Supporting the Efficiency of Justice in Malta

Final Report on Key Findings and Recommendations

Catherine Assioma
Deputy Head of court services in Court of Boulogne Billancourt, France

Nina Betetto
Judge at the Supreme Court of Slovenia
Vice-President of the Consultative Council of European Judges (CCJE)

Giacomo Oberto
Judge at the First instance Court of Torino, Italy,
President of the SATURN Centre for judicial time management

Cédric Visart de Bocarmé
Head of support service at the Federal prosecution service in Belgium

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Introduction / Background of the report

The European Commission for the Efficiency of Justice (CEPEJ) was established by the Committee of Ministers of the Council of Europe in 2002 to promote the Rule of Law and Fundamental Rights in Europe, on the basis of the European Convention on Human Rights, and in particular Article 6 (right to a fair trial within a reasonable time) through sharing a precise knowledge of the judicial systems in Europe and orienting reforms accordingly. Through the CEPEJ, the Council of Europe has been promoting the efficiency and quality of the public service of justice and adopted different pragmatic aimed at policy makers (ministries, parliaments) and justice professionals, including in the courts.

In 2007 the CEPEJ has set up the SATURN – Study and Analysis of Judicial Time Use Research Network. The SATURN Centre is instructed to act as an Observatory of lengths of judicial proceedings, which then offers concrete ways of improving judicial time management in courts.

Following its creation, members of the CEPEJ-SATURN group went to Valletta, Malta for court coaching programmes in 2007, 2009 and 2014. During these workshops, statistics from the Maltese courts have been collected and analysed, and three reports have been drafted:

- First report: "*Target co-operation activity of the CEPEJ with Malta*, 1st meeting, 2 - 4 December 2009" [doc. CEPEJ(2010)1 Final of the 15 April 2010]

- Second report: "*Target co-operation activity of the CEPEJ with Malta*, 1st meeting, 2 - 4 December 2009 and 2nd meeting, 21 - 22 November 2011" [doc. CEPEJ-COOP(2011)2 of the 5 February 2012].

- Third report: *Target Cooperation Activity of CEPEJ with Malta*, Report 3, training of judges and court employees of 20 June 2014 in Valetta, and of the recommendations included in the reports 1 (2010) and 2 (2012)

In 2018, CEPEJ and Malta decided to co-operate in the framework of a programme funded by the Structural Reform Support Service (SRSS) of the European Union and entitled "Supporting the efficiency of Justice in Malta". The programme is composed of three components:

1. Improvements are made to the compilation (committal) proceedings before the Court of Magistrates as a Court of Criminal Inquiry with a view to significantly reducing their length in practice (component 1).

2. Improved capacity of the Court of Appeal Superior Jurisdiction to tackle its backlog, based on a good knowledge of the main areas of improvements and targeted recommendations (component 2)

3. Improved capacity of the Department of Courts of Justice and other relevant judicial stakeholders to manage human resources, based on a good knowledge of the main areas of improvements and the development of a solid Human Resources Strategy for judicial and non-judicial staff (component 3);

The CEPEJ was entrusted to carry out Components 2 and 3, while the implementation of the first component will be handled by the European Committee on Legal Co-operation (CDCJ), which is part, just like the CEPEJ, of the Justice and Legal Co-operation Department of the Council of Europe.

Therefore, the CEPEJ's main objectives of this co-operation was in particular to recommend measures to help the Court of Appeal Superior Jurisdiction to handle its backlog in an efficient way, and to support the development of a human resource strategy for both the judicial and non-judicial staff in Maltese courts.

To implement this programme, the CEPEJ has set up an expert team to cooperate with the Maltese Ministry of Justice and the courts. This team is composed by: Ms Catherine Assioma, Deputy Head of court services in the Court of Boulogne Billancourt, France, Ms Nina Betetto, Judge at the Supreme Court of Slovenia, Vice-President of the Consultative Council of European Judges (CCJE), Mr Cédric Visart de Bocarmé, Head of support service at the Federal prosecution services in Belgium, and Mr Giacomo Oberto, Judge at the First instance Court of Torino, Italy, President of the CEPEJ-SATURN Centre for judicial time management.

To support the work of the CEPEJ experts, the Maltese authorities have also set up a taskforce of experts. It is composed of:

- Mr. Justice Anthony Vella, Judge at the Civil Courts
- Mr. Justice Depasquale, Judge at the Civil Courts
- Dr. Peter Grech, Attorney General
- Dr. Victoria Buttigieg, Deputy AG Civil field
- Dr. Philip Galea Farrugia, Deputy AG Criminal field
- Mr. Frank Mercieca, DG Courts of Justice Malta
- Mrs. Mary Debono Borg, DG Courts of Justice, Gozo
- Mrs. Eunice Grech Fiorini, Registrar Criminal Courts
- Mr. Manuel Sciriha, Registrar Civil Courts
- Mr. Donald Mangion, Chief Information Offficer
- Mr. Marvin Muscat, ICT officer from the office of the CIO
- Mrs Joanne Battistino, Department of Justice
- Dr. Marlene Spiteri, Assistant Director of Programme Development and Implementation Division, Ministry of Justice, Culture and Local Government

According to the timeline of the project, the following Reports were developed:

- a first *Draft Assessment Report* (CEPEJ-COOP(2019)2) was carried out by the team of experts, supported by the taskforce mentioned above. It was drafted on the basis of the information and data collected following a mission organised in Valletta on 1 February 2019. The Assessment Report was presented to the Maltese key stakeholders during a First Workshop organised on 2-3 May 2019.

- The second *Draft Report on Key Findings and Recommendations* (CEPEJ-COOP(2019)5), was then presented during a second Workshop 25-26 June 2019. While the first report was more general in its approach, the *Draft Report on Key Findings and*

Recommendations aims at focusing on the key findings drawn from previous activities and from the feedback collected following the presentation of the *Draft Assessment Report*.

- The current *Final Report on Key Findings and Recommendations* (CEPEJ-COOP(2019)7) takes into account the feedback received from the Maltese stakeholders during the Second Workshop meeting (lawyers, court attorneys, judicial assistants, representatives from Court Administration, from the Chamber of Advocates, Mr Permanent Secretary, Mr Attorney General, Mr Chief Justice, etc.). Recommendations have been reformulated to better stick to the reality of the situation.

All above-mentioned reports are composed of two separate parts, one pertaining to component 2 and the other pertaining to component 3.

The present report has also been improved following the Study Visit to the Supreme Court of Slovenia organised on 3 June 2019. Judges, representatives from the Ministry of Justice, from courts and Mr Attorney General were presented the organisation of work in The Supreme Court in Ljubljana. CEPEJ Expert Ms Catherine Assioma was also present and integrated in the present report the main topics of interest highlighted by the Maltese delegation during the visit.

The Final Report's objectives are detailed in the Project Description of Action as follows:

<table>
<tr><td>Component 2</td><td><u>Specific Objective of the Component 2:</u>

An assessment of the functioning of the Court of Appeal Superior Jurisdiction (hereafter "CASJ") is performed, including the needs in terms of judges and the introduction of a filtering system.

<u>Objective of the Report:</u>

A final report drawing on the issues identified under component 2 and including key findings, relevant examples of national practices from other Member States as appropriate and a compilation of recommendations for follow up by the Maltese authorities will be provided, according to the following methodology and timeline:
- Preparation of draft final report by CEPEJ experts;
- Comments by the Maltese authorities to be taken into account for the drafting of the final report and finalization of the reports by CEPEJ experts;
- Organisation of a conference to present the final report and discuss the possible follow-up (notably implementation of recommendations) that should be provided by the Maltese authorities;</td></tr>
<tr><td>Component 3</td><td><u>Specific Objective of the Component 3:</u>

To carry out a thorough assessment of the Human Resources situation in the Courts of Justice of Malta and provide support for the development of a human resources strategy for judicial and non-judicial staff in Malta.</td></tr>
</table>

	Objective of the Report: A final report drawing on the issues identified under component 3 and including key findings, relevant examples of national practices from other Member States as appropriate and a compilation of recommendations for follow up by the Maltese authorities will be provided, according to the following methodology and timeline: - Preparation of draft final report by CEPEJ experts; - Comments by the Maltese authorities to be taken into account for the drafting of the final report and finalization of the reports by CEPEJ experts; - Organisation of a conference to present the final report and discuss the possible follow-up (notably implementation of recommendations) that should be provided by the Maltese authorities;

A. Scope of the document

This present report is based on the previous Draft Assessment Report and Draft Report on Key Findings and Recommendations, and on the data, exchanges and feedback received all over the Project's period of implementation, from all direct and indirect stakeholders in Valletta. The Report was improved several times up until November 2019, based on stakeholders' feedback. It is also based on the documentation and data provided by the Maltese authorities to the expert team, which can be found in appendix at the end of the document.

As required by the Maltese authorities, the recommendations are broken down into smaller steps when appropriate. As in previous reports, the first part of the present document covers the improvement to the functioning of the CASJ (**Part I**), while a second part covers the challenges faced in developing a Human Resource Strategy for the Maltese courts (**Part II**).

Both parts follow the following structure:

- Key findings and analyses of the Components elements are developed.
- Recommendations are developed. Some of these recommendations include steps of implementation.

B. Important documents

The Maltese authorities have shared with the CEPEJ experts the following documents:

Data on Maltese caseload (Appendix 1)

The appendix contains three subparts:

Appendix 1.1: Overview by Court: efficiency parameters are compiled by court for a set timeframe. In this data are also included a new set of data from the Court of Voluntary Jurisdiction.
Appendix 1.2: Age of Pending cases: the age of the pending caseload is described according to year;
Appendix 1.3: Efficiency by subject matter: In this worksheet are derived the list of all case categories between 2009 and 2018, along with the efficiency parameters for each of them. It is important to note that under the Incoming and Resolved columns, the figures relate to the cumulative caseload over 10 years. On the other hand, the pending caseload is taken to be at end December 2018. Hence, the Clearance Rate (CR) and the Disposition Time (DT) are worked on a 10-year timeframe.

Appendix 2 Data on Non-judicial staff

Appendix 3 Best Practices from other European member states as regards Court of Appeal and Civil Proceedings

Appendix 4.1: Example of Job Description (France)
Appendix 4.2: Posters to recruit clerks (France)

C. Timeline of meetings and activities:

Activities regrouped both components of the programme, which were carried out during the same missions, yet methodologically separate.

1 February 2019: a kick-off meeting was organised to collect first information and data and meet the main beneficiaries of the Project.

29 April 2019: a first version of the assessment report was sent to the Maltese authorities.

2-3 May 2019: the first workshop was held in Valletta to discuss the Draft report.

3 June 2019: a Study Visit was organised at the Supreme Court of Slovenia with Representatives of Maltese authorities and judiciary.

17 June 2019: the CEPEJ experts have taken into consideration the discussions held during the First workshop and the Study Visit, and have sent an updated report (the *Draft Report on Key Findings and Recommendations*) to the Maltese authorities.

25-26 June 2019: the priorities of implementation of the Recommendations listed in the updated document were discussed with the main stakeholders.

13 November 2019: *Final Report on Key Findings and Recommendations* is presented to the national authorities and stakeholders in Valletta.

Part I – The Functioning of the Court of Appeal Superior Jurisdiction

Objective of the component: An assessment of the functioning of the Court of Appeal Superior Jurisdiction (CASJ) is performed, including the needs in terms of judges and the introduction of a filtering system.

A. Key Findings and Analysis

1) Appeals at the CASJ

Data on the CASJ caseload (for e. g., in 2018 Clearance Rate was 82 % and Disposition Time was 1642) give rise to concern. Furthermore, the recent increase in the productivity of first instance judges brought about an increase in the number of appeals lodged with the court of appeal. Now a third section has been added to that Court.

The CEPEJ team of experts discussed therefore with Maltese judges and magistrates the issue of managing the backlog and reducing the possibility of appeal against first instance judgements. There seemed to be no consensus among the interviewed judges. A wide range of solutions was discussed. An introduction of a leave for appeal, as it is foreseen in most common law countries, could be an option, whereas some took the view that this kind of limitation would be felt as not feasible in a system, like the Maltese one, which is based on a two-tyre rule and no “cassation” or supreme court exists. Ms Nina Betetto thoroughly explained the Slovenian system of “triage”, leave to appeal and filtering before the Supreme Court. The question of giving (or not giving) reasons to reject a decision in the filtering process was also debated.

In the countries whose system is based on a three-level jurisdiction, some jurists debate over the possibility to abolish the appeal proceedings. Such reflections, however, are not applicable to Malta, where no Supreme Court exists and proceedings can be reviewed only in a framework of an appeal before the Maltese Court of Appeal. A number of interviewed judges pointed out, however, that the number of appeals confirming the judgement at first instance in the CASJ was very high (actually, more than 60% of decisions reject the appeal), because one of the main reasons to appeal was to gain time while waiting for the decision of the court. Hence the suggestion to introduce a system whereby the first instance decision is provisionally enforceable.

Also, of particular concern in the present context, is the possibility of conflicting judgments rendered by the three sections of the CASJ. The persistence of conflicting court decisions can create a state of legal uncertainty likely to reduce public confidence in the judicial system, which is one of the essential components of a state based on the rule of law. If parties can know in advance where they stand, they might often decide not to go to court in the first place. In the absence of a Supreme Court, it is primarily the role of the CASJ to resolve contradictions in the case law.

Court of Appeal (Superior Jurisidction)		
2016		
Confirms sentence of 1st Instance:	132	61%
Revokes sentence of 1st Instance:	51	23%
Partially revokes/ confirms sentence of 1st Instance:	35	16%
	218	100%
2017		
Confirms sentence of 1st Instance:	137	63%
Revokes sentence of 1st Instance:	46	21%
Partially revokes/ confirms sentence of 1st Instance:	36	16%
	219	100%
2018		
Confirms sentence of 1st Instance:	111	60%
Revokes sentence of 1st Instance:	35	19%
Partially revokes/ confirms sentence of 1st Instance:	40	22%
	186	100%

A more general consensus was found on the issue of oral pleading of cases before the Court of Appeals. As a general rule, in an appellate case parties submit their written acts, but the law allows them to also orally plead their cases before the Court. This engenders a useless waste of time and energies. The law allows parties, when they agree, to give up such oral exposition of their arguments, but it happens only in very rare cases. The suggestion of the Chief Justice is to avoid the necessity of oral pleadings before the Court of Appeals, but this would require a change in the law. Judges should be put in the position to decide whether such an oral discussion is useful or superfluous and consequently to allow or deny such oral presentations.

2) Monitoring Excessive Length of Cases (particularly at CASJ)

Maltese justice has a system for monitoring excessive length of cases. Every 3 months, paper-based information is circulated among judges and magistrates upon cases lasting for over 3 years. However, the introduction of a system based on electronic dashboards could be of great help, particularly at CASJ, where statistical data show a substantial increase in the last 10 years of the disposition time and an important decrease of the clearance rate, together with a worrying raise of the backlog.

Clearance Rate	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Constitutional Court	88	78	120	79	133	86	110	98	63	93
Civil Court of Appeal (Superior Jurisdiction)	133	97	72	55	60	83	81	85	92	82
Civil Court of Appeal (Inferior Jurisdiction)	120	105	52	56	74	81	112	142	159	84
Civil Court, First Hall	113	103	107	116	119	107	108	104	115	92
Civil Court, Family	89	84	89	112	110	94	106	107	105	91
Civil Court, Commercial Section	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	69
Court of Magistrates	94	95	122	122	108	94	106	121	105	96
Administrative Review Tribunal	NAP	30	29	43	46	155	412	116	147	91
Small Claims Tribunal	92	80	122	120	104	128	123	106	102	94
Land Arbitration Board	135	121	103	167	536	137	115	562	159	58
Rural Leases Control Board	164	256	125	130	205	150	173	100	90	191
Rent Regulation Board	83	84	90	122	107	142	83	123	77	73
Court of Voluntary Jurisdiction	94	136	88	90	90	89	95	90	118	99
OVERALL CR	**101**	**98**	**97**	**99**	**101**	**105**	**108**	**104**	**111**	**92**

Disposition Time	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Constitutional Court	469	558	332	431	245	372	295	264	524	365
Civil Court of Appeal (Superior Jurisdiction)	641	605	1192	1343	1429	1126	1280	1072	1084	1642
Civil Court of Appeal (Inferior Jurisdiction)	184	203	705	699	905	838	542	380	303	381
Civil Court, First Hall	1010	984	1034	857	804	865	838	840	746	840
Civil Court, Family	1000	1026	791	477	525	587	510	472	518	552
Civil Court, Commercial Section	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	1143
Court of Magistrates	881	863	835	675	796	874	810	768	818	993
Administrative Review Tribunal	NAP	2593	1755	1309	1712	1304	504	1449	1150	1057
Small Claims Tribunal	397	364	345	353	400	248	154	249	266	310
Land Arbitration Board	1100	1834	2373	1071	792	1699	1873	290	469	1133
Rural Leases Control Board	2981	1086	2245	1572	810	2646	1067	1632	1582	1182
Rent Regulation Board	3124	1172	1434	1160	1095	980	1361	711	1022	934
Court of Voluntary Jurisdiction	357	173	279	294	277	337	318	355	174	174
OVERALL DT	**744**	**650**	**702**	**654**	**669**	**668**	**584**	**610**	**531**	**586**

Source: Ministry of Justice, 2019

Data on the productivity of judges and magistrates are already available and uploaded online. The Chief Justice added that, despite the current problems, an improvement of the situation must be registered, when compared with the situation some years ago, the caseload of each and any judge was around 800 cases, whereas currently it is of about 400. Each judge of the Court of Appeal writes about 180 judgements per year.

Another sector in which projects are in the phase of study is the weighting of cases. This is a sector which should be crucial for the development of a system which enables Maltese stakeholder to understand the concrete and exact needs for new judges, magistrates, assistants and staff, in particular as far as CASJ is concerned.

Known specialisation for first instance judges in Malta are: family section, voluntary jurisdiction and commercial courts. Personal specialisations and skills of judges and magistrates in specific fields (such as tort law, contract law, possession laws, real estate laws, etc.) are kept into account in the allocation of cases, as this is a very important factor for ensuring an effective case management.

A further way to reduce the number of incoming cases at first instance, and therefore at the appellate stage, would be to introduce at the first degree level some system of timeframes for discoveries of parties and for production of documents. For instance, a deadline related to the first degree for pleading the prescription [statute of limitation] in civil cases could be introduced.

3) Premises for CASJ and the whole Maltese Judiciary

One of the main issues affecting the whole Maltese judiciary and in particular the Court of Appeal deals with the shortage of rooms and premises. During the meetings held in Malta it was made clear by both judges and staff members that even if new judges and additional staff had to be assigned to Maltese Courts and in particular the CASJ, these would experience severe difficulties in finding adequate space and rooms to host them.

During the interviews in Malta it was explained that the CASJ and the judiciary does not have its own budget, which is managed by the court administration. Court Administration is a department of the Ministry of Justice. On the Court Administration depends not only the premises but also the payment of jurors, payment of staff (not judges; salaries of judges are paid by the consolidated fund, which is not managed by the court administration). The Chief Justice manages only the budget of the judicial studies committee, which provides training for judges and magistrates. He has no power, nor funds, to finance the purchase or even the rent of new premises for the judicial system.

The question of premises is strictly linked to some procedural steps and in particular to the question of hearings. This problem is particularly felt by judges of the CASJ. In systems in which e-filing treatment of cases is established, it appears necessary to question the need to still have hearings (or at least the same amount of hearings), especially in civil cases, where submissions of the parties are sent in electronic way directly to the judge (or to the Court staff) and the hearing is nothing more than a mere oral repetition of what has been already explained in writing and sent to the judge. An implementation of the e-filing system – especially at the CASJ – would therefore reduce the need for hearings and therefore the need for premises.

In order to remedy to the most urgent needs, Maltese government should be sensitised on the need to provide some premises to the CASJ (and perhaps to the whole justice system). In fact, according to Chief Justice Azzopardi, five more judges and five more magistrates would be needed. If this is the case, it should not be impossible to find in Valetta a building, to be purchased or rented by the Government, which could host these people and their staff. There may already be public buildings in Malta which could be affected to this purpose. A pivotal role should be played in this context by the Ministry of Justice, whose main task is that of providing material means to the judiciary in order to render it fully operational and able to meet the needs of modern society.

4) IT and E-Filing

Interviewed staff officers provided information to the CEPEJ team of experts on the current state of IT in the CASJ and in the whole Maltese judicial system. Court administration is also developing an e-filing system. Laws, acts and judicial decisions are in the process of being published in the internet not only in .pdf but also in .htm. Recently an online IT system has been introduced through which lawyers can get information on on-going cases. Using their own password, they can have access to all the files, also those relating to cases in which they are not involved. All acts are scanned and put online. This happens only for civil cases: the project is called e-courts. In criminal cases, only judgements are made public. In family law cases decisions are anonymised. Special attention should be paid to the fact that the introduction of e-filing

especially for CASJ, but also for the whole Maltese justice and court system, contributes to the effectiveness of justice and does not become a source of inefficiency as it has been (at least in part) the case in Italy, with the hastily and premature introduction of a non-sufficiently tested system called "*processo civile telematico*" (e-filing system for civil proceedings).

5) Lawyers and Legal Procurators

Maltese system is based on the existence of two different kinds of advocates: the lawyers and the legal procurators. Different stakeholders who met with the experts expressed conflicting views on the role and the necessity of Legal Procurators. Work and position of legal procurators seem to be a source of inefficiency. Acts have to be signed by both a lawyer and a legal procurator, and this causes useless delays. Legal procurators created an office on their own at the Court's registry, and this causes a "stumbling block". A possible proposal could be that of gradually abolishing this out-dated distinction between lawyers and legal procurators as it was done in Italy years ago and to have only one type of professional (in Italy, legal procurators do not exist any longer).

The system of calculating fees for lawyers should also be changed. It should be made completely independent of the number of hearings and/or of submissions made by the lawyers. Otherwise it can represent a sort of enticement for them to "produce" more (useless) paper and oral discussions.

This does not mean, of course, that it should be desirable to lower lawyers' fees. On the contrary, lawyers should perceive this proposal as not directed to reduce their fees, which should rather be substantially raised. A raise of attorneys' fees should contribute as well to the reduction of number of frivolous litigations.

6) Court Fees (particularly at CASJ)

Participants to the discussions agreed on the fact that current court fees in Malta are very low, also if compared with the value of litigations, it does not discourage parties and lawyers from presenting groundless and vexatious petitions. However, the civil case system could allow higher costs, because, at the end of the procedure, they will be borne by the party who loses the case. Current Maltese system imposes double cost (Court fees) on the loser, but this appears not to be enough to discourage frivolous petitions. Courts tend not to sanction lawyers even if they present vexatious cases.

Problems were also signalled about the delays caused by the fact that parties who should make a deposit for courts fees do not do this or do it late. Therefore, in this field as well, legislative action is required. A short deadline should be given for the deposit and, in case of non-payment of it, the case should be cancelled. As an alternative, a principle should be introduced, according to which a case cannot be enrolled and lodged with the court, unless the deposit is fully paid immediately, even before the case is lodged and registered.

The above-mentioned reforms should be first of all enacted in CASJ proceedings, where the values at stake are usually higher than in other courts.

B. Recommendations

Recommendation	Step
Recommendation A1: At the initial stage of proceedings before the CASJ judges can spend a considerable amount of time on preliminary points, which could also be handled by court attorneys, and possibly, if properly supervised, by administrative staff. Active judicial management in civil proceedings presupposes an effective division of labour between court staff and the judges. A possible way to organise such a division of labour is to introduce preliminary proceedings as a separate work duty (triage).	**Step A1.1:** Set up a project group consisting of top-level management, ICT officer, judges and court attorneys. Designate the triage judge. Prepare a project document with clearly set objectives.
	Step A1.2: Analyse all unresolved cases according to the new business process.
	Step A1.3: Introduce necessary changes in the division of work and management of cases. Set up a triage office.
	Step A1.4: Decide how to deal with individual incoming cases and what decisions can be taken at the triage phase. Distribute the remaining cases among judges according to pre-established criteria.
	Step A1.5: Monitor the results of the project regarding the number of resolved cases and disposition time.
Recommendation A2: Judicial Studies Committee (JSC) should do more in the field of training on case management. In order to do this, they should dispose of an appropriate budget. Also, the judicial association should be involved in this project.	**Step A2.1:** Meeting/s between the Chief Justice and the Minister of Justice aiming at finding the material means needed in order to boost the activity of the JSC.
	Step A2.2: More scientific and technical staff should be allocated to the JSC.

	Step A2.3: JSC should underwrite an agreement with CEPEJ in order to have specific training courses on case management organised for judges, magistrates, assistants and staff.
	Step A2.4: A team of trainers and experts in this field should be set up, in order to assist judges, magistrates, assistants and staff on issues pertaining to case management.
	Step A2.5: At least a representative of the Judges Association should join the steering committee of JSC and provide assistance on the organisation of such courses and training activities.
Recommendation A3: An implementation of the e-filing system, starting from CASJ, could reduce the need for hearings (especially in civil cases) and therefore the need for premises. Legal procedural reforms should be enacted in this direction. However, special attention should be paid to the fact that the introduction of e-filing contributes to the effectiveness of justice and does not become a source of inefficiency as it has been (at least in part) the case in Italy, with the hastily and premature introduction of a non-sufficiently tested system called "*processo civile telematico*" (e-filing system for civil proceedings).	**Step A3.1:** Setting up at the Ministry of Justice a special unit charged of drafting a project for the introduction of an e-filing system at CASJ. The system, when fully implemented, should completely replace the procedures based on paper.
	Step A3.2: On the basis of such a project a bill should be introduced before the Parliament, aiming at making the necessary reforms in the Civil and Criminal Procedure Code.
	Step A3.3: Envisaged reforms should reduce as much as possible the need of hearings, esp. in civil cases. They should be replaced by written pleadings, submitted only in electronic way.
	Step A3.4:

	Envisaged e-filing system should be tested under the control of judges, magistrates, assistants and staff, in order to have it in full compliance with the needs of courts.
	Step A3.5: JSC should provide continuous training courses and assistance to judges, magistrates, assistants and staff on the new e-filing system.
Recommendation A4: Gradually abolishing the outdated distinction between lawyers and legal procurators. In the transitional period the use of legal procurators could be optional.	**Step A4.1:** Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General, and the Ministry of Justice. The envisaged reform should do away with the need for legal procurators, allowing lawyers to do the same activities of legal procurators. Existing legal procurators should have the opportunity to continue their studies to qualify as lawyers.
	Step A4.2: Contacts with the Bar Association. Preparatory meeting/s between the Chief Justice, the AG and the President of the Bar Association and his staff.
	Step A4.3: Contacts between the Chief Justice and the Parliamentary Commission in charge of legal reforms.
	Step A4.4: Preparation of a bill on the basis of the agreements between the above-mentioned stakeholders.
	Step A4.5: Submission to the Parliament of above-mentioned bill.

<table>
<tr><td rowspan="5">Recommendation A5:

The system of calculating fees for lawyers should be reformed. It should be made completely independent from the number of procedural acts (number of submissions made by the lawyers).</td><td>Step A5.1:

Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice. The envisaged reform should provide for fees exclusively based on the value of the case. Substantial increases should be provided in case of friendly settlement. Fees should be substantially increased (at least 50%) compared to those currently in use.</td></tr>
<tr><td>Step A5.2:

Contacts with the Bar Association. Preparatory meeting/s between the Chief Justice and the President of the Bar Association and his staff.</td></tr>
<tr><td>Step A5.3:

Contacts between the Chief Justice and the Parliamentary Commission in charge of legal reforms.</td></tr>
<tr><td>Step A5.4:

Preparation of a bill on the basis of the agreements between the above-mentioned stakeholders.</td></tr>
<tr><td>Step A5.5:

Submission to the Parliament of above-mentioned bill.</td></tr>
<tr><td rowspan="2">Recommendation A6:

Providing for a short deadline for the payment of deposit in Court, for instance not more than 40 days after the reply to the appeal has been deposited; in case of non-payment of it, the case should be declared deserted. As an alternative, a principle should be introduced, according to which a case cannot be enrolled and lodged with the court, unless the deposit is fully paid immediately, even before the case is lodged and registered.</td><td>Step A6.1:

Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice.</td></tr>
<tr><td>Step A6.2:

Contacts with the Bar Association. Preparatory meeting/s between the Chief Justice and the President of the Bar Association and his staff.</td></tr>
</table>

This recommendation is closely linked to recommendation A10.	**Step A6.3:** Contacts between the Chief Justice and the Parliamentary Commission in charge of legal reforms.
	Step A6.4: Preparation of a bill on the basis of the agreements between the above-mentioned stakeholders.
	Step A6.5: Submission to the Parliament of above-mentioned bill.
Recommendation A7: In proceedings before CASJ, lawyers should receive notifications, not parties. Law should introduce a system whereby the lawyer may give up her/his mandate, so being freed from any possible liability towards the client, even though for the court the law firm originally chosen would continue to be the place to serve acts and documents for that (former) client, until he/she does not inform the Court about the change of lawyer.	**Step A7.1:** Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice.
	Step A7.2: Contacts with the Bar Association. Preparatory meeting/s between the Chief Justice and the President of the Bar Association and his staff.
	Step A7.3: Contacts between the Chief Justice and the Parliamentary Commission in charge of legal reforms.
	Step A7.4: Preparation of a bill on the basis of the agreements between the above-mentioned stakeholders.
	Step A7.5: Submission to the Parliament of above-mentioned bill.

<table>
<tr><td rowspan="3">Recommendation A8:

The introduction a “filtering” system, similar to that existing in some countries should be considered, at the same time taking into account the requirements of Article 6.1. ECHR. One option to this end would be to implement a system where the CASJ in certain categories of cases would be entitled (e. g. in small claims) to give a leave for appeal in all cases with some exemptions. Permission would be given 1) if appeal has a real prospect of success or 2) if there is some other compelling reason why the appeal should be heard.

This recommendation is primarily meant to be combined with other measures, e.g. Recommendations A1, A12 and A13.</td><td>Step A8.1:

Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice.</td></tr>
<tr><td>Step A8.2:

Preparatory meeting/s between the Chief Justice and his staff and the President of the Bar Association and his staff to find a possible consensus for this change.</td></tr>
<tr><td>Step A8.3:

Preparation of a bill establishing grounds for leave to appeal and the procedural steps to be taken.</td></tr>
<tr><td rowspan="4">Recommendation A9:

The appeal should not be handled as it were a case at the first instance; in principle, the appeal court should only check the decision of the court of first instance, not re-evaluate it. To this end, in addition to already existing means (e. g. with regard to limited grounds for appeal; inadmissibility of new facts and evidence in appeal) limiting the scope of reasoning of the decision of the appellate court in routine and non-complex cases should be considered.</td><td>Step A9.1:

Divide cases into categories according to their complexity from routine to very complex cases.</td></tr>
<tr><td>Step A9.2:

Provide brief reasons of decisions in the category of routine cases.</td></tr>
<tr><td>Step A9.3:

With the support of the ICT office provide standardised decisions in the category of routine cases.</td></tr>
<tr><td>Step A9.4:

Define and add more cases eligible for standardisation.</td></tr>
<tr><td>Recommendation A10:

Hearings in civil cases which are nothing more than a mere oral repetition of what has been already explained in writing and sent to the judge should be avoided, as well as hearings to</td><td>Step A10.1:

Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice.</td></tr>
</table>

fix an appointment. Judges should have the discretion to decide whether such an oral discussion is useful or superfluous and consequently to allow or deny such oral presentations. In parallel with this amendment, timeframe to file an application to appeal and reply to appeal should be extended from the existing 20 days to a longer period (e. g. 30 days). Legal procedural reform should be enacted in this direction, taking into account the requirements from Article 6.1. ECHR. This recommendation should be linked to recommendation A6.	
	Step A10.2: Preparatory meeting/s between the Chief Justice and his staff and the President of the Bar Association and his staff to find a possible consensus for this change.
	Step A10.3: Preparation of a bill on the basis of the agreements between the above-mentioned stakeholders.
Recommendation A11: Maltese government should be sensitised on the need to provide more premises to the CASJ. A pivotal role should be played in this context by the Ministry of justice, whose main task is that of providing material means to the judiciary in order to render it fully operational and able to meet the needs of modern society. This recommendation should be extended to the rest of the judicial system.	**Step A11.1:** Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Court Administration and the Ministry of Justice.
	Step A11.2: The three staffs single out one or more premises in Valletta which may host either the whole CASJ or one or more sections of it.
	Step A11.3: Meeting/s on the issue of premises between the Chief Justice and the Minister of Justice in order to fine tune the agreements and reach a final settlement of the question.
	Step A11.4: Meeting/s between all involved aimed at singling out and defining all actions needed to equip and endow the premises with the necessary furniture and technical devices.
	Step A11.5: Ministry of Justice issues all administrative acts needed for implementing the above-mentioned agreements.

Recommendation A12: On manifestly ill-founded, unreasonable or vexatious appeal cases.	**Step A12.1:** Measures allowing the second court to dismiss any appeal which appears to the second court to be manifestly ill-founded, unreasonable or vexatious in a simplified manner, could be provided. Consider possible integration of the measure in the triage system or combination with the filtering system.
Recommendation A13: Have a single senior judge to deal with simple cases in the CASJ. At the moment single judge decide cases only in the CAIJ.	**Step A13.1:** Analyse the cases according to their type and complexity. Identify cases where the CASJ could rule in a single judge formation.
	Step A13.2: Contacts with the Minister of Justice. Preparatory meeting/s between the Chief Justice, the Attorney General and the Ministry of Justice.
	Step A13.3: Preparatory meeting/s between the Chief Justice and his staff and the President of the Bar Association and his staff to find a possible consensus for this change.
	Step A13.4: Preparation of an amendment of the law on civil procedure establishing categories of cases where the CASJ could rule in a single judge formation.
Recommendation A14: Improving the consistence of the case-law	**Step A14.1:** Provide an instrument in order to overcome inconsistencies and divergences in the case-law, e. g. by introducing a possibility that judgments of the CASJ sitting as a grand chamber (*en banc*) are binding for all sections of the CASJ.

Recommendation A15: On the plea of prescription	**Step A15.1:** The plea of prescription should not be raised at the stage of appeal. The defendant has sufficient time to raise such a plea before the court of first instance.

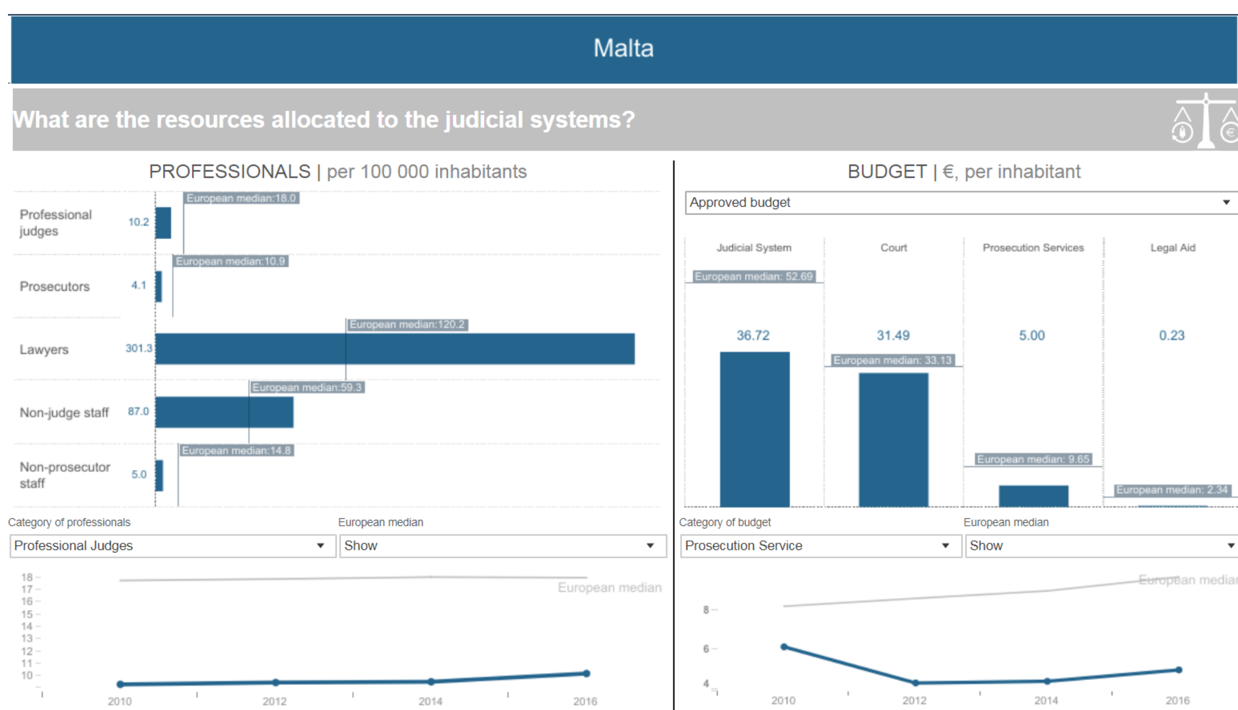
Part II – Supporting the Development of a Human Resources Strategy

A. Key Findings and Analysis

1) Judges and Magistrates

The CEPEJ team of experts registered different opinions among Maltese stakeholders on the question of human resources, in particular as far as the number of judges and magistrates is concerned. Actually, whereas the Chief Justice and the interviewed judges and magistrates seemed to agree on the need to recruit new members of the judiciary (the Chief Justice hinted to the need to hire five new judges and five new magistrates), the administrative staff officers seemed to be more cautious, explaining that a better organisation of the work and a better case management could improve judicial productivity, even without increasing the number of judges and magistrates. Interviewed staff officers agreed on the fact that the Judicial Study Committee could do more in the field of training on case management, together with the judicial association.

As far as the number of judges and magistrates is concerned, CEPEJ data confirm that their number is far below the European average, as shown by consulting the CEPEJ-STAT Data base:



According to the 2018 (2016 data) CEPEJ report, there are 45 judges and magistrates in Malta, whereas the European average is of 81. It seems therefore that the Chief Justice is right when advocating the need to have (at least) 5 new judges and 5 new magistrates. The final result of this operation would be actually of 55, still well below the European average. **The CEPEJ experts may**

therefore recommend that two of the five new possible judges should be allocated to the newly created third civil chamber of the Court: a section which is now working with judges working from the other sections, which does not seem to help improving the efficiency of the system.

The need of such an increase is particularly felt in the CASJ, where statistical data provided by Maltese authorities show a worrying decrease of the clearance rate (from 133 in 2009 to 82 in 2018), which matches an increase of the disposition time (from 641 in 2009 to 1642 in 2018) and of the number of pending cases (from 643 in 2009 to 1588 in 2018). The only positive results seem to concern the age of pending cases, which has been quite remarkably reduced in the last years.

Maybe, prior to the identification of the number of new judges needed at the CASJ, it would be worth introducing a form of case weighting, in order to be able to objectively assess the needs of such Court. Problem is that Malta seems not to have yet such system and it should first of all choose what kind of case weighting should be applied in the country (e.g. whether a point-based system, or a time based one).

Another possible option should be that of hiring a team of temporary judges. These people should be selected for a given period of time, with the specific purpose of doing away with the backlog at the CASJ. They should be chosen among retired Judges, University Professors, Lawyers and other high-level practitioners (or former practitioners) in the field of justice.

At present, the total number of judges and magistrates is fixed by the law upon proposal by the Government: therefore, an increase of the number of judges and/or magistrates should be the object of talks between the Judiciary, on one side, and the Executive, on the other side. Currently, members of the judiciary (judges and magistrates) are only 44. Judges and magistrates are selected by the judicial appointment committee (since 2016); after this selection it is up to the Minister for Justice to choose and make the appointments. Candidates must be practicing lawyers (for at least 7 years to become magistrate) and have a master's degree in law. It is not required for a judge to have been previously appointed as magistrate.

A crucial question related to this one deals with Court Attorneys. Court attorneys are the assistants to the judges. They get their full-time employment because they are trusted by a judge, upon personal call from the judge. They do not usually go to Court but work at home. It appears that the introduction of these Court Attorneys in the past helped the judges but did not result in a higher productivity of Courts. It remains to be determined whether this partial shortcoming depended on the fact that the number of Court Attorneys was not sufficient to cover needs; and whether training provided to them was not sufficient. They keep their position as long as the judge is in office. Court Attorneys are different from the position of "judicial assistants". In family courts each judge has 2 judicial assistants. Judicial assistants are available also in criminal courts. Raising the number of Court Attorneys and of judicial assistants could possibly be of help in dealing with judicial backlog. However, this increase of the judges' and magistrates' staff should be accompanied by a more intense training of such people, a training which is focused on the need for a more efficiency-oriented judicial activity.

A better organisation of the work of court attorneys and of judicial assistants is also desirable. The idea could be that of partly or for a limited period of time assigning them to the court, rather than personally to the judges, so that they may be used for the more urgent needs. work in the triage

office and to tackle backlog. Furthermore, in order to address the backlog, the need is felt for temporary assignment of additional court attorneys.

The organisation of regular meetings among court attorneys and of judicial assistants should also be recommended, so to help judges and magistrates to ensure a certain degree of uniformity of their case law.

2) Implementing a new Human Resources strategy for non-judicial staff

For a new Strategy to be successful, it is crucial that it relies on a sincere ambition to reach that goal, through honest collaboration between parties to the project, and sharing of equal mutual consideration. It often appears, in similar situations, that the different levels in court do not hear each other's specific difficulties, thus may lack consideration for the other positions, not listening and hamper good communication. It is as important, for a court system that aims at improving its efficiency, to have the best possible relationships between all staff that it is for a human individual to nourish good relationships. Consequently, the very first step in the implementation of a human strategy and beyond that, improving the efficiency of the whole justice system, is to set up a "Working Group on New Human Resources Strategy" of representatives of all levels of staff. They should be all volunteers, enthusiastic about the project and convinced they can achieve something together, willing to listen to each other without any preconceived ideas and aim for the best collaboration *(Recommendation B1 Step 1).*

This group will then have to work on the tools to implement a new Human Resources strategy *(Recommendation B1 Step 2)*: dashboards, basic jobs requirement and complete descriptions, creation of other groups to work on more specific topics (training of non-judge staff, processes of tasks, job descriptions etc.). As well, it would be advisable to set up a (phone and/or online) helpline for the staff, which should help registrars, and more generally staff members, to solve problems arising from day-to-day work.

The future needs of the organisation should be anticipated not only qualitatively, but also quantitatively. In order to gather all information about the staff and anticipate the future needs of replacements, it should be considered to create a population pyramid, or "age-sex- pyramid", a graphical illustration that shows the distribution of various age groups. This tool will be used to visualise the present situation of age and sex distribution and give indications to its future evolvement. *(Recommendation B1 Step 3)*

Once these different elements are gathered, the present and future needs for recruitment should be determined.

The dashboards will always show how many people are present and the reasons why they are absent, and thus make it possible to address the situation in appropriate ways. There should be more Court Attorneys and judicial assistants to help judges and magistrates in dealing with judicial backlog. The judicial assistants should work full-time and exclusively for the court, in order to avoid confusion between their interests. Court attorneys could also be extended to first instance courts. While the ideal team for each judge will have to be discussed by the relevant stakeholders, the CEPEJ experts may suggest having teams which would be composed of 5 people: 1 court attorney, 2 deputy registrars, 1 court assistant and 1 court messenger. The project

Working Group could discuss these ideal teams and express clear and objective needs. The Agency soon to be created will be able to select motivated people with fixed-termed contract and offer adjusted solutions; it will also improve retention of staff *(Recommendation B1 Step 4).*

3) Implementing an IT strategy

The computer tool is essential to ensure effective management of a judicial body. It must meet minimum conditions in order to be effective and meet the expectations of the heads of the courts. These conditions are:

1. Be efficient enough to ensure swift and efficient work.
2. Be user-friendly to make the work of users easier and more enjoyable
3. Use of specific work processes (determine the most efficient work processes within different jurisdictions, then disseminate these methods to other jurisdictions), studied in advance and chosen according to their effectiveness
4. Automatically generate vital statistics for the management of a judicial body.
5. Be adaptable and allow rapid changes as needed.
6. Have a sufficient budget and be managed by competent staff

The creation of a data warehouse, dashboards clearly indicating the main data related to the management of the files and the staff is essential. A close and constant collaboration between representatives of judges, magistrates and all level of non-judge staff on one hand, and the IT team and outsourced IT Company on the other hand is crucial to the success of the project.

The following tools could instantly measure: the number of cases and the evolution of their number, time needed to deal with them, by the judicial staff and by the magistrates, time for various tasks, the number of people needed to process them, the evolution of the stock of files, Clearance Rates, Disposition Times, productivity of each chamber and each judge, etc. These data are not necessarily intended to assess the quality of the staff or the judge but to accurately determine the delays recorded in order to be able to solve the problems and flexibly adapt the organisation. *(Recommendation B2 Step 1)*

The system implemented in the Slovenian justice system is a very relevant example. Before 2008, court registers were filled manually and only basic information were collected for each procedure separately. After the introduction of a new system of data warehouse and president's dashboard in 2008, data collection became centralised, automatic, electronic and permanently updated. It dramatically improved the decision-making process and allowed shortening the decision-making time, improving resolution of old cases, more effective planning and equalisation of human resources, among other benefits. More information on it can be found following this link (subtitles available in English):

https://www.youtube.com/watch?v=uOCq0nQvZ54&feature=youtu.be or by looking for "Judicial Data Warehouse and Performance Dashboards – Slovenia" on YouTube.

Judicial Data Warehouse and Performance Dashboards - Slovenia

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The training of magistrates and staff on IT tools guarantees the uniformity of the encodings, (essential for obtaining reliable statistical data) and the optimal use of the tool. In order to maintain a high level of efficiency of the system, a training program for judges and staff should be developed. It should distinguish the essential basic training for those starting their careers and a continuous updating training for those who already working. Also, in order to help everyone on a daily and practical basis, those in the non-judge staff interested and motivated in the IT field should be identified and incented with special allowances, or at least the necessary time to accomplish that important task ("Local IT correspondents or referents" at each floor or in each service). *(Recommendation B2 Step 2)*

The electronic transmission of data and documents between the main actors of justice is also very important. This concerns for example, lawyers, police services, and all those who must receive or transmit documents to the courts. Initially, an e-mail transmission must be possible, but it is also possible and necessary to create simple specific computerised instruments made available to the

different actors. The flow of documents must be two-way: from justice to the outside and from outside to justice. The advantages of this procedure are numerous as it allows the rapid transfer of documents and avoids costs of postage and travels to the courts. *(Recommendation B2 Step 3)*

Most European countries have started projects to digitise documents used by the courts with a view to creating an electronic file in order to avoid as much as possible the use of "paper" support. Such a project requires going through specific steps and concerns several aspects:

- Appropriate legislation that allows it;

- The electronic signature of digital documents, such as judgments;

- the use of scanners to digitise paper documents;

- computer equipment made available to courts and judges.

Such projects require the creation of working groups made up of specialists from the Ministry of Justice and "business" representatives, such as judges and court clerks.
The use of electronic files also has important advantages such as the speed of availability and transmission of the file, the possibility of finding precise data in the file, the economy of handling heavy and bulky files (saving of staff), an archive that no longer requires occupying large areas in buildings. The ecological and economic advantage is also very important. *(Recommendation B2 Step 4).*

4) Attracting and keeping new recruits

The recruitment system can be improved: one of the main challenges is that the candidates are extremely few. The booming Maltese economy offers more attractive opportunities for the young people who, like as in many other EU countries, generally have gone far in their high school studies. The level of recruitment and basic requirements to become a deputy registrar is now naturally higher than before, which is an excellent step towards better efficiency and competence, but the candidates for working in the justice system remains extremely scarce.

First, non-judge court staff jobs are not attractive in terms of salary, therefore it is recommended to increase those by creating a specific grid of wages. In France, for example, the grid would establish a certain salary at the beginning of the career with a determined scaling up every 2 or 3 years. For certain positions, the more burdensome, an extra monthly bonus is granted. The grid is specific to non-judge court staff because of the specificities of these positions and the training needed for them. *(Recommendation B3 Step 1).* Also, making extra hours payable should be considered, and special dedication, competence, commitment or willingness to carry on with advanced training should be rewarded by special allowances. This way, making an effort and develop a higher level of skills and knowledge is incentivised *(Recommendation B3 Step 2)*. A new agency which will be created very soon will be able to recruit new staff on the basis of fixed term contract. It is recommended that the level of retribution between the two categories of staff (fixed and non-fixed terms) be comparable, in order to keep the staff motivated *(Recommendation B3 Step 3)*

Secondly, the image of the non-judge court staff jobs is not attractive because of the nature of work itself. The higher educated young people in Malta seek more interesting jobs, with more responsibilities, autonomy and consideration than what the justice system seem to offer at the moment. It is therefore crucial to reconsider the level of responsibility of highly qualified non-judge staff (especially deputy registrars and court directors) and use their capacities and higher education to the best possible extent. This is also true for any other employee. In some countries, a similar situation exists. *(Recommendation B3 Step 4).* This new distribution of tasks will help alleviate the judges' workload and allow them to focus on the core of their work. It will also keep the non-judge staff motivated to stay with new status of "judicial registrar".

A step further would be the adoption of the system of the Rechtspfleger *(Recommendation B3 Step 5).* In some European countries, a highly educated and competent position of non-judge court staff doubled with jurisdictional decision competence in some fields was created. This is largely considered to be a good practice which can bear fruits. The Rechtspfleger is a highly qualified non-judge court staff with special assignments in some jurisdictional and gracious field. Initially a major actor of the justice system in Germany and Austria, it has been adopted completely and successfully in Denmark and Spain, and to various degrees in 12 other European countries (Andorra, Bosnia-Herzegovina, Croatia, Czech Republic, Estonia, Georgia, Hungary, Island, Ireland, Poland, Slovakia, Slovenia). It has proven to be efficient to reduce case duration and cases backlogs, by allowing the judge to focus on settling most serious disputes. The Recommendation R(86)12 of the Committee of Ministers of the Council of Europe promotes this solution to solve judges work overload. Oftentimes, judges are performing tasks that could be done by a "judicial registrar" or Rechtspfleger: dealing with files, answering to parties on all kinds of requests, taking a decision in a certain number of specific non-litigious matters. Thus, judges would have more time to focus on preparing the decision. The Rechtspfleger makes decision, in full autonomy, on certain matters, usually the less contentious ones, others being reserved to the judges. She/he is also more available for direct contact with people, and may also have management competence in various fields. Though the salary of a Rechtspfleger is higher that of a standard registrar, it is lower than that of a judge. The image of the profession can be very good and young people with higher education may not accept to work in Courts if the positions proposed have low or inexistent responsibilities.

Besides managing administrative tasks and procedures, the list of jurisdictional and gracious matters in which the Rechtspfleger could make decisions can vary from one country to another, but can be rather long, allowing judges to have more time to focus on the core of their tasks. Relevant examples could be non-contentious cases, enforcement of civil and criminal decisions, payment orders, family law (in Spain, they can rule the consented divorce of childless married couples), legal aid, land and trade registries, many acts of procedures.
Below is a list of examples of competences regarding judicial decisions:

NON-CONTENTIOUS MATTERS
Family and tutorship law
Inheritance
Land registry
Trade registry

CRIMINAL MATTERS

Enforcement
Granting respite or payment by instalments of fines
Public prosecution

CIVIL MATTERS
Orders relating to small money claims
Judicial auctioning and administration of real estate
Insolvency
Decisions on costs
Acts of participation
Forced enforcement
Witness statements
Legal cooperation
Legal aid
Controlling the accomplishment of missions by court-appointed expert witnesses
Restitutio in integrum

Thirdly, the image of the court staff jobs may not be attractive enough because of working conditions. The premises being insufficient, space allocated to each staff may be too limited and make it difficult for more people to come. This is a factor which may be generating stress. Finding new premises and make the existing ones more comfortable in terms of space, noise or temperature etc. is therefore recommended *(Recommendation B3 Step 6).*

Teleworking should be implemented. It is especially but not exclusively useful for pregnant women, to cope with excessive traffic or transportations, etc.) *(Recommendation B3 Step 7).* Under certain conditions and with proper computers and internet connection, teleworking can represent a major improvement in terms of working conditions.

Lastly, tools can be developed to improve the image of the offered positions, through press articles, posters (See annex 4.2) and internet promotion (website, YouTube videos, etc.), in law school (where the non-judge staff jobs are very likely to be disregarded). *(Recommendation B3 Step 8)*

5) Improving the efficiency of staff through training

The level of competence and efficiency of the staff (newly recruited or already in office) can be improved and updated constantly to be kept as high as possible. In Malta, it seems that the majority of registrars and clerks in office did not go through specific education and there is a serious problem of lack of basic knowledge. It is therefore essential to develop a strong system of training at all stages. A specific education in law and procedure is now required in Malta to become a registrar, so that between the newly recruited and the ones hired before the reform, there is an important discrepancy. Different solutions can be proposed to solve these issues.

At the moment, there is no training at all once in office. There is no mentoring system for new employees and no written indications for transmission of savoir-faire and processes. This is another reason for the stress, burdening and lack of motivation of non-judge staff.

Implementing a system of training for non-judge staff is an important factor to improve the efficiency of justice *(Recommendation B4 Step 1),* and both basic and continuous training should be considered. It allows staff to offer a better quality service to the public and rationalise the organisation. Furthermore, it brings satisfaction to the staff, making the job more interesting and highly regarded.

A taskforce could be set up to conduct a survey on how the court staff consider their own needs in terms of training. The themes should be legal procedures, working processes, law, organisation of the judicial system, prevention of stress, etc. Specific training should be offered to directors, including law and procedure as well as administrative, budgetary and human resources management. IT should also be included in the programs.

Different systems may be implemented or chosen from. One solution is to offer classes during working hours and inside the court itself with trainers chosen among the judges or other experienced staff. Also, e-learning is a practical solution that allows people to choose the time when they study and take the tests.

In all cases, trainers and participants must be enticed to follow such trainings, if they are not made compulsory. Participants should be given time and support with their work; special allowances could be offered to the trainers, if those are not outsourced.

Tools should be developed for optimal transmission of processes and savoir-faire *(Recommendation B4 Step 2).* An effective way to ensure good “in-office training” and evaluate the trainees’ work in quantity and quality is to implement a mentoring system. Volunteers can be identified and may be incentivised through special allowances and extra time. A group can also work on a leaflet designed to help new arriving employees, transmission tools such as job precise descriptions, tasks processes precise listings and make them transparent and accessible to all employees. (SEE ANNEX 4)

6) Improving day-to-day staff management

There seems to be an organisational problem with absenteeism. A majority of the non-judicial staff are females, who often work part-time and are susceptible to have maternity leaves or days off to take care of sick children. A special role of deputy registrars should be set up, in order to fill up temporary short vacancies. A pool of deputy registrars exists, but people seem to be reluctant to join it. At the moment, each judge and magistrate have their own team of staff, yet these teams are subject to change to fill urgent needs. While this organisational system can be kept as such, major adaptations may be introduced.

The role and position of directors may be redefined: the definition of their role and missions could be made clearer and firmer when it comes to organising the services. Different aspects of their job can be put forward *(Recommendation B2 Step 1).* Specific training must be implemented for the directors in these fields.

The dashboards are precious tools to manage Human Resources. Directors should be able to ask for new relevant tools to ensure better management of staff: dashboards, statistics, reports,

inquiries, etc. The goal is to measure the workload of the staff and its evolution in order to propose the most efficient and fair organisation, based on objective data *(Recommendation B5 Step 2).*

Setting up a general time charter for the staff and a computer system would allow to measure working hours (fixed or variable), the way overtime is calculated, the number and different types of days off, etc. The types of absence would be mostly paid vacation, sick leave, leave to take care of a sick child or other family matters (marriage, funerals); recovery of overtime, professional training, etc. Computer programs are in use allowing each member of the staff to inform hours of arrival and departure, including lunch breaks. It also allows asking for leaves online and the director, connected too, can give the authorisation and anticipate situations precisely. This is a very precise and precious tool for the director to easily manage staff as regards working time and days. *(Recommendation B5 Step 3)*

In order to keep non-judge staff motivated, those who wish to develop their skills and change service should be able to apply to new positions. It is up to the directors to evaluate the possibilities and promote them *(Recommendation B5 Step 4).*

The creation of a pool of deputy registrars among the best trained and motivated registrars in order to fill up temporary vacancies could be a solution to excessive absenteeism and disorganisation of services. It is very common in many European countries. In France for example, there are pools in each court of appeal. Every 3 months, directors are asked if they need extra deputy registrars and for which specific purpose. Arbitration is then made to satisfy the courts that need them the most. Dashboards can be the base for distribution. In smaller units, meetings could be held on a regular basis to decide where these registrars should help. An increased salary or a system of special allowance could help identify volunteers, who should also have extra-training for a maximum versatility. *(Recommendation B5 Step 5)*

B. Recommendations

Recommendation B1: Implementing a new HR strategy	**Step B1.1: CREATING A PROJECT WORKING GROUP** - Determining a list of motivated and experienced staff to participate in the overall project of implementing a renewed HR management and chose its leaders - Development of a a strong team spirit insisting on the need for thorough cooperation between all of its members (judge and non-judge staff) - Everyday practices and difficulties, problems, perspectives, should be taken into consideration

	Step B1.2: DEVELOPMENT OF MEASUREMENT TOOLS - Creation of a smaller and more specialised groups to work on specific tools - Data warehouse and dashboards: the groups will determine what data are relevant to be collected for HR (list and nature of tasks, time needed to complete the number of acts, judgments, sittings, number of staff members, sick days, or other absences, extra hours, etc.) - Setting up of a specific IT team or working group within the court. Cooperation with this IT team and/or outsource if appropriate (see Slovenia's example)
	Step B1.3: CREATING AN AGE-SEX PYRAMID - Collecting and gathering all information about staff to anticipate future needs of replacements - This information can then be used to adapt recruitments in time
	Step B1.4: DETERMINING THE NEEDS FOR RECRUITMENT - With these tools, determining the precise present and future needs in terms of non-judge staff - If "Team organisation" is maintained, determining types and numbers of NJS needed in each team, number of Directors and substitute deputy registrars needed - With new agency and possibility for fixed term contract, determining the kind of jobs, period of the year of specific services in need of these - Suggesting extension of Court attorneys to first instance and/or having judicial assistants to work full time and exclusively for the court

Recommendation B2: Implementing an IT strategy	
Recommendation B2: Implementing an IT strategy	**STEP B2.1: CREATION OF DATA WHAREHOUSE AND DASHBOARDS** - Potentially contacting an outsourced company to build the tools - Creating a working group with the court IT team and staff interested in the project, while making sure that every level of court work is represented - Ensuring collaboration with all stakeholders through the process (judge, non-judge staff and IT together) - Determining data to be collected (Slovenia's example could be an ideal basis, to be adapted to Malta's special needs and environment) - Determining and standardise procedures for collecting data - Aiming at completely automatic processes - Transparency; ensuring data is available to all staff
	STEP B2.2: TRAINING OF STAFF - Develop a training program for judges and staff in the use of IT tools; basic training and constant updates through continuous training - Standardising the encodings and data collection - Creation of a team of local referents among staff to support all staff on a practical and daily basis, and offer special and constantly updated training to these referents
	Step B2.3: DEVELOPMENT OF ELECTRONIC TRANSMISSION OF DATA WITH THIRD PARTIES - Organisation of a consultation of lawyers, police officers and all those who may interact with courts and tribunals to determine the possibility of transmitting useful documents by electronic means

	Step B2.4: PROGRESSIVELY LEAVING BEHIND PAPER-BASED MEDIA - Digitalisation of archives, electronic signature, progressive creation of electronic court record. - For staff (judge and non-judge) creation of a space to share useful documents, research (for example Court attorneys and judicial assistants could share their research, Deputy registrars their vademecum)

Recommendation B3: Attracting and retaining staff	**Step B3.1: PROMOTING GOOD IMAGE OF COURT JOBS** - Have a large survey amongst the non-judge staff concerning their working conditions - Outsource the creation of different communication tools (internet, videos, television, posters etc.) - Create a group of relevant staff to work in collaboration with the potential outsourced company.
	Step B3.2: EXTRA WORK AND SPECIAL ALLOWANCES - Establishing a list of conditions for these extra hours to be authorised (long sittings, project necessity, special period of the year, specially demanding cases, etc.) and a procedure for their authorisation and calculation. - Determining the situations where special allowances can be granted to highly motivated/committed non-judge staff.
	Step B3.3: NEW AGENCY FOR RECRUITMENT - Offer an incentive level of salary and make it comparable to the ones of the non-judge staff

	already in office - Implement a close collaboration with the directors and access to the data collected regarding the cases and the staff.
	Step B3.4: INCREASE THE LEVEL OF RESPONSIBILITY - Have the project Working Group on New Human Resources Strategy list the different acts of procedures and minor decisions that could be given to the registrars to alleviate the judges' workload - Once the list is determined, propose special profiled positions and connect the allowances or other advantages accordingly
	Step B3.5: CONSIDER ADOPTING THE RECHTSPFLEGER SYSTEM - The Working Group may discuss about introducing a similar system. - Determining the limits and content of this highly qualified non-judge staff
	Step B3.6: PREMISES - Surveying staff about what qualities of premises could improve their work - Determining the number of new offices needed - Hiring special staff to help or grant extra paid hours or allowances to existing staff
	Step B3.7: WORKING AT HOME – TELE-WORKING - Inquiring staff about their needs and will to work from home - Determining the number of computers needed and special programs to ensure maximum data security and monitoring of effective work by staff at home

	Step B3.8: INCREASING WAGES - Determining what level of increase is needed considering private competition - If needed, development of a specific grid of wages for the justice system non-judge staff (through the new “agency”)
Recommendation 4 **Improve the efficiency of the staff: the training**	**Step B4.1: IMPLEMENTING A SYSTEM OF TRAINING FOR NON-JUDGE STAFF** - Creation of a group of committed judges, directors, registrars and other staff to determine the needs and basic knowledge to have - Classes with trainers and/or e-learning: evaluation of pros and cons and feasibility of both systems - For classes, identifying in-office volunteers to train others in small groups and/or outsourcing training - For e-learning, working group should collaborate with the IT team to develop the tool - Tests for every level and make them compulsory / Give staff the help in their work and enough time to study the e-learning modules and take the tests in office
	Step B4.2: FACILITATING TRANSMISSION OF PROCESSES AND SAVOIR-FAIRE - Development of “mentoring” for newcomers: selection of a pool of experienced staff, with specific time, special allowances, relevant training - Customize theoretical and practical training for new employees, - Creation of a “welcome kit” - Create and make accessible to everyone a bunch of tools that standardise the working methodology of all teams and list the different contents and steps of each task or job: create a group to work on these tools and have the

	group discuss and update them on a regular basis - Upload the needed documents online in a shared space (new laws, basic knowledge on court system, *vademecum*, IT tools, practical information, stress reducing techniques, etc.
Recommendation B5: **Improve Staff Management**	**Step B5.1: REDEFINING ROLES AND POSITIONS OF THE DIRECTORS** - Development of a list with Directors' precise tasks and define in a clear way their position and mission (organisation of the teams/complete responsibility in managing non judge staff) - Providing specific time to staff members allocated to meetings with directors to improve communication - Organise yearly work assessment for staff - Encourage new ways of reporting - Offer conflict management tools (training, meetings, discipline) - Development of tools and budget to improve well-being in its ergonomic aspects and psychosocial component - Staff satisfaction surveys on the organisation and conditions of work - Development of specific and detailed job profiles to determine the expectations for future directors. - Directors should be able to completely manage absenteeism and determine the needs of staff in teams; - Assessment of staff members/at least one interview per year for each staff member with her/his hierarchy. - Meetings with staff on a regular basis to update the situation and work on dashboards
	Step B5.2: MANAGEMENT DASHBOARDS - Setting up a specific working group on IT (See

	Recommendation B1.2) to work on improving and updating these dashboards, statistics, reports, inquiries - Determining all objective data needed for improved management (staff needed, staff present in each team or service, duration of absence, workload and ratios, etc.) - Ensuring data is accessible and transparent in order to limit feeling of inequity
	Step B5.3: WORKING HOURS AND TIME MANAGEMENT - Establishing a general time charter for staff - Implementing a computer system to measure every aspect of working hours, absences, etc. - Ensuring everyone understands the system and uses it
	Step B5.4: PROMOTING MOBILITY AND VERSATILITY - Determining staff ambitions to mobility and competence for versatility. They should be facilitated - Evaluation of the possibilities of change - Facilitation of internal promotions - Ensuring the process is transparent

	Step B5.5: SETTING UP A POOL OF SUBSTITUTE DEPUTY REGISTRARS - Determining the size of such pool with existing tools created, - Determining allowance or other incentives - Call for volunteers - Establishing the needs on a regular basis - Organising meetings to arbitrate - Ensuring the whole process is transparent - Offering extra training to members of the pool
	STEP B5.6: AS REGARDS JUDGES/MAGISTRATES AND COURT ATTORNEYS/JUDICIAL ASSISTANTS - Development of measurement tools - Development of clear job rules - Organisation of meetings with judges on a regular basis - Setting up working groups - Shared space for research - Magistrate could be provided assistance from court attorneys

APPENDIX 1: Data on Maltese caseload

APPENDIX 1.1: Overview by Court

Clearance Rate

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Constitutional Court	88	78	120	79	133	86	110	98	63	93
Civil Court of Appeal (Superior Jurisdiction)	133	97	72	55	60	83	81	85	92	82
Civil Court of Appeal (Inferior Jurisdiction)	120	105	52	56	74	81	112	142	159	84
Civil Court, First Hall	113	103	107	116	119	107	108	104	115	92
Civil Court, Family	89	84	89	112	110	94	106	107	105	91
Civil Court, Commercial Section	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	69
Court of Magistrates	94	95	122	122	108	94	106	121	105	96
Administrative Review Tribunal	NAP	30	29	43	46	155	412	116	147	91
Small Claims Tribunal	92	80	122	120	104	128	123	106	102	94
Land Arbitration Board	135	121	103	167	536	137	115	562	159	58
Rural Leases Control Board	164	256	125	130	205	150	173	100	90	191
Rent Regulation Board	83	84	90	122	107	142	83	123	77	73
Court of Voluntary Jurisdiction	94	136	88	90	90	89	95	90	118	99
OVERALL CR	**101**	**98**	**97**	**99**	**101**	**105**	**108**	**104**	**111**	**92**

Disposition Time

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Constitutional Court	469	558	332	431	245	372	295	264	524	365
Civil Court of Appeal (Superior Jurisdiction)	641	605	1192	1343	1429	1126	1280	1072	1084	1642
Civil Court of Appeal (Inferior Jurisdiction)	184	203	705	699	905	838	542	380	303	381
Civil Court, First Hall	1010	984	1034	857	804	865	838	840	746	840
Civil Court, Family	1000	1026	791	477	525	587	510	472	518	552
Civil Court, Commercial Section	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	1143
Court of Magistrates	881	863	835	675	796	874	810	768	818	993
Administrative Review Tribunal	NAP	2593	1755	1309	1712	1304	504	1449	1150	1057
Small Claims Tribunal	397	364	345	353	400	248	154	249	266	310
Land Arbitration Board	1100	1834	2373	1071	792	1699	1873	290	469	1133
Rural Leases Control Board	2981	1086	2245	1572	810	2646	1067	1632	1582	1182
Rent Regulation Board	3124	1172	1434	1160	1095	980	1361	711	1022	934
Court of Voluntary Jurisdiction	357	173	279	294	277	337	318	355	174	174
OVERALL DT	**744**	**650**	**702**	**654**	**669**	**668**	**584**	**610**	**531**	**586**

Pending Caseload at End of Year

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Constitutional Court	45	55	46	59	43	51	46	47	79	85
Civil Court of Appeal (Superior Jurisdiction)	643	655	772	990	1198	1283	1375	1463	1509	1588
Civil Court of Appeal (Inferior Jurisdiction)	164	153	306	519	605	673	628	489	338	409
Civil Court, First Hall	5352	5296	5162	4870	4540	4411	4280	4203	3947	4107
Civil Court, Family	1205	1290	1369	1263	1185	1231	1186	1127	1089	1165
Civil Court, Commercial Section	20	25	29	36	44	51	60	75	102	119
Court of Magistrates	1250	1282	1183	1077	1040	1068	1043	964	944	958
Administrative Review Tribunal	91	135	340	545	727	661	427	413	375	388
Small Claims Tribunal	1059	1419	1184	1012	979	741	513	473	458	495
Land Arbitration Board	208	201	200	176	128	121	118	58	45	59
Rural Leases Control Board	147	122	118	112	91	87	76	76	78	68
Rent Regulation Board	428	456	470	445	435	392	414	378	423	494
Court of Voluntary Jurisdiction	899	579	706	822	958	1102	1180	1324	1002	1021
TOTAL	**11511**	**11668**	**11885**	**11926**	**11973**	**11872**	**11346**	**11090**	**10389**	**10956**

APPENDIX 1.2 Age of pending caseload

Overall Aged caseload per year

2009		% of total pending caseload
10 years + (from 1999 backwards)	1470	13%
from 6 to 10 years (2000 - 2004)	1633	14%
from 3 to 5 years (2005 - 2007)	2992	26%
Last 2 years (2008, 2009)	5416	47%
TOTAL	**11511**	**100%**

2010		% of total pending caseload
10 years + (from 2000 backwards)	1496	13%
from 6 to 10 years (2001 - 2005)	1479	13%
from 3 to 5 years (2006 - 2008)	2836	24%
Last 2 years (2009, 2010)	5857	50%
TOTAL	**11668**	**100%**

2011		% of total pending caseload
10 years + (from 2001 backwards)	1422	12%
from 6 to 10 years (2002 - 2006)	1546	13%
from 3 to 5 years (2007 - 2009)	2920	25%
Last 2 years (2010, 2011)	5997	50%
TOTAL	**11885**	**100%**

2012		% of total pending caseload
10 years + (from 2002 backwards)	1315	11%
from 6 to 10 years (2003 - 2007)	1584	13%
from 3 to 5 years (2008 - 2010)	2870	24%
Last 2 years (2011, 2012)	6157	52%
TOTAL	**11926**	**100%**

2013		% of total pending caseload
10 years + (from 2003 backwards)	1104	9%
from 6 to 10 years (2004 - 2008)	1488	12%
from 3 to 5 years (2009 - 2011)	3117	26%
Last 2 years (2012, 2013)	6264	52%
TOTAL	**11973**	**100%**

2014		% of total pending caseload
10 years + (from 2004 backwards)	1039	9%
from 6 to 10 years (2005 - 2009)	1520	13%
from 3 to 5 years (2010 - 2012)	3451	29%
Last 2 years (2013, 2014)	5862	49%
TOTAL	**11872**	**100%**

2015		% of total pending caseload
10 years + (from 2005 backwards)	992	9%
from 6 to 10 years (2006 - 2010)	1491	13%
from 3 to 5 years (2011 - 2013)	3464	31%
Last 2 years (2014, 2015)	5399	48%
TOTAL	**11346**	**100%**

2016		% of total pending caseload
10 years + (from 2006 backwards)	955	9%
from 6 to 10 years (2007 - 2011)	1474	13%
from 3 to 5 years (2012 - 2014)	3198	29%
Last 2 years (2015, 2016)	5463	49%
TOTAL	**11090**	**100%**

2017		% of total pending caseload
10 years + (from 2007 backwards)	899	9%
from 6 to 10 years (2008 - 2012)	1296	12%
from 3 to 5 years (2013 - 2015)	2794	27%
Last 2 years (2016, 2017)	5400	52%
TOTAL	**10389**	**100%**

2018		% of total pending caseload
10 years + (from 2008 backwards)	896	8%
from 6 to 10 years (2009 - 2013)	1329	12%
from 3 to 5 years (2014 - 2016)	3046	28%
Last 2 years (2017, 2018)	5685	52%
TOTAL	**10956**	**100%**

APPENDIX 1.3 Efficiency by subject matter

SM: Maltese	SM: English	INCOMING (2009 - 2018)	RESOLVED (2009 - 2018)	PENDING (at December 2018)	CR	DT
ABBUZ FIZIKU	Physical abuse	3	3		100	NA
ACCESS MINURI	Right of access to minors	91	84	19	92	826
ADOZZJONI	Adoption	31	30	1	97	122
ALIMENTI	Maintenance (Family cases)	2	7		350	NA
ANNULLAMENT TA' SENTENZA	Annulment of judgement	18	17	4	94	859
ANNULLAMENT TA' ZWIEG	Annulment of marriage	658	904	43	137	174
APERTURA SUCCESSJONI	Opening of a Succession	74	74	1	100	49
ASSENTI - ART.194 KODICI CIVIL	Absence - Art 194 of the COCP	4	4		100	NA
ATTI NUTARILI	Notarial Acts	272	249	23	92	337
AWMENT	Increase in Rent	29	49	18	169	1341
AWTORIZAZZJONI IN GENERALI	Authorisation (in general)	277	277	7	100	92
AWTORIZAZZJONI TRASFERIMENT	Authorisation for transfer	79	88	1	111	41
AWTORIZAZZJONI ZBANK	Authorisation to withdraw funds	21	21		100	NA
BEJGH	Sale of property	36	36	4	100	406
BEJGH FOND MATRIMONJALI	Sale of matrimonial home	3	3		100	NA
CULPA AQUILIANA	Culpa Aquiliana	634	410	298	65	2653
DELIMITAZZJONI KONFINI	Delimitation of boundaries	1	6		600	NA
DENEGATA PATERNITA'	Disavowal of paternity	107	142	15	133	386
DIKJARAZZJONI NULLA	Declaration of Nullity	2	5	4	250	2920
DIR TAR-REGISTRU PUBBLIKU	Director of Public Registry	2	4		200	NA
DISKRIMINAZZJONI	Discrimination	1	2	1	200	1825
DISPREZZ LEJN AWTORITA' TAL-QORTI	Contempt of court	74	78	18	105	842
DISPREZZ LEJN IL-QORTI	Contempt of court	9	6	3	67	1825
DIVIZJONI	Partition of property	474	335	252	71	2746
DIVORZJU	Divorce	2741	2581	160	94	226
DIVORZJU (GJA SEPARAZZJONI)	Divorce (previously personal seperation)	172	156	18	91	421
DRITT TA' PASSAGG	Right of passage	33	43	11	130	934
DRITTIJIET 48/51 KODICI CIVILI	Art. 48 & 51 of Civil Code - Consequences to spouse (	1	2		200	NA
DRITTIJIET DWAR PROPRJETA' INTELLETTWALI	Intellectual property Rights	591	611	33	103	197
DWANA	Customs	11	6	5	55	3042

ENFITEWSI TEMPORANJI/PERPETWI	Temporary/ perpetual emphyteusis	5	9	1	180	406
EZEKUTERIJA	Testamentary Execution	78	81	5	104	225
EZEKUZZJONI	Execution of warrant/ judgement	43	46	2	107	159
FALLIMENT	Bankruptcy	7	3	5	43	6083
FALSIFIKAZZJONI	Falsification	2	2		100	NA
FILJAZZJONI	Filiation	96	159	3	166	69
GARANZIJA DANNI F'MANDATI KAWT	Security for damages in a precuationary warrant	4	6	1	150	608
GILJOTTINA	Special summary procedure	230	227	34	99	547
HATRA TA' NUTAR DELEGAT	Nomination of public notary	2	2		100	NA
HATRA TA' NUTAR KONSERVATUR/DELEGAT	Appointment of a Notary Keeper/Delegate	1		1	NA	NA
HRUG PASSAPORT	Issuing of Passport	16	14	2	88	521
INABILITAZZJONI/HATRA KURATUR	Incapacitation/ appointment of curators	52	50	5	96	365
INCIDENT TAT-TRAFFIKU	Traffic Accident	45	48	21	107	1597
INFURZAR TA' SENTENZA MINN QORTI BARRANIJA	Enforcement of judgment of foreign courts	65	70	2	108	104
INGOMBRU	encumbrance?	1	1		100	NA
INIBIZZJONI TA' PROPRJETA'	Prohibitory injunction re property	34	42		124	NA
INTERDIZZJONI	Interdiction	17	17		100	NA
INTERDIZZJONI ATTI HAJJA CIVIL	Interdiction from doing civil acts	37	38	1	103	96
INTERNET GAMING	Internet Gaming	18	11	7	61	2323
KOLLIZZJONIJIET	Collisions	5	47		940	NA
KOMUNJONI TA' L-AKKWISTI	Community of acquests	213	195	22	92	412
KONFINI PROPRJETA'	Property borders	19	25	11	132	1606
KONKORRENZA ZLEJALI	Unfair competition	37	29	12	78	1510
KONTRO MANDAT TA' INIBIZZJONI	Counter prohibitory injunction	90	86	4	96	170
KOREZZJONI TAL-ATTI	Correction of acts	1668	958	710	57	2705
KORREZZJONI ATT CIVILI	Correction of acts of civil status	516	482	70	93	530
KUNDANNA HLAS	Order to Pay	18638	18884	2643	101	511
KUNTRATT - ACCESS MINURI VAR.	Contract - to vary Right of Access to minors	12	8	4	67	1825
KUNTRATT - GENERALI EMENDA	Contract - General amendments	5	5		100	NA
KUNTRATT - EMENDA (SAT-3 TA. AWISSU 2009)	Contract - Amendment (up to 3/8/2009)		2		NA	NA
KUNTRATT - KURA U KUSTODJA VAR.	Contract - to vary care and custody	10	5	5	50	3650
KUNTRATT - MANTENIMENT VAR.	Contract - to vary maintenance	8	5	5	63	3650
KURA U KUSTODJA TAT-TFAL	Care and custody of minors	502	355	196	71	2015

KUSTODJA TFAL	Child custody	7	8		114	NA
KWISTJONIJIET DWAR KONVENJU	Matters related to a Promise of Sale	25	39	9	156	842
LAND ARBITRATION BOARD	Land Arbitration Board	285	307	54	108	642
LIBELL	Libel	452	567	113	125	727
LICENZJI HWIENET	Licences of commercial premises	1	1		100	NA
LIKWIDAZZJONI DANNI	Assessment of damages	2074	2003	1004	97	1830
LIKWIDAZZJONI TA' SERVIGI	Assessment of services rendered	32	45	14	141	1136
MALA FAMA	Slander	2	10	1	500	365
MANDAT INIB. MINURI MA JSIFIRX	Warrant of Prohibitory Injunction restraining a person	218	212	8	97	138
MANDAT TA INIBIZZJONI LI JINVOLVI L-GVERN	Warrant of Prohibitory Injunction involving the Goverr	56	56		100	NA
MANDAT TA' INIBIZZJONI	Warrant of Prohibitory Injunction	2901	2970	53	102	65
MANTENIMENT	Maintenance (Family cases)	239	225	53	94	860
MARITTIMU	Maritime offences	36	26	10	72	1404
OFFIZI KONTRA PROPRJETA'	Offences against property	185	247	100	134	1478
OFFIZI OHRA	Other offences	7	9	2	129	811
ORDNI PUBLIKAZZJONI KUNTRATT	Order to Publish a Contract	1	2		200	NA
PATENT CASES (FOREIGN)	Patent Cases (foreign)	1	1		100	NA
PATERNITA'	Paternity	415	335	84	81	915
PATRIA POTESTA	Patria Potesta	10	9	2	90	811
POSSESSORJI - PROPJETA'	Actions of possession of property	283	304	118	107	1417
PROCEDURA TA' RKUPRU	Procedures related to the exercise of redemption	5	4	1	80	913
PROVEDIMENT	Court Order (General)	16	52	3	325	211
PUBBLIKAZZJONI KUNTRATT	Publication of contracts	555	465	171	84	1342
PUBLIKAZZJONI TESTMENT SIGRIET	Publication of secret will	6	6		100	NA
PUNT TA' LIGI	Point of Law	7741	8473	1853	109	798
PUNT TA' LIGI - KUMPANNIJI	Point of law (Companies Act)	94	65	29	69	1628
REATI DROGI	Drug-related cases	2	1	1	50	3650
REATI KONTRA L-PROPRJETA'	Offences against property	2	3	1	150	1217
REGISTRAZZJONI TA' SENTENZI BARRANIN	Registration of foreign judgments	27	21	6	78	1043
RENT REGULATION BOARD	Rent Regulation Board	6	10	2	167	730
RETRIAL	Re-trial	2	3	1	150	1217
REVIZJONI AZZJONI AMMINISTRATTIVA (469A)	Judicial rveiew of adminsitrtaive action (Art 469a)	289	156	147	54	3439
REVIZJONI TAXXA UFFICCJALI	Revision of official tax	134	123	25	92	742

REVOKA	Revocation	285	317	18	111	207
REVOKA DIGRIET	Revocation of decree	29	38	1	131	96
REVOKA SENTENZA/RITRATTAZZJONI	Revocation of judgement	28	29	6	104	755
REVOKA TA MANDAT	Revocation of warrant	386	362	40	94	403
REVOKA TESTMENT	Revocation of will	2	2	1	100	1825
REXISSJONI KUNTRATT	Rescindment of contract	234	219	96	94	1600
RI-ABILITAZZJONI	Rehabilitation (following incapacitation)	4	3	1	75	1217
RIKONCILJAZZJONI	Reconciliation		7	1	NA	521
RIKONOXXIMENT	Recognition	2		2	NA	NA
RIKORS ART 300B KAP 386	Application under Chp 386, Art 300B	4	3	1	75	1217
RIKORS ART 325 KAP 386	Application under Chp 386, Art 325	29	26	3	90	421
RIKORS ART. 214 - ATT XXV_1995	Application under Art 214, Act XXV of 1995	54	44	13	81	1078
RIKORS ART. 253(E) KAP. 12	Application under Art 253, Chp 12	81	60	21	74	1278
RIKORS ART. 258 KAP 12	Application under Art 258, Chp 12	536	504	65	94	471
RIKORS ART. 329B TAL-KAP. 386	Application under Art 329B, Chp 386	2	3		150	NA
RIKORS ART. 402 ATT XXV - 1995	Application under Art 402, Act XXV 1995	87	67	29	77	1580
RIKORS ART. 466(2) KAP. 12	Application under Art 466(2), Chp 12 (Code of Organis	402	348	81	87	850
RIKORS ART. 495A - KODICI CIVILI	Application under Art 495A - Civil Code	207	142	73	69	1876
RIKORS ART. 57 TAL-KAP. 65 - REG. TAT-TRAFFIKU	Application under Art 57, Chp 65 (Traffic Regulation C	2	1	1	50	3650
RIKORS ART.873(4) RIMEDJU	Application under Art 873 (4) - (remedy of warrant of	23	23		100	NA
RIKORS KAP 518 REG. PROTEZZJONI TAL-MINURI	Application (Chp 518 - Protection of Minors)	204	204		100	NA
RIKORS PREZENTATA TAL-ATTI	Application related to filing of pleading	2		2	NA	NA
RIKORS REVOKA MANDAT ESEKUTTIV (281)	Application to revoke an executive warrant (Chp 12, A	289	288	5	100	63
RIKORS REVOKA MANDAT KAWTEWLATORJU (836)	Application to revoke a precautionary warrant (Chp 12	1028	1024	49	100	175
RIKORS URGENZA	Application with urgency	97	95	4	98	154
RIPRESA TA' FOND	Recovery of Property	361	384	93	106	884
RITRATAZZJONI	New trial	261	261	35	100	489
SAFAR TA' MINURI	Cases related to minors going abroad (departure of m	63	68	2	108	107
SEKWESTRU TA' MINURI	Abduction of minors	5	5		100	NA
SEPARAZZJONI ALIMENTI		4	4	2	100	1825
SEPARAZZJONI BONARJA	Consenual separation	1	1		100	NA

SEPARAZZJONI DEI BENI	Division of property	82	83	4	101	176
SEPARAZZJONI PERSONALI	Personal separation	1377	1462	503	106	1256
SERVIGI	Services	8	5	4	63	2920
SILENZJU PERPETWU	To preclude someone from putting up a claim (of Jact	15	6	10	40	6083
SKADENZA TA' TERMINU RITORN TA' TFAL		1	1		100	NA
SOSPENSJONI ESEK. SENTENZA	Suspension of the execution of a judgement	69	70	5	101	261
SOSPENSJONI EZEKUZZJONI KAMBJALI	Suspension of the execution of bills of exchange	66	66	7	100	387
SOSPENSJONI SUBBASTA	Suspension of judicial sale by auction	3	4		133	NA
SPOLL	Spoliation suits	663	751	175	113	851
STRALC	Winding up of companies	127	94	43	74	1670
STRALC TESTMENT UNICA CHARTA	Extract of Unica Charta Wills		1		NA	NA
SUBBASTA	Auctions	74	76	11	103	528
SUBBASTA - IMMOBBLI	Auction - Immovable property	191	179	13	94	265
SUBBASTA - MOBBLI	Auction - Movable property	49	46	3	94	238
TASSAZZJONI DRITTIJIET	Taxation of fees	11	12	1	109	304
TIRRENDI ESEGWIBBLI	Rendering executable	1	1		100	NA
TIRRESTITWIXXI OGGETTI	Return of property	2	3		150	NA
TUTELA	Tutorship	2	2		100	NA
TWAQQIF ESEKUZZJONI SENTENZA	Stay of the execution of judgement		2		NA	NA
VARJAZZJONI ACCESS	Change to rights of access to minors	2	1	1	50	3650
WIRT	Inheritance	78	116	44	149	1384
WIRT (SUCCESSJONI)	Inheritance (Succession)	70	67	6	96	327
XOLJIMENT TA' KUNTRATT	Dissolution of contract	27	29	10	107	1259
ZBANK	Withdrawal	38	39		103	NA
ZGUMBRAMENT	Ejectment	2202	2310	678	105	1071
blank entries			27	3	NA	406
TOTAL		**54906**	**54888**	**10742**	**100**	**714**

APPENDIX 2: Data on non-judicial staff

Non-judge staff whose tasks is to assist the judges such as registrars. In the previous years, the following categories were included:	2019	Male	Female
Deputy Registrars	72	16	56
Court Messengers	32	2	30
Judicial Assistants	30	12	18
Clerical Staff	54	16	38
Ushers	23	13	10
Senior court recorders	6	5	1
Court recorder in charge	0	0	0
Children's advocate	3	0	3
Court Attorneys	21	0	21
	241	**64**	**177**
Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management). Past categories included:			
Director General and staff	3	2	1
Director Support Services and staff	38	21	17
Asset Management unit	5	1	4
Archives	3	1	2
Library	2	1	1
Publications	3	2	1
One Stop Shop	5	2	3
	59	**30**	**29**
Technical Staff:			
Tradesman	7	0	7
Bookbinders	1	1	0
	8	**1**	**7**
Other non-judge staff:			
Director Civil Courts and staff	6	2	4
Director Criminal Courts and staff	4	1	3
Registry Criminal Court	7	4	3
Chief Marshal	1	1	0
Senior Marshal	5	4	1
Marshals	18	14	4
Judiciary Driver	51	50	1
Subasti	6	2	4
	98	**78**	**20**
total	**406**	**173**	**233**

APPENDIX 3: Best Practices from other European member states

Best Practices from other European member states as regards Court of Appeal and Civil Proceedings

1) Introduction of an Appeal filtering system at third instance Court (example of Slovenia)

Access to third (last) instance courts in civil litigation has been restricted in a number of countries. On the face of it, it might seem that more uniformity is achieved if the Supreme Court is required to interfere as often as possible. However, such approach – in spite of the proclaimed goal of ensuring uniformity – inevitably leads to the exact opposite results. By dealing with thousands of new civil cases annually, contradictions within the case law of the Supreme Court are inevitable. Equally important, it is practically impossible to adequately follow ("absorb") such a huge amount of output of case-law. The issue of conflicting judgments of lower courts cannot simply be cured by opening wide the gates of the Supreme Court.

Different models with regard to access to third (last) instance courts apply. Countries where there are no formal filtering criteria are rare. On the face of it, there are no filtering criteria in place in the Netherlands and in Belgium either – but one should note that there exists a specialised bar with a small number of highly reputable lawyers who are the only ones authorised to argue cases before the Supreme Court – they ipso facto – represent a very efficient filtering mechanism.

In general, three possible selection criteria can apply (or a combination thereof):

- value of claim as a threshold for admitting cases for the third appeal on points of law[1]
- severity of the violation (e.g. "grave errors", "manifest breach", "blatant violation", "gross misapplication of law", "violation of constitutional rights")
- objective importance of the case from the viewpoint of development of law or ensuring uniform application of the law.[2]

The revision (*revizija*) in Slovenian legal system is a further appeal on points of law, similar to the remedy of the same name in e.g. German or Austrian law and can also be compared to the cassation in e.g. French or Italian law. It enables for access to the Supreme Court and thereby strives to achieve that this court will be able to effectively fulfil its constitutionally determined role of the supreme judicial authority, responsible for the unifying of case law. In Slovenian law, a revision is considered to be an extra-ordinary legal remedy. It neither prevents the enforceability of the judgment it is directed against, nor is it becoming *res iudicata* (Art. 369, Civil Procedure Act – hereinafter CPA). However, if the revision is well-founded, the attacked judgment can be altered or set aside. The grounds for revision consist of errors in substantive and procedural law (Art. 370, CPA). Findings of facts cannot be subject to review in the Supreme Court. With the CPA amendments in 2008 and 2017, the system of the revision has been considerably reformed. Previously, the decisive admissibility criteria for the revision was solely the amount in dispute

[1] E.g. Montenegro.

[2] Typically: UK, Ireland, Norway, Sweden, Denmark, Germany, but also (combining with one of the former criteria) Slovenia, Croatia, Switzerland, Bulgaria, the Czech Republic, Poland, Georgia, Macedonia.

(whereby this was set low – cca. 4000 EUR, causing that the access to the Supreme Court was widely available, which resulted in constantly growing backlogs in the Supreme Court).

With the two reforms the legislator has changed the criteria of admissibility of the revision. The criteria of the amount in controversy were abolished. The revision now amounts to a remedy, the availability of which depends rather on the discretion of the Supreme Court. The importance of the role of the Supreme Court at the unifying of case law and the giving of guidance for the application of law is emphasized. Now, the revision is admissible only if a leave has been granted by the Supreme Court. The Supreme Court is supposed to give such permission, if the case raises a question of law of fundamental significance, or if the development of law or the preservation of uniformity of case law requires a decision by the Supreme Court (Art. 367.a, CPA). Whether the leave to file a revision should be granted, depends on the significance of the case from the objective point of view, and this significance should, in any case, go beyond the particular case. It is concerned with the question of preserving or achieving the uniformity of case law or with achieving that the highest judicial authority will have an opportunity to resolve an important legal question and thereby contribute to the development of law.

As to the question, who and in what kind of procedure should decide whether to grant
leave to appeal, different models were considered: The first option was to implement a system, in which a decision whether to grant a leave to file a revision should be made ex officio by the court of appeals when it delivers its judgment (whereby there are two
sub-variants; depending on whether an appeal to the Supreme Court should be admissible in case if the court of appeals refuses to grant a leave). Such a system is characteristic also for e.g. Germany (with the possibility to appeal against the decision not to grant a leave for revision; par. 544, *Zivilprozessordnung* – hereinafter ZPO) and Austria (where the decision of the court of appeals as to the admissibility of revision is final; par. 508, ZPO). The second option was to adopt a solution to vest jurisdiction to grant a leave to file a revision to the Supreme Court, whereby the appellant would need to file a complete revision already in the first step. This system could be described as a one-step procedure, at least from the viewpoint of the appellant. The third option (and this is the one that finally prevailed) was (just like with the certiorari system at the US Supreme Court) entirely to separate procedure for granting the leave to file the revision on one hand and procedure for deciding the merits of the revision on the other hand, both from the viewpoint of the appellant as well as from the viewpoint of the Supreme court. The party must first file a motion to grant a leave to revision. This motion must be focused on arguments concerning the objective importance of the case (unsettled case law, important legal question, departure from uniform case law…). Only if the Supreme Court decides to grant the leave, the appellant then prepares the fully reasoned revision, focusing on the arguments concerning the violation of substantive and procedural law.

2) Restriction of “Tasks” of Second Instance Courts

Also access to second instance courts has been increasingly restricted in several countries (e. g. by reducing the number of grounds for appeal; reducing the number of public hearings and the obligation to motivate the decision).[3]

The first tendency is that the appeal is limited to cases with important stakes for the parties. One way to limit the use of appeal procedures is to allow appeals only if the "value" of the case reaches a certain level. In Germany, an appeal from a first instance decision (*Berufung*) can always be made if the value of the matter is more than 600 Euros (§ 511(2) No 1 ZPO). Only for matters with a lesser value the first instance court needs to give permission (leave) to appeal (§ 511(2) No 2 ZPO). In Dutch civil appeals, the financial interest should be higher than 1,750 Euros.[4]

In the English Civil Procedure Rules (hereinafter CPR), the lower court needs to give a leave for appeal in all cases with some exemptions (52.3(3), CPR). If the lower court refuses an application for permission to appeal, a further application for permission to appeal may be made by the appeal court. Permission is given 1) if appeal has a real prospect of success or 2) if there is some other compelling reason why the appeal should be heard (CPR 52.3(6)).

Most civil law systems nowadays tend to adopt instruments that underline the finality of the decisions in the first instance. The German civil appeal system, for example, is no longer intended as just another stage in the procedure. Instead, appellate courts focus on the judgment at the first level. Introducing new facts, issues and evidence is restricted in the reformation implemented in January 2002. Appeals develop from procedures of rehearing into procedures of review. Review is often restricted to correcting errors, which means that re-evaluation will be an exception. Accordingly, civil appeal in Germany is only permitted 1) if legal norms are wrongfully applied or not at all and 2) if fact-finding at the first level is incorrect or incomplete (§ 513 ZPO). Furthermore, the reasoning of the decision to appeal should not be in the form of an exhaustive statement of the factual and legal reasons for the decision, the new decision only needs to contain corrections made to the original. Pursuant to § 540 ZPO instead of the facts of the case and the reasons on which the ruling is based, the appellate judgment shall set out: 1) a reference to the findings of fact as made in the ruling being contested, depicting any changes or amendments, 2) a brief summary of the reasons for the modification, repeal or confirmation of the decision contested one. Should the judgment be pronounced at the hearing at which the court proceedings have been declared terminated, the presentation of the case as stipulated by the first sentence hereof may also be included in the record of the hearing one.

3) Changes in Dealing with Appeal Cases

Judicial case management - triage

Case management concerns the way the court and the judge organize the division of work in different handling stages, including appeal, the exchange of information between the court and the parties, and how they manage court hearings and court experts. Active judicial management

[3] See: CEPEJ, Structural measures adopted by some Council of Europe member states to improve the functioning of civil and administrative justice, Good practice guide, as adopted at the 28th plenary meeting of the CEPEJ on 7 December 2016; para 114-139.

[4] Article 332, Dutch Code of Civil Procedure.

in civil proceedings presupposes a certain willingness, an effective division of labour between court staff and the judges and (at least for some measures) to give the court and the judge clear-cut competences and tools for case management. Furthermore, a certain division of labour in terms of different procedural tracks based both on differences in procedure and on different subjects may be helpful. In preliminary proceedings phase judges can spend a considerable amount of time on simple procedural issues, which could also be handled by court clerks or administrative staff (e. g. payment of court fees and decision on the admissibility of the party filing the case and the competence of the court). Improved capacity can be achieved by altering the roles and division in preliminary proceedings. It also requires clearly defined roles and good communication between the personnel. A possible way to organise such a division of labour is to introduce preliminary proceedings as a separate work duty.

In Slovenia, a triage-system for the pre-handling of cases is used. As the goal of the Triage project is to shift from individual productivity to the productivity of the department as a whole, these changes had to be supported by the Judicial Council that sets the expected standards for quality and quantity of work for individual judges. Immediately after the submission of a claim a court clerk looks at the case and prepares the draft orders for the next procedural steps, e. g. the correction of mistakes in the claim, payment of the fee (if initially not paid), granting state funded legal aid and sending the claim to the respondent for response. Court clerks are authorised to sign preliminary procedural documents while the draft orders are signed by a triage-judge. The triage judge is a special judge assigned to this task according to the internal division of labour who only deals with cases in triage phase and does not deal with the cases at a later stage. After this initial phase has been completed, a judge is appointed to a case who deals with the subsequent procedure. The case gets assigned to a judge only when procedural decisions have been issued and the case file has been prepared. Triage was invented by courts themselves by necessity. The existence of triage depends on the structure of cases; it is not suitable for cases, which need the judge's attention from the very start. The elements introduced vary according to the size of the court and personnel of each court. The triage process enables: a better overview of all incoming cases; a uniform application of administrative and procedural decisions as well as decisions on substance in the triage phase; coordination of the work of judges; and disburdening of judges of tasks that are not real judicial decision making.

Special track for straightforward cases

In some cases, the outcome of the procedure is evident: it is clear that the court is not competent to give a decision, that the appeal is not admissible, or that the appeal is unfounded, or, on the contrary, clearly well-founded. In these situations, it is not necessary to follow the normal procedure; a more effective way is an immediate decision of the court.
Courts nowadays have greater powers to dismiss an appeal without a formal hearing if it has
no prospect of success in a fast track procedure. In Dutch administrative procedure, courts have the authority to decide immediately in straightforward cases (Article 8:54, Dutch General Administrative Law Act). Of course, these special fast track procedures only make sense if the straightforward cases were not filtered out of the system at an earlier stage.

A fast track procedure for other cases than straightforward ones is also conceivable. In French administrative procedure, for example, there is a special fast track procedure for cases that all relate to one legal issue. A single judge, no hearing, and shorter time limits are the main features of this procedure (Article R. 222-1, Code de Justice Administrative).

This could be a useful measure when many appeals are being lodged, and resources are limited. It makes the procedure definitely more time and cost efficient and clear errors will often be easily detectible. In order to prevent any abuse of the appeal system or procedure, the CoE in this connection suggests that member states should consider measures allowing the second court to dismiss in a simplified manner, for example without informing the other party, any appeal which appears to the second court to be manifestly ill-founded, unreasonable or vexatious; in these cases appropriate sanctions such as fines may be provided for.[5]

Single judge

Appointing a single judge in appeal procedures is another measure in this category. The number of appeal judges varies in different procedures in different countries. In most systems (with the exception of criminal procedures), a cut in the number of judges that hear appeals has at least been taken into consideration, or has already been implemented.[6] In German civil appeals, for example, the categories of cases dealt with by a single appeal judge have been extended; a single judge normally deals with cases that were dealt with by a single judge at the first level, are not very complicated, are no matter in principle and were never dealt with by a full panel of judges (§ 526(1) No 2 ZPO).

The use of single judges has been encouraged by the Council of Europe. A single judge could be used, for
instance, in the following matters: i. applications for leave to appeal; ii. procedural applications; iii. minor cases; iv. where the parties so request; v. where the case is manifestly ill-founded; vi. family cases; vii. urgent cases.[7]

4) Word of Caution

Although effective in terms of reducing judicial service provision and sparing use of resources, the measures described here must always be balanced against respect for the right of access to a court and the guarantees of a fair trial. In other words, it should not be forgotten that, having regard to Article 6.1 ECHR, Council of Europe countries must in all cases provide access to an independent and impartial tribunal that will take a decision within a reasonable time after a fair trial.[8]

With regard to reducing access to appeal and cassation proceedings and filtering mechanisms for these legal remedies, it should be reiterated that, although in civil cases the introduction of these

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[5] See Recommendation No. (95) 5of the Committee of Ministers to member states concerning the introduction and improvement of the fuctioning of appeal systems and procedures in civil and commercial cases, Article 4b.

[6] E. g. Germany, Slovenia, France, England and Italy

[7] See, in this sense, Recommendation No. (95) 5of the Committee of Ministers to member states concerning the introduction and improvement of the functioning of appeal systems and procedures in civil and commercial cases, Article 6a.

[8] See: CEPEJ, Structural measures adopted by some Council of Europe member states to improve the functioning of civil and administrative justice, Good practice guide, as adopted at the 28th plenary meeting of the CEPEJ on 7 December 2016; para 140.

remedies is not an imperative requirement deriving from Article 6.1 ECHR in the non-criminal field, Article 6.1 does apply once they have been put in place. Admittedly, it is quite understandable that the rules governing the right of access to courts of appeal and cassation do not necessarily have to correspond to those governing the right of access to a court of first instance, that a certain formalism is permissible and that filtering mechanisms are definitely conceivable at this stage of proceedings, but the fact remains that the limitations applied must not restrict an individual's open access in such a way or to such an extent that the very substance of this right is affected. They will only be compatible with Article 6.1 if they pursue a legitimate aim and there is a reasonable relationship of proportionality between the means and the aim.

Furthermore, it should be remembered that these legal avenues constitute the principal tools for redressing violations of several aspects of the right to a fair trial (right to adversarial proceedings, equality of arms, right to a reasoned decision, right to a tribunal established by law, right to an impartial judge), in addition to review proceedings and challenge mechanisms and the settlement of jurisdictional disputes. In this way, litigants can obtain redress for a violation in connection with the conduct of the proceedings, since respect for the right to a fair trial must be assessed in the light of the entire proceedings, and, more generally, obtain a better-quality decision. The aim, therefore, is to strike the right balance between this requirement on the one hand and protection of the reasonable time requirement on the other.

A critical factor when considering possible improvements of justice on the appellate level in Malta is that measures described here were intended for countries where appeal is a second level, embedded in a system (unlike Malta) that has at least one level "below" it, and one level above.

C. APPENDIX 4.1: Job Description (France)

PARIS, le 30 avril 2018

COUR D'APPEL DE POTIERS

Tribunal de grande instance de
bOULOGNE-BILLANCOURT
La diirectrice de greffe

POST SHEET
Legal Aid Office

ADMINISTRATIVE INFORMATIONS

Name of posiiton	:	Adjoint administratif
Agent	:	
Catégory	:	C
Working time	:	100 %

SERVICE

The service is located on the ground floor. The direct superior is the registry director.
The legal aid office of the Tribunal de grande instance des Sables d'Olonne includes a first instance section of the judicial system presided over by a magistrate

GENERAL MISSION

The administrative assistant in charge of the service assists the president of the office in the processing of applications and decisions for legal aid pursuant to Act No. 91-647 of 10 July 1991 as amended and the implementing decrees.

MISSIONS and ACTIVITIES

1/ Receipt of requests

Composting upon receipt of files
Registration in the AJ WIN software (at least for undated files)
Acknowledgement of receipt to the applicant or his lawyer

2/ Processing of files

Investigation of incomplete or imprecise files with drafting of follow-up letters for individuals (rejection for lawyers)
Request for appointment of the auxiliary by the president of the departmental chamber
Draft decision to be submitted to the President as part of the total AJ or lapses (2 months without reply)
Preparation of the files submitted to the monthly commission (partial AJ, rejection, withdrawal and particular difficulties)
Notification of decisions (LS or LRAR as appropriate
Transmission of a copy of the decision to the registry of the court seised and to

the lawyer
Preparation and registration of appeal files

3/ Establishment of monthly statistics
Using the AJ Win software
By forwarding to the Director of the Registry the number of cases under investigation and the stock of cases still to be registered

4/ Mail management and reception
Service mail management
Physical and telephone reception in compliance with the Marianne standard

5/ Filing and archiving of minutes and files

And any other tasks assigned on an ad hoc basis to ensure the continuity of the public service.

KNOW-HOW AND INTERPERSONAL SKILLS

Perfect knowledge of the judicial organisation and the law of 10 July 1991
Mastery of business software
Application of laws and regulations
Sense of human relations and public service
Rigour, organization and professional discretion

THE COURT DIRECTOR

Catherine Dupontel

The agent received and became aware on:

D. APPENDIX 4.2: Example of posters to recruit clerks