

Judicial system

The country's judicial reform strategy and related action plan were implemented between 2004 and 2010. The main reforms in this area have therefore already been largely completed. However, improvements are needed in practice to ensure the correct implementation of European standards relating to independence and quality of justice.

As regards **independence and impartiality**, several issues should be addressed in order to safeguard the independence of judges, in particular their security of tenure. The legislation governing the dismissal of judges still needs to be amended in order to make it precise and predictable. Safeguards are needed to ensure that disciplinary measures are applied in a more proportionate way by the Judicial Council. The tendency to impose dismissal rather than a less severe disciplinary sanction continues, as does the use of the catch-all dismissal ground 'unprofessional and un-conscientious exercise of judicial office' in almost all cases. In addition, the current system of evaluation and promotion of judges places more emphasis on productivity and targets than on quality and problem-solving, which can encourage formalistic rather than independent decision-making. The direct link between performance evaluation and dismissal, which should only be used to punish serious disciplinary breaches, needs to be removed.

In the area of **professionalism and competence** of the judiciary, the Academy for Judges and Prosecutors (AJP) continued to play a central role in providing life-long training for the judiciary and prosecution service. Its continuous in-service training programme was attended by over 7 000 participants, including around 4 000 judges, 1 000 public prosecutors and 1000 expert associates, as well as civil servants and other participants. The AJP further developed its decentralised training system by holding 76 of its 232 training activities in cities outside the capital, and the system of e-learning is also being continuously developed through the AJP's dedicated training web portal. Amendments to the Law on Courts entered into force, requiring all newly appointed first-instance judges to have graduated from the AJP's 2-year initial training programme. Minimum requirements of prior judicial experience were also introduced for appeal court and Supreme Court judges (four and six years respectively). However, the Judicial Council continued to ignore the legislative requirements, appointing 39 first instance judges in 2012, only 4 of whom were AJP graduates, and 13 in the first half of 2013, only 1 of whom was an AJP graduate. At the same time, 13 of the 80 candidate judges and prosecutors who have graduated since 2009 are still waiting to be appointed to their first post. This calls into question the effectiveness of the new legislation and the commitment to the principle of merit-based recruitment. It also has the negative effect of demotivating potential future candidates from applying to the AJP. Despite information campaigns, repeated calls for applications and an increase in the stipend of AJP candidates during initial training, there were insufficient numbers of new applicants for the AJP's 2013 initial training programme and it remains to be seen when the next round of initial training will begin. Preparatory classes for the AJP entrance exam and collaboration with universities are steps in the right direction towards ensuring that new stricter entrance requirements can be met by candidates. Measures targeted at encouraging more candidates from non-majority communities to enter into professional training should also be considered. The AJP's 2013 budget was decreased, it lacks sufficient numbers of staff and its premises are inadequate given the scope of its activities. Greater efforts are needed to support the work of the AJP, to attract high-calibre candidates to the judicial and prosecutorial professions and to safeguard the principle of merit-based recruitment.

As regards **accountability**, three judges were dismissed in 2012 and their dismissals were upheld on appeal by the Supreme Court. In addition, one judge's judicial function was terminated upon conviction of a criminal offence. The Judicial Council considered 879 complaints filed against judges and courts during 2012. The highest number of complaints continues to concern the length of court proceedings. The Ministry of Justice received 509 complaints. The Supreme Court continued to receive applications for compensation for unreasonably lengthy court proceedings (1 906 in 2012, a slight increase from the previous year). In 2012, it upheld 203 applications and awarded almost €158 000 in compensation and costs, an increase from 2011. In 2012 the country also paid out over €157 000 in friendly settlements to applicants who had claimed damages before the European Court of Human Rights in similar cases.

As regards the **efficiency** of justice, the majority of courts at all levels were able to process as many cases as they received, or more, during 2012. There are now no courts with significant backlogs. New software was installed in all courts, as well as the Judicial Council, in order to generate improved statistical data on their performance. The enforcement of judgments by professional bailiffs continued smoothly and almost all old enforcement cases have now been transferred out of the court system. However, there is still no reliable information on the average overall duration of court proceedings from start to finish, including all instances, and there is no monitoring mechanism to identify and give priority to 'old cases' which have been in the court system for many years. Greater efforts are needed to ensure that the monthly targets imposed on judges, concerning the number of cases to be processed, do not result in a general lowering in the quality of justice and lead to more lengthy proceedings in the longterm.

The court budget for 2013 is €29.6 million (or 0.4% of GDP), of which a majority of around 80% is still spent on the salaries of judges and administrative staff. The total number of judges(670) remains more than 50% higher than the European average in relation to the size of the population. There is a need to assess the sustainability of this spending and to start planning a gradual rationalisation of the court system. The budget of the Public Prosecutor's office is around €6.6 million, of which a majority of around 75% is spent on salaries, while the remainder is insufficient to cover the necessary IT infrastructure upgrade for the prosecution service. A longer-term strategy to ensure the correct distribution of human resources within the justice system still needs to be developed.

As regards **access to justice**, the legal aid budget for 2013 is €50 000. 244 lawyers and 8 NGOs are now registered to provide legal aid. A total of 146 requests for free legal aid were submitted in 2012, of which 57 were approved. The majority of cases concerned property disputes, victims of domestic violence and protection of children and minors. Cases concerning social security and labour disputes are still under-represented and the lack of systematic legal aid for juveniles is a concern. Some improvements are still needed to make the work of courts more accessible to the public, including locating information desks at the entrances of court houses and introducing user-friendly search functions for judgments published on court websites.