from figures 4.5 to 4.7 inclusive, 2001

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### Figure A13.5  Personnel, judges and costs, 2001

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<th>Costs (in mln EUR)</th>
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### Figure A13.6  Cases concluded per type of court case, 2001

<table>
<thead>
<tr>
<th>Country</th>
<th>Criminal law</th>
<th>Civil law</th>
<th>Administrative law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>126,253</td>
<td>901,328</td>
<td>12,394</td>
</tr>
<tr>
<td>Belgium</td>
<td>260,634</td>
<td>696,426</td>
<td>na</td>
</tr>
<tr>
<td>Denmark</td>
<td>122,967</td>
<td>146,723</td>
<td>na</td>
</tr>
<tr>
<td>England/Wales</td>
<td>2,177,551</td>
<td>2,748,735</td>
<td>159,275</td>
</tr>
<tr>
<td>Finland</td>
<td>73,416</td>
<td>226,980</td>
<td>23,684</td>
</tr>
<tr>
<td>France</td>
<td>1,193,381</td>
<td>2,297,462</td>
<td>150,721</td>
</tr>
<tr>
<td>Germany</td>
<td>915,438</td>
<td>11,352,720</td>
<td>573,192</td>
</tr>
<tr>
<td>Italy</td>
<td>2,769,490</td>
<td>3,780,775</td>
<td>91,456</td>
</tr>
<tr>
<td>Poland</td>
<td>1,788,189</td>
<td>6,929,135</td>
<td>70,367</td>
</tr>
<tr>
<td>Sweden</td>
<td>72,580</td>
<td>142,580</td>
<td>119,546</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>219,700</td>
<td>590,000</td>
<td>617,000</td>
</tr>
</tbody>
</table>
Appendix B Members of the steering committee

Mrs. Dr. E.H.F. Backbier, Ministry of Justice.
Dr. F. van Dijk, The Netherlands Council for the Judiciary.
Dr. B. Kuhry, Social and Cultural Planning Office of The Netherlands.
Mr. E.A. Maan – President of the Court of Law Zwolle.
Drs. P.R. Smit – Research and Documentation Centre of the Dutch Ministry of Justice.
Dr. F.P. van Tulder, The Netherlands Council for the Judiciary.
Appendix C References


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