



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN COMMISSION
FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

PILOT-SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS

Note: Red numbers regards changed answers

SCHEME FOR EVALUATING JUDICIAL SYSTEMS

Country: **ITALY**
.....

Contact Name: **Fausto De Santis**
.....

I. General information

1. Number of inhabitants

Number: **57,321,070** Year of reference: **31/12/2002**
.....
Source: **ISTAT**
.....

ALL SUMS ARE GIVEN IN EUROS

2. Total annual State/regional public budget

Budget: **434,386,100,000.00 (STATE BUDGET)** Year of reference: **2002**
.....
Source: **Ministry of Justice – Direzione Generale del Bilancio**
.....

3. Average gross annual salary

Salary: **15,714.00** Year of reference: **2002**
.....
Source: **ISTAT**
.....

Nett of employees' social security contributions.

II. Access to Justice and to all courts

II. A. Legal aid/cost of justice

4. Annual public budget spent on legal aid

Annual budget: **44,735,178.00** Year : **2002**
Source : **Ministry of Justice**

5. If possible, specify

- the annual public budget spent on legal aid in criminal cases

Annual budget: **44,612,853.00** Year : **2002**
Source : Ministry of Justice – Direzione Generale Affari di Giustizia Ufficio I

- annual public budget spent on legal aid in other court cases

Annual budget: **122,325.00** Year : **only 2 ° semester 2002**
Source : Ministry of Justice – Direzione Generale di Statistica

NB. The law regarding legal aid in civil cases has been enacted in June 2, 2002

6. Total number of legal aid cases (in a year)

Number of cases: **73,508** Year : **2002**
Source : Ministry of Justice – Direzione Generale di Statistica
Note complete data not available (see question n. 7)

7. If possible, specify:

- the total number of legal aid cases in criminal matters (in a year)

Number of cases: **73,305** Year : **2002**
Source : Ministry of Justice – Direzione Generale Affari di Giustizia Ufficio I

- the total number of legal aid cases in other court cases (in a year)

Number of cases: **203 decided by courts** Year : **only 2 ° semester 2002**
Source : Ministry of Justice – Direzione Generale di Statistica

The number of legal aid cases decided by local bar associations is not available

8. Does your country have an income and asset test for granting legal aid?

Yes / No: **YES**

9. If yes, what is the maximum income level for granting legal aid?

Income level: **9,296.22** Year: **2002**

.....
D.P.R. 115/2002 art.122

10. Is it possible to refuse legal aid for lack of the merit of the case?
(eg. for frivolous or vexatious actions, or cases without merit)

Yes / No: **YES**

Only in civil cases

.....

If yes, is the decision taken by : - a mixed decision-making body (court and external)

What factors are taken into account ?

Factors: **the applicant's declaration if results a case without merit**

.....

11. In general do litigants have to pay a court tax or fee to start a proceeding at a general jurisdiction court?

Yes / No / Otherwise: **YES**

.....

If yes, is this true for :
- criminal cases? Yes / No **NO**
- other than criminal cases? Yes / No **YES excepting cases concerning employment, agricultural and family matters.**

12. Does your country have a private system of legal expenses insurance for individuals?

Yes / No / Otherwise: **YES only in a few cases (e.g. road accidents)**

.....

13. Do judicial decisions have an impact on who bears legal costs which are paid by the parties during the procedure?

Yes / No / Otherwise: **YES**

.....

If yes, is this true for :
- criminal cases ? Yes / No **YES**
- other than criminal cases? Yes / No **YES**

14. In your country, have studies been carried out on the costs of cases brought to courts concerning: - users? **NO**
 - the State? **YES**

If yes, please indicate the references of these studies published in the year 2002 or 2003:
 (Author / instance) (Title) (Type of courts or costs reported on):

Marchesi Daniela **“Litiganti avvocati e magistrati”** **(civil courts)**

II. B. Users of the courts and victims

15. Are there official internet sites/portals (eg. Ministry of justice, etc..) through which the general public may have free access to:

- legal texts (eg. codes, laws, regulations, etc..)? **YES**

internet address: www.governo.it; www.giustizia.it; www.parlamento.it; www.normeinrete.it;

- to the case-law of the higher court/s? **YES**

internet address: www.giustizia-amministrativa.it; www.cortecostituzionale.it;

- to other documents (for examples legal forms)? **Yes, some Courts**

internet address:

If yes, please give the internet address

16. Is there a public and free-of-charge specific information system to inform and to help victims of crimes? **NO**

Comments:

17. Is there a public, free of charge and personalised specific information system, managed by the police or the justice system, on the follow up given to complaints by victims of crime? Yes / No **NO**

Comments:

18. Does your country have a public compensation fund to compensate financially victims of crimes? Yes / No **YES**

Comments: **YES only in a few cases (e.g. road accidents)**

19. Does your country have users' or legal professionals' (judges, lawyers, officials, etc.) surveys to measure public trust and satisfaction with the services delivered by the judiciary? **NO**

20. Is there a national or local procedure for making complaints about the performance of the judiciary (eg. through an ombudsman)? **YES**

Please specify:

- at court level/internal procedure **YES**

Comments: **Italian law provides for compensation in cases where there is an excessive time taken for a trial**

21. As a general rule, do the institutions which receive such complaints have an obligation to respond and/or to deal with the complaint within a certain time limit?

- time limit to respond: **YES**

- time limit for dealing with the complaint:

III. Functioning of courts and efficiency of justice

III. A. Functioning

22. Total number of courts

Number of courts: **848 justice of the Peace courts**

165 Courts

29 Appeal courts

29 Minors courts (tribunale per i minorenni)

29 Criminal courts reviewing the form and application of sentences

1 Supreme court

23. Number of general jurisdiction first instance courts

Number of courts: **165 Courts, 848 justice of the Peace Courts, 29 Minors courts (tribunale per i minorenni)**

24. Number of specialised first instance courts

Please specify the different areas of specialisation

(area of specialisation)

(number of courts)

Regional Administrative Tribunals

29 dealing with administrative question involving the State

Regional Audit Commissions

21 dealing with the responsibility of State employees for their financial actions in relation to the State

Provincial Tax Commissions

103 dealing with tax questions

The following data relates only to civil and criminal courts that come under the Ministry of Justice (see questions 22 and 23)

25. Number of professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)

Number of judges: **6,720** fte Year : **2002**
.....

Source : **Ministry of Justice – Direzione Generale Magistrati**
.....

26. Number of non-professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)

Number of judges: **5,700** fte Year : **2002**
.....

Source : **Ministry of Justice – Direzione Generale Magistrati**

Please give details: **4,700 justice of the Peace**
1,000 non professional judges in the courts (GOA)

there are also for non permanent post 1,980 (GOT)

27. Number of non-judge administrative staff who are working in courts
(present the information in full time equivalent and for permanent posts)

Number of staff: 32,223 fte Year : **2002 estimated data**
Total data for courts and prosecutors' offices **42,964**
.....

Source : **Ministry of Justice –**

28. Annual budget allocated to the Ministry and all courts

Estimated data for Courts and Ministry: 2,635,481,871.00 Year : **2002**

Annual budget: for Ministry, courts and prosecutors' offices
3,513,975,828.00 (forecast) Year : 2002
3,573,451,208.00 (final)

Source : **Ministry of Justice – Direzione Generale del Bilancio**

29. Total Annual budget allocated to the Ministry of justice including penitentiary system

Annual budget: **6,155,635,719.00 (forecast)** Year : **2002**
6,314,574,084.41 (final)

Source : **Ministry of Justice – Direzione Generale del Bilancio**

30. Has the budget for justice increased during the last 5 years? **YES**

What are the figures?

Budget **3,513,975,828.00** Year **2002**

1.42% of the total (including penitentiary system)
0,81% without penitentiary system

Budget **2,920,064,320.00** Year **1998**

1.38% of the total (including penitentiary system)
0,78% without penitentiary system

31. Which institution is formally responsible for setting up the budget devoted to courts?

- the ministry of Justice (or equivalent) **YES**
- the Parliament **YES**

32. Who manages the budget of the courts?

- the President of the Court **YES also the Ministry of Justice**

33. Which institution is responsible for arranging and scheduling the court hearings/sessions?

- in criminal cases: **the court**
- in other than criminal cases **the court and lawyers**

III. B. Efficiency

34. Total number of criminal cases received by the public prosecutor (in a year)

Number of cases: **3,114,773.00** Year : **2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

35. Total number of criminal cases dropped by the public prosecutor (in a year)

Number of cases: **2,613,898.00** Year : **2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

Please indicate also, out of this total, those dropped as the offender has not been identified

Number of cases: **1,432,501.00** Year : **2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

36. Total number of criminal cases which are concluded by a sanction/measure, imposed or negotiated by the public prosecutor (in a year)

Number of cases: 80,721 **Year : 2002**

N.B. the judge must approve

37. Total number of criminal cases charged by the public prosecutor before the courts (in a year)

Number of cases: **518,000 (total crimes 2,842,438)** **Year : 2002**
Source : **Ministry of Justice – Direzione Generale di Statistica**

38. Total number of incoming criminal cases in the courts involving robbery cases (in a year)

Number of cases: **54,437** **Year : 2002**
Source : **ISTAT**

39. Total number of judicial decisions, involving robbery (in a year)

Number of cases: **N.A.** Year :
Source :

Please indicate, if possible:

Number of convicted persons: % of convicted persons:
Number of acquitted persons: % of acquitted persons:

40. Percentage of decisions involving robbery subject to an appeal to a higher court (in a year)

Percentage of decisions: **N.A.** Year :
Source :

41. Total number of incoming criminal cases in the courts, involving intentional homicide (in a year)

Number of cases: **3,061** **Year : 2002**
Source : **ISTAT**

42. Total number of judicial decisions, involving intentional homicide (in a year)

Number of decisions: **N.A.** Year :
Source :

Please indicate also if possible:

Number of convicted persons: % of convicted persons:
Number of acquitted persons: % of acquitted persons:

43. Percentage of decisions concerning intentional homicide subject to an appeal to a higher court (in a year)

Percentage of decisions: **N.A.** Year :
Source :

44. Total number of incoming civil [and administrative] cases in the courts (in a year)

Number of cases: **2,380,954 First Instance courts** Year : **2002**
1,196,353 justice of the Peace courts
109,844 Appeal courts
.....

Source : **Ministry of Justice – Direzione Generale di Statistica**

45. Total number of **judicial decisions** in civil [and administrative] matters (in a year)

Number of decisions: **633,788 First Instance courts** Year : **2002**
510,658 justice of the Peace courts
57,424 Appeal courts
.....

Source : **Ministry of Justice – Direzione Generale di Statistica**

46. Percentage of decisions concerning civil [and administrative] matters subject to an appeal to a higher court (in a year)

Percentage of decisions: **17.33%** Year : **2002**
.....

Source : **Ministry of Justice – Direzione Generale di Statistica**

47. Total number of incoming divorce cases in the courts (in a year)

Number of cases: **52,096 First Instance courts** Year : **2002**
.....

Source: **Ministry of Justice – Direzione Generale di Statistica**

48. Total number of judicial decisions in divorce cases (in a year)

Number of decisions: **43,456 First Instance courts** Year : **2002**
.....

Source : **Ministry of Justice – Direzione Generale di Statistica**

49. Percentage of decisions concerning divorce cases subject to an appeal to a higher court (in a year)

Percentage of decisions: **2.1%** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

50. Total number of incoming employment dismissal cases in the courts (in a year)

Number of cases: **151,028** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

N.B. all employment matters

51. Total number of **judicial decisions** of employment dismissal cases (in a year)

Number of decisions: **70,419** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

N.B. all employment matters

52. Percentage of decisions concerning employment dismissal cases subject to an appeal to a higher court (in a year)

Percentage of decisions: **29.8%** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale di Statistica**

N.B. all employment matters

IV. Use of Information Technology in the court

53. Annual IT budget allocated to the courts (if possible in Euros)

Annual budget: **161,400,289.00** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale del Bilancio**

54. In general, do the courts in your country have computer facilities?

- for judges **YES**
- for non-judges court staff **YES**

55. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary ? **YES**

If yes, please specify the name and the address of this institution

(Name) **Direzione Generale di Statistica** (Address) **Via Arenula 70 Roma 00186**

56. What kind of facilities can be used by the clients of the courts to communicate with the courts ?

- **Telephone Yes**
- **Mail Yes**
- **Fax Yes**
- **E-mail Yes**
- **Internet Yes**

57. Is there an electronic form to carry out certain procedural steps? **Yes**

V. Fair trial

58. Percentage of adversary judgements in criminal cases in first instance

Percentage of judgements: **78.2%** Year : **2002**
.....

Source :
Ministry of Justice – Direzione Generale di Statistica

59. Is there a right to an interpreter for all those within your jurisdiction if the persons cannot understand or speak the language used in court? **Yes**

- Is there an effective remedy to a superior jurisdiction for all cases? **Yes**

61. Are reasons given for all prison sentences? **Yes**

62. Average length, in days, of robbery cases from the formal beginning of the prosecution until the first instance judgment

Average length: **N.A.** days Year :
.....

Source :
.....

63. Average length, in days, of robbery cases from the formal beginning of the prosecution until the appellate judgment

Average length: **N.A.** days Year :
.....

Source :
.....

64. Average length, in days, of divorce cases from the deposit of the complaint until the first instance judgment

Average length: **256** days Year: **2002**
.....
Source: **Ministry of Justice – Direzione Generale di Statistica**

65. Average length, in days, of divorce cases from the deposit of the complaint until the appellate judgment

Average length: **405** days Year: **2002**
.....
Source: **Ministry of Justice – Direzione Generale di Statistica**

Only Appellate Court judgements

66. Average length, in days, of employment dismissal cases from the deposit of the complaint until the first instance judgment

Average length: **695** days Year: **2002**
.....
Source: **Ministry of Justice – Direzione Generale di Statistica**

N.B. all employment matters

67. Average length, in days, of employment dismissal cases from the deposit of the complaint until the appellate judgment

Average length: **598** days Year: **2002**
.....
Source: **Ministry of Justice – Direzione Generale di Statistica**

N.B. all employment matters; only in appeal courts

68. Do you, on a regular basis, measure the size of backlog cases in the courts? **Yes**

69. Do you have a way of analysing queuing time during court procedures? **Yes**

If yes, please specify:

$[(\text{backlog at beginning of the year} + \text{backlog at the end of the year}) / (\text{registered cases} + \text{decided cases})] \times 365$

for an annual analysis.

VI. Judges

70. Gross annual salary of a first instance professional judge at the beginning of his/her career

Annual salary: **33,351.61** Year: **2003**
.....
Source: **Ministry of Justice – Direzione Generale Magistrati**

71. Gross annual salary of a judge of the Supreme Court or of the highest appellate court

Annual salary : **108,885.14** Year : **2003**

Source :
Ministry of Justice – Direzione Generale Magistrati

72. Can judges combine their work with other professions (for example as a university professor, arbitrator, consultant)? **Yes**

If yes, please specify: **Upon authorization by the Consiglio Superiore della Magistratura**
.....

73. Are judges recruited and nominated by an independent institution? **Yes**
(if yes), who are represented in this institution:

- The members of the judiciary and officials not part of the judiciary

Is the process of selection and nomination of judges carried out according to pre-established procedures? **Yes**

74. Is there a system of induction and continuation training for judges?

Yes, compulsory but only at the beginning of the career

What is the average percentage of judges who have attended a continuation training session each year?

Estimated data for judges 3,018

Percentage of judges: 45% Year : **2002**

Total number judges and prosecutors is 4,025

Source : **Consiglio Superiore della Magistratura**
.....

75. Is there a system of supervision and control on the courts - other than through appeal? **Yes**

If yes, please specify: **a) The President of the appeal court has supervisory power over all courts within its district**

b) Inspections are carried out at the behest of the Ministry and also of the Consiglio Superiore della Magistratura as provided by the law.

76. Is there in your country a system of temporary judges? **Yes**

If yes, are these temporary judges paid on the basis of their activity? **Yes**

If yes, please specify: a) fees are payable for each hearing;
b) fees are payable for each judgement.

77. Annual number of disciplinary proceedings against judges

Estimated data for judges 107 Year : **2002**

NB. Total number for judges and prosecutors disciplinary proceedings: 143

Source : **Consiglio Superiore della Magistratura**

78. Annual number of sanctions against judges

Estimated data for judges: 22

Year : 2002

Total number for judges and prosecutors

Number of sanctions: 30

Source : **Consiglio Superiore della Magistratura**

VII. Public prosecutors

79. Annual budget for the public prosecution

Annual budget: **878,493,957.00 estimated data**

Year : **2002**

80. Number of professional public prosecutors (in full time equivalent)

Number of prosecutors: **2,313**

Year : **2002**

Non professional prosecutors non permanent posts: 1,506

Source : **Ministry of Justice – Direzione Generale dei Magistrati**

81. Gross annual salary of a public prosecutor at the beginning of his/her career

Annual salary : **see answer 70**

Year :

Source :

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court

Annual salary : **see answer 71**

Year :

Source :

83. Can public prosecutors combine their work with other professions? Yes

If yes, please specify: **see answer 72**

84. Are public prosecutors recruited and nominated by an independent institution? **Yes**

(If yes), who are represented in this institution: see answer 73 for all questions

- the public prosecutors ? Yes / No

- other stakeholders outside? Yes / No

- a mixture of the two categories referred to above? Yes / No

Is the process of selection and nomination of public prosecutors done according to pre-established procedures? Yes / No

85. Is there a system of induction and continuation training for public prosecutors?

See answer 74

What is the average percentage of prosecutors who have participated in continuation training each year?

Estimated data for prosecutors 1,007

Percentage of prosecutors: **44% estimated average percentage for prosecutors** Year : **2002**

Source :

86. Is there a system of supervision and control on public prosecutors? Yes / No

If yes, please specify: **a) The Chief Public Prosecutors at the Appeal courts have supervisory powers over all prosecutors' office within their districts**
b) Inspections are carried out at the behest of the Ministry and also of the Consiglio Superiore della Magistratura as provided by the law.

87. Annual number of disciplinary proceedings against public prosecutors

Number of proceedings: **estimated data 36** Year : **2002**

Source :

88. Annual number of sanctions against public prosecutors

Number of sanctions: **estimated data 8** Year : **2002**

Source :

VIII. Lawyers

89. Number of lawyers practising in your country

Number of lawyers: **128,903** Year : **2002**
151,470..... Year: **2004.....**

Source : **Consiglio Nazionale Forense**

90. Is there a national bar association? **Yes**

91. Have quality standards been formulated for lawyers? **Yes**

If yes, who is responsible for formulating these quality standards? - the bar association **Yes**

92. Can disciplinary proceedings be instituted against lawyers? **Yes**

93. Annual number of disciplinary proceedings against lawyers

Number of proceedings: **296** Year : **2003**

Source : **Consiglio Nazionale Forense**

**Data are available only for appeal cases held before the Consiglio Nazionale Forense
Data regards all procedures concerning appeals against decisions by the local bar.**

94. Annual number of sanctions against lawyers

Number of sanctions: **146** Year : **2003**

Source : **Consiglio Nazionale Forense**

Data is available only for all appeal cases held before the Consiglio Nazionale Forense

95. Is it possible to complain about the performance of lawyers? **Yes**

If yes, please specify: This is the competence of the local bar and the Consiglio Nazionale Forense in cases of appeal

96. What is the amount paid to a lawyer by the State in respect of legal aid for a first instance divorce case?

Amount: **MIN 560** Year : **2002**
MAX 3,000

Source : **DM 5/10/1994**

IX. Mediators and mediation proceedings

Not special offices deal with this procedure problem officially, excepted in employment cases.

97. Number of accredited or registered mediators

Number of mediators: Year :

Source :

98. How much public budget is devoted to mediation?

Amount: Year :

Source :

99. Number of incoming mediation cases (in a year)

Number of cases: Year :

Source :

100. Number of cases solved through mediation (in a year)

Number of cases: Year :

Source :

If possible, please specify:

- number of criminal cases solved through mediation:

- number of cases other than criminal solved through mediation:

101. In which areas of law is mediation most practised and successful in your country?

- in criminal cases? Yes / No

- in other than criminal cases? Yes / No

Year : Source :

X. Enforcement agents and execution of court decisions

102. Number and types of enforcement agents

- in criminal cases:

(Type)	(Number)	(Year)	(Source)
This is duty of the judiciary police
.....
.....
.....

- in other than criminal cases:

.....enforcement agents.....	...6,885.....	...2002.....	Ministry of Justice
.....
.....

103. Is there an institution to supervise or control the activities of enforcement agents? Yes

If yes, please specify: a) **The President of the Court has a supervisory power over all enforcement agents' offices within his district.**

104. Annual number of disciplinary proceedings against enforcement agents

Number of proceedings: **58** Year : **2002**

Source : **Ministry of Justice – Direzione Generale del Personale**

105. Annual number of sanctioned enforcements agents

Number of agents: **23** **Year : 2002**

Source : **Ministry of Justice – Direzione Generale del Personale**

106. Is it possible to file a complaint against an enforcement agent? **Yes**

If yes, please specify: The complaints are dealt with by the President of the Court

107. Does the court play a role in the execution of court decisions? **Yes**

If yes, please specify: **When contested**

108. Are the courts competent to decide against public authorities? **Yes**

Are the courts involved in executing decisions against public authorities? **Yes**