

Progress was made in the area of the **judiciary** but key issues remain to be addressed.

Little progress was made as regards the *independence and impartiality* of the judiciary. Although basic safeguards are in place, including the role and composition of the Judicial Council, further efforts are needed in practice to guarantee independent, high-quality decision-making by courts. Improvements are needed in the evaluation and promotion system, where the current emphasis on quantitative rather than qualitative assessment criteria creates the risk of formalistic decision-making. The current grounds for dismissal of judges are not sufficiently clear, precise and predictable, which could pose a potential threat to judicial independence.

As regards the *professionalism and competence* of the judiciary, stricter criteria entered into force for admission to initial training at the Academy for Judges and Prosecutors (AJP), relating to certified academic performance and knowledge of English. The fourth generation of nine AJP graduates completed their initial training in January 2012. The AJP also continued to provide continuous in-service training for judges, prosecutors, court staff and law enforcement, with a total of 290 different training activities being provided during the reporting period, attended by 9,571 participants. The AJP's budget for 2012 increased by 10% to around EUR 425,000; however, it still lacks adequate premises and staff, in view of the high volume of its activities.

The requirement that all newly-appointed first instance judges must have graduated from the AJP has still not entered into force. In spite of the transitional provisions stipulating that 50% of such appointments should be AJP graduates, the Judicial Council continued to give greater preference to applicants who had not graduated from the AJP. Out of 26 available basic court posts advertised during 2011, the Judicial Council appointed only 2 AJP graduates and 22 non-AJP graduates (while 2 posts were not filled), despite receiving a healthy rate of applications from AJP graduates for each post. This raises concerns about the credibility of the current provisions and the Judicial Council's commitment to merit-based recruitment.

In the area of *accountability*, nine judges were dismissed during 2011 and none were disciplined. There were no cases of revocation of judicial immunity by the Judicial Council in connection with criminal proceedings against any judges. The Judicial Council considered 2,081 complaints filed by individuals and companies against judges and courts during 2011. The most common ground was the length of court proceedings. The Ministry of Justice received 658 complaints about the length of proceedings (a decrease from 952 in 2010). The Supreme Court received 1,884 complaints during 2011 regarding unreasonably lengthy proceedings, an increase from 398 in 2010. In the same period, it upheld 195 complaints and awarded compensation in 180 cases. The total amount paid out was around EUR 136,000. The second instance council within the Supreme Court, which hears appeals in this type of proceeding, increased the awarded compensation in 17 cases.

As regards the *efficiency* of justice, greater efforts are needed to ensure collection and monitoring of the correct statistical indicators, such as the clearance rate and disposition time of courts. The 2011 Methodology for court statistics is not yet being systematically implemented and the related software is not yet operational. Training and awareness-raising are needed to ensure that all courts are using the same statistical tools. There is no monitoring mechanism covering the overall duration of court proceedings, including all stages and instances as well as enforcement, which now falls under the jurisdiction of professional bailiffs. This is an essential tool in detecting unreasonable delays and their causes. There is no system in place to identify and give priority to 'old cases' which have been in the court

system for several years. Despite changes to several laws and campaigns promoting mediation, the uptake of alternative dispute resolution is still very low.

Progress has been made in reducing overall court backlogs in the country. In the last two years, the 27 first instance courts and 4 appeal courts have together disposed of a considerably higher number of cases than they have received. This has been partly due to organisational measures, such as monthly targets set by the Judicial Council. However, care must be taken to ensure that productivity is not given priority over the quality of judgments. Problems still remain at the Supreme Court and the Administrative Court, which have both been accumulating backlogs for several years. In April 2012, the Judicial Council temporarily transferred four judges from the Higher Administrative Court to the Administrative Court in order to address the problem. The global number of pending cases in national courts at all levels at the end of 2011 was 295,769. There is currently no system in place to establish what proportion of these cases actually constituted backlogs of 'old cases' as opposed to ordinary case-flow. In view of the current disparities in the workload at the different court levels, steps are needed to ensure more efficient distribution of human resources, including judges, prosecutors and court staff, where they are most needed. In particular, future human and financial resource strategies need to take better account of the actual and projected needs of the court system and to be based on reliable judicial performance indicators.

The court budget for 2012 is around EUR 29 million (or 0.4% of GDP), of which 80 to 85% is spent on the salaries of judges and administrative staff. The current number of judges (678) is more than 50% higher than the European average in relation to the size of the population, and the court budget is one of the highest as a percentage of *per capita* GDP. Future judicial strategies need to assess the sustainability of this spending and start planning a gradual rationalisation of the court network. The budget of the Public Prosecutor's Office is around EUR 5.3 million. The majority (83%) is spent on salaries, while the remainder is insufficient to cover the necessary IT infrastructure upgrade of the prosecution service, notably its link-up to the courts' automated court case management information system (ACCMIS), which still needs to be carried out.

The courts at all levels have continued to publish judgments on their websites (over 90,000 during 2011), which is an important tool in promoting transparency and access to justice. However, the system should be made more user-friendly through the classification of judgments by subject and the inclusion of a search function.

The legal aid budget for 2012 has doubled from last year to EUR 200,000; 213 lawyers and 4 NGOs are registered to provide legal aid, however the number of cases is still very low. There is currently no judicial reform strategy or action plan in place to follow up the previous one dating from 2004-2009. It would be advisable to develop a new overall strategy in order facilitate strategic planning, budgeting and monitoring of future developments in the sector.