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Report on the
Efficiency of the Armenian Judiciary

by

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Abstract

Our concise assessment is that the Armenian Judiciary is too small to be fully functional: it is underfunded and understaffed. It has very few judges, not enough well trained court clerks, an architecture that is too elementary - either regarding Judicial geography, either regarding the structure of jurisdictions - and it is clogged by an excessive backlog mainly generated by small claims. Court Administration (JD) is an agency under the Court of Cassation.

All courts and jurisdictions generate backlog, and are not able to cope with a growing number of incoming cases. However, the situation, while remaining an issue of concern, doesn't look so dramatic, and taking some organisational and procedural measures could be enough to tackle the problem.

*Alternative Dispute Resolution (*ADR*) and Legal Aid are no success stories. ADR is still in its initial stage in Armenia, and its effects on the total workload of the judiciary are negligible. Access to Justice appears to be hampered by high court and execution fees.*

The Judiciary appears not to have much prestige and credibility, and corruption appears to be a relevant issue, although judges seem to be decently paid. Digital Audio Recording in court sessions is widely implemented, but its effects on the transparency of Court operations appear to have been overestimated.

In such framework, we are favourably impressed by two trends:

1) *the empowerment of many young and skilled people at managerial level either at the Ministry of Justice, either at the Judicial Department;*
2) *the emphasis put on Court Technology, as an element of a wider e-gov strategy, and as a tool to enhance citizens' confidence, tackle corruption, foster private and foreign direct investments.*

IT tools are of surprising good quality, domestic-made, and they promise further applications. Case-flow management system CAST is a multi-functional facility that records cases, stores files, helps make jurisprudence searchable thus fostering case-law coherence. Statistics, however, need to be improved and reported according to CEPEJ standards.

Armenia has in place a comprehensive and well defined Judicial Reform Strategy, resulting from a wide consultation, with clearly stated deadlines, and benchmark to control its achievements. We were provided of the current and future strategy, with measures to take, and a scoreboard of the achievements. The strategy is effectively addressing the main shortcomings, has realistic timelines, has a logical sequencing of actions, has responsible bodies that are clearly defined, and a monitoring mechanism in place allowing for a mid-term review and leading to appropriate corrective actions when needed – its Achilles' heels being the budgeting process. Without a self-sustained financial plan, the best of strategies is a book of dreams.

So far, efforts and results appear impressive. Basing on those elements, we can make a quite positive forecast of the Court-sector outlook.

Our main prescription is to pay more attention to the human factor, through the increased professionalization of all legal professionals, and by securing judges' independence.

While strongly commending the Armenian authorities for their commitment, we invite DG NEAR to sustain and support the reform process, by calling for a workshop with all relevant stakeholders and by encouraging, with grants and study visits, young professionals engaged in the reform.

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1) INTRODUCTION

1.1. About Efficient Justice

Les vrais artistes ne méprisent rien ; ils s'obligent à comprendre au lieu de juger. Et s'ils ont un parti à prendre en ce monde ce ne peut être que celui d'une société où, selon le grand mot de Nietzsche, ne règnera plus le juge, mais le créateur…

Camus

The issue of efficiency in Justice is a very recent one. Justice in the ancient times was an extremely efficient affair: often ruthless, brutal, bloody - nonetheless fast, assertive, exemplary... and cost effective. Inefficiency comes together with the rise in the level of individual guarantees, of legality, and of the credibility of the judiciary.

The promise "*Justice for All*" is a slogan of irresistible appeal, as it is hyper-democratic. It brings more demand for justice and judicial services: hence an increase of pressure from the general public, a longer duration of trials, a rise in costs, and the frustration we all experience, in the Western world, for the slow and uncertain pace of our legal systems.

The problem moved from the "entry" to the "exit" level: it is now increasingly possible to access the system, but it is difficult to get *out of it*. It is no more just a matter of good laws - rather, of good management. Justice must now, not only be "just" and "fair", but also efficient, which means time- and cost-effective: where the time and money to be considered are not only those of the system *per se*, but also those of its users. A judicial system is no "external" service: it is an inherent part of an associated life.

Justice happens to be a victim of its own success. Strange as it may seem, inefficiency is often a by-product of progress, not a symptom of backwardness.

The increasing demand for justice contains a growing contradiction between the need for speedy solutions, and the quest for a better quality of justice. This last meaning fully researched and thoroughly reasoned decisions – which of course, requires time and coolness. Judges do sit on the top of this conundrum.

To address new problems that arise, new solutions are needed. Many Court problems lie in their organizational culture, in the values, and beliefs of court staff: in a legal environment, legally-minded people share most often a preference for the "we-must-do-it" normative thinking over the "we-can-do-it" managerial thinking, and a strong belief in *a priori* regulation as a problem-solving technique.

Hence the lack of flexible, data-driven, evidence-based policies, and the preference for top-down, one-size-fits-all approaches which have little to do with the street-level reality that the court system is called to address, while being integral part of it. So, better Regulation is indeed necessary, but Management and Organization are another possible part of the answer.

Courts need to shift in focus, from the Judge to the Citizen, whom should become its core Client. Although it may not be apparent to outsiders, whom may have from tradition a simplified and stereotyped vision, in advanced countries Justice is in the process of becoming a much more complex environment than it used to be. The Court Hall, far from being solely the seat of the Judge, is increasingly a centre of legal services. Non-

Judge Staff are evolving from mere court secretaries, to quasi-judicial officers, in charge of minor judicial tasks.

This change is not happening without resistance: many would rather stick to the binary model, heritage of centuries, of the Judge and his faithful Clerk - as Knight and Squire. Such twofold scheme is of course simple and psychologically reassuring, but it is quite out of date, and no more viable.

A Justice without Judges is clearly unthinkable: but, as it is not always needed to see a surgeon to get health care, it should be possible as well as to seek some legal services without the direct intervention of a Judge, which should be left to most important and controversial cases.

Other justice professionals are gaining in autonomy and external relevance: many have direct relationship with the general public, and perform little or no activity in the Courtroom. In order to foster the full transition of Justice - from an auto-referential "Power" to an accountable and democratic "Service" - new professionals need to be recruited.

Paradoxically, in fact, the rise of the Rule of *'Law'* requires that traditional and respected *legal* professions which always animated Justice – Judges and Lawyers – make room to new and different specialists, often with little or no *legal* skills: Court Administrators, Budget Managers, Procurement Officers, Press Officers, Knowledge Managers, Statisticians, IT specialists, and so on.

The human factor, the capacity of the Court System to attract (and *retain*) different skilled professionals is, in this respect, of the outmost importance.

It would be a common temptation to dismiss all those people as just "support staff" - a pedestal where the judge is supposed to stand, as the sole visible icon of the judicial system. They are not. Courts should learn to evolve from a pyramidal and hierarchical organization, with Judges at the top, to a flat one, where the contribution of every component is acknowledged as critical. No more a solo, but a choir concert.

Managing such complexity is no easy task: Courts, unlike most organisations, are not 'teams', but 'pools'. In Courts, Judges do not work "together" around a shared project: rather, they work "in the same place", mostly in parallel. Court Leaders are supposed to reduce such plurality to unity, adding 360° visioning.

In such framework, it would be wrong to consider « Efficiency » just as a *technical* matter. Delays are often the symptom of a system prone to corruption. Court underfunding or understaffing is often the indicator of undue political pressure, although under the fig leaf of 'budgetary constraints'.

The way Courts are staffed, funded, the facilities provided, has a direct impact on how Justice is served and on how Judges are independent while serving it. The same tools that ensure efficiency, and the key performance indicators that monitor it, will at the same time ensure transparency and accountability.

Judicial Efficiency is therefore no less crucial than Judicial Independence, to establish the Rule of Law.

1.2. Methodological note

1.2.1. Peer Assessment concept

Assessment Missions are a peer-based exercise. The purpose is to identify needs, provide a gap analysis or elaborate a strategy in a given sector. This approach has proved a useful mechanism to address different needs for beneficiary countries. In this context, assessment missions are aimed at evaluating legislation and Administrative capacity in a range of sectors and at developing in close cooperation with local counterparts a structured plan for future technical assistance.

This assessment exercise was made of three phases:

1. A visit on the field
2. Data collection
3. Reporting

A follow-up with replies to issues raised by the relevant authorities is envisaged.

1.2.2. Terms of Reference

The aim of this Peer Review is to analyse the current situation in the area of judiciary, penitentiary and prevention of torture and ill-treatment in Armenia in relation to the Strategic Programme on Legal and Judicial Reforms and to give advice on further development.

Major areas to be monitored, with particular reference to the efficiency of the justice system, are:

- ✓ Identification of the tasks and government's plans in view of the Constitutional reform voted in 2015. Assessment of the scope of work required and its effect on appointment of judges, internal and external independence (impartiality) and efficiency of the judiciary
- ✓ Update on progress achieved towards the adoption of a new Strategic programme on Justice Reform and its implementing Action Plan (both: intermediary 1 year programme and the future 4 years' programme)
- ✓ … evolution of budget of the judiciary, court inspections
- ✓ Efficiency of justice: efficiency of the court network, assessment of effective number of judges and prosecutors, effective application of Alternative Dispute Resolution, distribution of workload, case management, resources, Justice e-gov applications and IT tools (e-civil registry, e-penitentiary, e-notary systems, etc) – recommendations on their further development; evolution of backlog of cases; length of proceedings in civil, criminal and administrative cases; evolution of number of cases older than 3 years, efficiency of the Probation and Judicial Orders Compulsory Enforcement Service

- ✓ Access to justice issues – territorial and material division of competences, restrictions, conditions as to access to higher instances, free legal aid
- ✓ Current case management system: reliability, efficiency, transparency
- ✓ Publication of verdicts and their coherence/uniformity
- ✓ Execution of judgements: evolution of backlog and length of proceedings in this area
- ✓ Judicial statistics – manner of compilation and responsibilities – sources/reliability of statistics/verification
- ✓ Strengthening of cooperation with civil society for the benefit of all citizens, for stability and security
- ✓ Continue working on awareness raising on the freedom of expression and the media
- ✓ Review of the scope of work, procedures and further needs for development of the recently established data protection agency- to protect journalist and publishers from attacks

Taking into account the goals of the Strategic Program on Legal and Judicial Reforms 2012-2016 and the accompanying Measures, the Expert was tasked to mainly analyse the following:

- Case management system: reliability, efficiency, transparency;
- Collection of judicial statistics: sources and reliability; and the right to access to public documents (publication of verdicts);

Cross-cutting themes

- Progress in adopting the Programme and the relevant Measures;
- Separation of powers (executive, legislative and judicial);
- Cooperation with civil society organisations;
- Zero-tolerance against corruption;
- Effectiveness, transparency and accountability.

1.2.3. Focus

Armenians are doing a tremendous and praise-worthy effort in setting legislation in accordance to the best European standards, so to establish ever closer ties with the European Union.

However, when considering the "Efficiency of the Judiciary", we are not so much interested in Laws, but in their practical implementation. We carefully reviewed all relevant pieces of legislation: but the passing of new or improved normative acts cannot be scored as a conclusive result, as it is, *per se,* not sufficient to improve the efficiency of the system. It: [a)]is an indicator of the direction taken, and of the political will underlining, and [b)] provides a "context" for further operational steps. Nonetheless, on a practical basis, it says little of the real pace of reforms.

Indeed, the domain of "**Efficiency**" is of *factual*, not *legal*, nature, and needs to be first and foremost considered with managerial tools. We define efficiency as the result of an operation:

$$\frac{\text{Organizational behaviour}}{\text{(Resources x Context)}} \rightarrow \text{Clear, predetermined, attainable goal}$$

(Efficiency) (Effectiveness)

An efficient performance is defined as a behaviour targeted at clear, pre-determined and attainable goal, which is achieved (effectiveness) with the lowest possible waste of money, time, resources, and organizational effort.

Good laws may foster Efficiency, but do not establish efficiency themselves. Legal texts may result relevant for the analysis, especially under those aspects and provisions that may clearly hamper the establishment of efficient practices, or result in an excuse for bureaucratic and formalistic behaviour – in short, for the "*context*" they provide.

An evaluation on Efficiency is essentially done on performance indicators: being a quantitative concept, it is measurable. Hence our stress on data, and on their consistency.

1.3. The Mission

1.3.1. Phase 1 - Mission on the field

The author of this report is for the first time in Armenia, while he already conducted 5 peer-assessment mission on the Efficiency of the Judiciary in Albania organized by TAIEX.

The mission took place in Erevan, under the auspices of EU Commission - DG NEAR, from 6th to 10th march 2017, mostly on the premises of Ministry of Justice, and on those of the European Union Delegation (EEAS). A local Court was also visited.

The assessment team was composed of the undersigned, and of Messrs: Michael Johannes Haussner, Stefan Von der Beck, Klavs Duus Kinnerup Hede, Anselmo Del Moral Torres, Carlos Marinho, Christer Isaksson. Local Sherpas from the Ministry and the Judicial administration competently assisted the team throughout the mission. Meetings were well prepared, although the format (too many people around a table with too many experts) should be revised. Attendants were often able to address experts directly in English, but the translator was sometimes unable to grab legal terms.

The mission on site was concluded with a debriefing at EUD in front of the diplomatic representatives of the member states. The team was honoured to be received by the Ministry of Justice, and by the EU Ambassador in person. Such high-level participation underlines the importance annexed to the mission both on the local and the EU side.

1.3.2. Phase 2 – Data collection

The data on which this report relies were collected through a CEPEJ standard questionnaire (annexed) which is to be considered an integral part of this report. The authorities were fully cooperative and extremely quick in answering it, although some of the entries were inconsistent and needed to be checked and re-assessed. Other data were collected during the visit.

1.3.3. Phase 3 - Report outline

This report aims at giving an idea, first, of the Court system as a whole, its governance and management; then it assesses Key Performance Indicators like:

- Human Resources
- Case-flow
- Budget
- Logistics

Chapter 3 assess how the Justice System is *responsive* in terms of time needed to serve Justice, eg. how it is effective; chapter 5 is about how the Justice System is *accountable, transparent* and *accessible.*

There are two annexes to this report, which are to be considered an integral part of it:

1) The CEPEJ Questionnaire, updated to 22nd march 2017
2) A Comparative statistical analysis about activity of judges of RA courts in 2013-2016

and are reported as provided by the RA authorities.

2) THE COURT SYSTEM

2.1. Court Geography

There are **22** Courts in the country, including:

- 1 Constitutional Court
- 1 Cassation Court.
- 3 National Appeal Courts (one Criminal, one Civil, one Administrative)
- 1 National Administrative Court
- 16 First Instance Courts of General Jurisdiction (of whom 7 in Erevan)

→ *Erevan is served, according to the old Soviet model, by 7 'community' courts. While the intent of having proximity justice is laudable, maybe a single, metropolitan court, would make for economies of scale, while at the same time making possible the specialization of judges. Random Case Assignment would also be more effective.*

→ *Armenia has less than one court per 100.000 inhabitants, which is less than the European median*[1]

→ *Rural areas have courts which are too small for objective case allocation and/or specialisation. Conversely, the physical distance and lack of communications may be problematic considering access to justice.*

2.2. Court Competence and composition

A first tier is represented by courts of general jurisdiction and by the Administrative Court. The latter has nationwide jurisdiction primarily over cases involving public authorities, including tax and customs services, whether they act as respondents or plaintiffs.

A second tier is made of three intermediate-level appellate courts with nationwide competence: the Civil Court of Appeals, the Criminal Court of Appeals and the Administrative Court of Appeals. *This is the main peculiarity, as normally Appellate Courts are territorial courts with specialized chambers.*

The Court of Cassation is the main court of last resort, which hears appeals for cassation against decisions of all three courts of appeal and is responsible for ensuring the uniform interpretation and implementation of law by stating legally binding precedents. It examines only matters of law and does not try facts.

The Constitutional Court is specifically charged with constitutional review and can declare immediately ineffective acts of Parliament if they are not compatible with the Constitution. A constitutional appeal can

[1] Eastern Partnership Enhancing Judicial Reform in the Eastern Partnership Countries Working Group on "Efficient Judicial Systems", Strasbourg 2013, https://goo.gl/sleB95, page 10

be brought by a person only after all other remedies are exhausted and only if violations of constitutional rights are alleged.

Three procedural codes are in force: the code of civil procedure, the code of criminal procedure and the code of administrative procedure. Cases are adjudicated by one judge in the first instance courts, by three judges in panel at the courts of appeal and by at least six judges in the Court of Cassation. Constitutional Court has nine components.

There are no jury trials in Armenia, and facts are tried by professional judges. Proceedings are adversarial in nature, and the right to cross-examination is guaranteed. There is no plea-bargaining. Release on bail is allowed. Judges are entitled, and sometimes required, to act by their own initiative in order to establish the truth. Proceedings are conducted in Armenian language and, with several exceptions, are open to public.

Interpretations of law by the Court of Cassation are legally binding upon lower courts. Opinions and findings of lower courts are not binding but must be considered as persuasive authority.

- → *The court system is oversimplified. There is not a Serious Crimes Court, nor a Juvenile specialized jurisdiction. Courts in first instance consider any case, of any importance, even homicide, in monocratic composition, e.g. by a single Judge. Provincial courts are small, so that random case assignment is not effective in preventing undue influence.*
- → *It is foreseen in the draft judicial code to establish a pre-trial specialised judge whom shall take care of search warrants and pre-trial detention.*

2.3. Court Governance and Judicial Administration

In most European Countries it is now taken for granted that the judiciary should be self-governed by an autonomous body (so called High Council of Justice or Conseil Superieur de la Magistrature, etc.), entrusted with the appointment, discipline, dismissal, and often initial and continuous training of Judges.

There is no general rule, instead, on issues like Court staffing, staff training, funding, logistics, procurement (the so called "Court Administration"): they are vested in different bodies, depending if they are regarded as merely Administrative things, or involving the independence of the judiciary.

So, there are basically three models of Court Governance: one, we could call of 'Civil Law countries', where Ministry of Justice oversees Court Administration; another – of American descent and now adopted in many northern European countries – where a special Court Administration Agency is established, often with strong ties with the Judiciary; finally, in some other countries, namely Eastern European ones, the task is direct responsibility of the High Council of Justice.

Ministries of Justice, therefore, depending from the model adopted, may have just a political role, or an operational and managerial one.

Armenia follows another path: the Judicial Department (JD) is an agency in the premises and under the supervision of the Chairman of the Court of Cassation. The JD is responsible of budgeting courts, of logistics, and of hiring & firing NJS resources. The Court Administrator in courts reports directly to the JD.

As we were reported, there are problems of internal independence, with the Court of Cassation playing a role in influencing courts' outcomes: hence, the fact that the Cassation has also the full control of Courts' resources is another channel of influence.

The position of the Head of Court (e.g. **President**) within Courts is limited by the autonomy recognized to the Court Administrator. He is no more, since 2006, in charge of managerial affairs. This is a good thing, considered that HoC have an indefinite tenure, and they would sum an excessive concentration of power, if they were also in charge of both judicial and administrative supervision.

HoC, generally speaking, should not be distracted from their judicial duties by administrative tasks, and leave this to ad hoc professionals with adequate preparation.

However, the fact that the Court Administrator is reporting to the JD as it is now, makes him a potential channel of undue influence.

- → *The independence of the Judiciary shouldn't resolve in hampering the autonomy of Courts and the independence of individual sitting Judges, this last being the ultimate value to be protected.*
- → *Judicial Administration should be entrusted in a separate and autonomous agency, reporting to the Judiciary as a whole, while Courts should be able to negotiate their budgets and other resources directly and autonomously.*
- → *A fully-empowered and managerially-trained Court Administrator could help Judges to focus on their exclusive competences. No judicial forces should be diverted from judiciary duties.*

2.4. Prosecution Geography and composition.

The structure of the RA Prosecutor's Office is only up to some extent identical with the structure of the judicial system, with some differences. In the city of Yerevan 7 units are supervised by the Prosecutor's Office of Yerevan, a territorial subdivision of the RA prosecutor's office which has no correspondence to the Judiciary. Outside Erevan there are 10 prosecutor's offices for 9 Courts of General Jurisdiction (as Ararat and Vayots Dzor regions are united in one Court, but have two Prosecutor's Offices).

There is one Central Military Prosecutor's Office, headed by the Military Prosecutor, who is ex officio the Deputy Prosecutor General and controls military prosecutor's offices of garrisons.

There are 46 supervising prosecutors at the highest level of the prosecutor's system: the RA prosecutor's office consists of the General prosecutor's office (with 9 departments), the territorial subdivisions (with 7 districts, 1 the prosecutor's office of Yerevan city and 10 offices of regions) and Military prosecutor's office (with central Military prosecutor's office with its 3 departments and 9 garrisons) - plus the deputies of the General prosecutor and Military prosecutor, the senior prosecutors of the General prosecutor's office and Military prosecutor's office.

The Prosecutor General and his 4 deputies are entitled to present cases to the Cassation.

Prosecutors must have a prior 3 years' investigative experience, or 5 years' as lawyers. They undergo training at the Academy of Justice. They do not conduct investigation themselves, this being done by the Special Investigation Service (SIS), which is separated by the Police. Prosecutors can give SIS direction and initiative. SIS investigators, on their side, can dispute Prosecutors' instructions before supreme prosecutors or the General Prosecutor.

2.5. Judicial Human Resources and other Legal Professionals

Court staff and other legal professionals are as follows:

	Legal professionals		Inhabitants x 1
1	Population	**2.990.200**	
2	Judge Staff	234	12945
3	Non-Judge Staff (NJS)	2344	1276
4	(of whom court clerks)	658	4544
5	Prosecutors	342	8743
6	Prosecutor's staff	312	9584
7	Advocates	1780	1680
8	Notaries	103	29031
9	Bailiffs	369	8104
10	Total - 4	5481	546

The ratio of Judges and Court Clerks is 1:2,8, while the ratio Judge Staff/overall NJS is 1:10. Here is quite a paradox: Judges are sufficiently assisted, with a lot of people taking care of Registrars' services (case file preparation, assistance during the hearing, court recording), administrative and managerial tasks, as well as of technical services. But Judges themselves are *very few*, with one Judge for 13000 citizens (inhabitants of Armenia are 2.990.200). With an equivalent population, for instance, Albania has 402 judges. There are no lay honorary judges, nor Justices of Peace, neither trial by jury. With more Judges, it would be possible to have trials in panel for more serious cases. "*Law Experts*" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision) are operating within Departments on Legal Expertise set up in several courts, including the Court of Cassation. While they are permanent court staff members (therefore, under the JD), they do not have the status of "Law Clerks" or if they work for courts on occasional basis.

Apparently, there are very few vacancies in the court service. Court clerks are recruited and assessed on a national basis by the JD, then serve a six months' probation period in Courts. This done, they undergo a week of training at the Academy of Justice, after which they are assessed.

→ *The Justice Strategy pays little attention to NJS, to their recruitment and training, which is clearly insufficient. A training of one week after the recruited are already in service makes little sense: it is too short and it is an annoyance to courts that have to spare an already experienced employee. It would be more logical to train first, and employ second, new recruitees.*

3) CASE MANAGEMENT – PROTECTION OF THE RIGHT TO A DECISION WITHIN REASONABLE TIME

In this chapter, we investigate two dimensions of court cases: quantitative and temporal e.g. how much Judges have to work, and how long defendants and plaintiffs have to wait for a decision.

3.1. Definitions and methodology

Key Court Performance Indicators established by CEPEJ (European Commission for the Efficiency of Justice)[2] are:

- **Caseload** the overall number of cases the Judge has to solve during one year: Caseload is therefore Backlog + Incoming cases during the Year[3].
- **Backlog** the number of cases pending at the beginning of the year.

Instance	Total Caseload	Effective Number of Judges	Caseload per Judge
1st	221994	177	1254
Appeal	10426	37	282
Cassation	4330	17	255
All	236750	231	1025

The above number are a quantitative measurement of the workload (which is, itself, a qualitative phenomenon, depending not only from the amount of cases, but also from their complexity). Other indicators are:

- **Clearance Rate (CR)**: expressed as a percentage, is the number of cases resolved in a time period (one year) divided by the number of incoming cases in the same time period.

[2] Both indicators are described in the CEPEJ report "European Judicial Systems"

[3] CEPEJ definition: *Backlog* – number of cases that exceed the "allowed duration" (see also page 75 "European Judicial Systems – Edition 2006"). This term is frequently used as a synonym of delay and it can be quite ambiguous. The establishment of timeframes makes it possible to adopt a more precise definition of *backlog,* as the number or percentage of cases not decided within an established timeframe (or time standard).
Caseload – it is the number of cases that a court has to deal with in a period of time. It is expressed by the sum of pending cases plus incoming cases in a certain period of time.

- **Case Disposition Time (CDT):** shows the number of days necessary for a pending case to be settled in court. This indicator is calculated by multiplying 365 (days in a year) by the number of pending cases at the end of the year and dividing it by the number of resolved cases for that year.

The first indicator, the Clearance Rate, is one of the most commonly used indicators to monitor the case flow. Essentially, this indicator is used to assess the ability of a judicial system to handle the inflow of judicial cases. A clearance rate **below 100%** indicates the inability of the system to face new cases, while a rate **over 100%** means that the system is not only able to do it, but also to solve at least part of the backlog. In 2013 this was the case for District Civil and Criminal Courts.

The second indicator, the Case Disposition Time, provides further insight into the way the judicial system manages the case flow. Generally, Disposition Time compare the number of resolved cases during a reporting period with the number of unresolved cases at the end of that period. The ratios measure how frequently a judicial system (or a court) turns over the cases received – that is, how long it takes to resolve a case type. Indirectly, this indicator gives the answer to one of the questions most raised within a judicial system – what is the **overall length of proceedings**.

3.2. Key Performance Indicators

		A	B	C	D (=A+B-C)	(A+B)		=C/B	=365*(D/C)	=(D-a)/ASS(a)
Instance	Case typology	Pending cases on 1 Jan.'16	Incoming cases	Resolved cases	Pending cases on 31 Dec.'16	Caseload per year	Cases per 100 Inhabitants	Clearance Rate	CDT	Backlog increase
1st	Total of other than criminal cases	55358	162037	147267	70128	217395	7,27	91%	174	27%
1st	Total of criminal cases	1295	3304	2997	1602	4599	0,15	91%	195	24%
Appeal	Total of other than criminal cases	1251	5876	5368	1759	7127	0,24	91%	120	41%
Appeal	Total of criminal cases	302	2997	2898	401	3299	0,11	97%	51	33%
Cassation	Total of other than criminal cases	343	2206	2186	363	2549	0,09	99%	61	6%
Cassation	Total of criminal cases	209	1572	1517	264	1781	0,06	97%	64	26%

Numbers show that the system is increasingly distressed, and unable to cope with increased workload. However, it could improve and reach a CR of 100% with limited effort. The backlog increases everywhere, especially in Appeal Courts, which might be an indicator of the growing dissatisfaction with Community Courts' work. The time to disposition is always below one year. Caseload in First Instance is of 1254 cases per judge, but this is an average data. Civil Judges are reported to have up to 2500 cases per year.

3.3. Enforcement of Judgments - State Bailiff Service (JACS)

The execution of court decisions is entrusted in the Judicial Acts Compulsory Service (JACS) under the Ministry of Justice. No measure about the Service was planned within the Strategic Program 2012-2017. There are 369 Bailiffs and the Service is budgeted with 2,7mln€. There are issues regarding lengthy proceedings and cooperation with other enforcement authorities. The service operates through a case-flow management system that interacts with the court system CAST, Civil Status Registry, Tax Payer Registry, Immovable Property Register and other databanks, also providing SMS and Telegram notifications.

Bailiffs' caseload is of 300 cases per month each. The procedure appears to be expensive.

3.4. Alternative Dispute Resolution (ADR)

Provisions on alternative dispute resolution are primarily contained in the Law on Commercial Arbitration based on the UNCITRAL Model-Law and the Law on Financial System Mediator (ombudsman) aimed at protection of consumers of financial services.

A Financial Ombudsman was established in 2008, Arbitration in 2007, Mediation in September 2015, Notary-validated contracts as an executive title in November 2016. ADR is reported to be "quite effective" although its effectiveness on alleviate judges' caseload is not apparent yet.

The judges we talked with, have favourable views on ADR, but it appears that there are cultural difficulties to be overcome, so to make ADR viable, as dispute resolution is normally regarded by the population as a win-lose game, and inherently adversarial.

3.5. Recommendations on the issue of lengthy proceedings

- → *Judges should conduct a pre-trial hearing to set timeframes and calendarize the list of testimonies and proofs to be presented.*
- → *Judges should schedule the trial by agreeing with lawyers a calendar of hearings: it is apparent from CEPEJ questionnaire answer that Judges normally do not set their calendar taking into account the agendas of parties and of prosecution.*
- → *Alternative dispute Resolution should be given more space, especially through court-annexed mediation.*
- → *Most civil litigation is due to unpaid facilities and bills. Such cases should not necessarily be tried: rather, a court-enforced dunning procedure along Regulation (EC) No 1896/2006*[4] *should do.*

[4] *Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1896*

4) BUDGET AND LOGISTICS MANAGEMENT

4.1. Justice Sector Budget

According to *our* calculation based on the data provided, the Justice sector budget is as follows:

Courts	17.247.554,00 €
Prosecution	6.816.810,00 €
Ministry of Justice, including Probation	4.225.362,00 €
Prison system	16.847.366,00 €
Enforcement service	2.751.960,00 €
Total	**47.889.052,00 €**

Court budget is so distributed:

Budget allocation	Sum	%	Per inhabitant
salaries	14.354.625,80 €	83,56%	4,80 €
computerisation (equipment, investments, maintenance)	69.627,00 €	0,41%	0,02 €
justice expenses (expertise, interpretation, etc), without legal aid	68.559,00 €	0,40%	0,02 €
court buildings (maintenance, operating costs)	13.539,00 €	0,08%	0,00 €
investments in new (court) buildings	37.809,50 €	0,22%	0,01 €
training	0,00 €	0,00%	0,00 €
Reserve fund of courts by functional classification	330.828,20 €	1,93%	0,11 €
social package for employees of state institutions and organizations	315.689,30 €	1,84%	0,11 €
Maintenance of courts of the Republic of Armenia	1.988.826,10 €	11,58%	0,67 €
Total	17.179.503,90 €	100,00%	5,75 €

It is apparent that most expenses go to salaries and maintenance, and little to investments. The allocation to training is rather puzzling[5]. Litigants are required to pay a court fee to start a civil proceeding, with many

[5] This figures are so explained by the MoJ (reported as is):

"Budget for training

Data on the budget for training is not included in the Data on budget allocated to the functioning of all courts, because the Ministry of Justice is the executor of the budget for Training services, allocated to the Academy of Justice in 2016.

Maintenance of courts

Data on **Annual public budget allocated to court buildings (maintenance, operating costs)** includes only data on current maintenance of court buildings. Data on Maintenance of courts of RA includes other costs (elements) of court maintenance (e.g. energy, utilities, communication services, office supplies etc.). All of them are considered as court maintenance.

Data on current maintenance of court buildings has been presented seperately from the whole data on Maintenance of courts of RA, as there is a specific question in the Questionnaire.

As for Academy of Justice- According to the Law "On the Academy of Justice" the Academy is financed from the state budget (as a separate line). All the incomes and expenditures of the Academy are planned and used in accordance with the annual estimate. The estimate of the annual expenditures of the Academy (the budget request) is approved by the Board of the Academy upon the suggestion of the Rector.

1. The budget of Academy of Justice for 2017 is 230167.200 AMD by "Trainings of judges and prosecutors" programs
2. By «Scholarship for professional training of hearers» program- the budget is 64620000 AMD"

exceptions. Court fees can amount to 2% of the case value. Fees are paid to the state budget: courts have no right to withhold them and get self-financed. The total amount collected is of € 4.028.658,7. e.g. the 23,5% of the Court Budget. The preparation, the management and allocation of the Court Budget is the responsibility of the Judicial Department, while the approval and oversight are to the Parliament. Courts act as a local branch of the JD in the planning process, instead of negotiating their own budget as counterparts. The prosecution budget doesn't include investigative expenses, as investigation is vested in a separate Investigative Unit. Legal aid budget mostly goes to salaries. Most of the budget appears to have been implemented.

We have no data on previous budgets. We must note that the Justice-related sector budget of Albania, a country with a population of comparable consistence, is 91.738.178€.

4.1.1. Judges' Salaries and Pay Grades[6]

Judges' Salaries parameter is the minimum salary by law (66000 dram =121€/month). A Junior prosecutor gets x4,5 and a senior one x7,5. A judge has an entry salary of x10, plus on-duty bonuses. The gross annual entry level salary of a judge is €22.595[7], while a Cassation Court judge takes €34.916[8].

Number	Typology	Salary	xAGS
17	Cassation Judge	34.916,60 €	7,3
39	Appeal Court Judge	28.285,50 €	5,9
178	1st instance Judge	22.595,00 €	4,7
1083	Non-Judge Staff	5.048,20 €	1,0

Since *financial independence is one of the means of preventing corruption*, we can assess that, given an Average Gross Salary (AGS) of 4,418€/year[9], *wages of Judges are sufficient to their lives*: indeed, a DC Judge will take 4,7x the AGS, while a SC judge will take 7,3x.

4.2. Court premises

We visited the Court of First Instance of Avan and Nor Nork Communities of Yerevan. The premises were very basic, but decorous and well-kept. There was no sort of information to the public on display (welcome

[6] Data provided by the authorities are from answer 6 and answer 132 of the CEPEJ questionnaire. There are some inconsistencies.
[7] According to answer 132 Cepej questionnaire, instead, the salary of a 1st instance Judge is €16796. According to information provided by MOJ, such sum (that in other correspondence was calculated as €15.471) should be increased of 2% by bonuses granted along some factors as academic honors or achievements, age, etc.
[8] According to answer 132 Cepej questionnaire, instead, the salary of a Cassation Judge is €31743
[9] Answer 4 CEPEJ

desk, leaflets etc.). However, each judge has his own courtroom, and is able to give daily public (=not in his office) hearings: we are not in the position to assess if this is the case in all the country. A Datalex kiosk is available at the entrance. There are no cages in courtrooms for criminal defendants.

5) TRANSPARENCY, ACCOUNTABILITY, PUBLICITY, ACCESSIBILITY OF COURTS.

5.1. Court Technology

5.1.1. Court Records - Concept

In their early days, Courts recorded proceedings as a mean of keeping memory of them: so, essentially in the functional interest of the Judge and of the parties.

Modern Court technology has instead a broader scope and diverse possible users, being a tool for:

- ***Case management**: essentially as a registry keeping track of the main passages of the proceedings and of the fulfilment of procedural conditions*
- ***Document management**: by keeping record of the content of the proceedings, including minutes and the final decision, eventually by substituting paper archive. By building a bulk of publicly searchable jurisprudence, it fosters legal knowledge and helps make court decisions coherent and predictable;*
- ***Performance management**: records help produce reliable statistics, ideally without human intervention. They are revealing of the respect of procedural timeframes, on length of proceedings, as well as of the caseload/workload of judges. The statistical incidence of outcomes (as: % of criminal convictions) gives also information on court's orientation, thus making predictable the adjudication process. Judges' time management can be helped by setting their agenda and warning them of urgencies through a dashboard module. At the same time, transparently published statistics make courts accountable to the general public;*
- ***Automated Random Case Assignment (ARCA):** by automatically matching a registered case with a judge, along pre-defined and publicly stated criteria and with little or none human interference, ARCA modules, together with other organisational measures, help making the assignment of a case unpredictable, thus hampering corruption and undue influence;*
- ***Communication and Interoperability**: IT can be used to establish communication channels among courts, and among court and parties involved. E-filing, e-notification modules, File Transfer Protocols can turn useful for an efficient relationship management.*

Finally, in order to be automated, proceedings must be uniformly defined and conducted, so to leave little room to multiple and arbitrary choices.

Court IT is, therefore, neither a mere technicality, neither a simple commodity tool: it deeply shapes the way Justice is served, thus promoting accountability, transparency, publicity.

5.1.2. Automated Case-Management (CAST)

Case-flow Management in Armenia is automated. An IT-System (**CAST**), is in place. CAST makes possible to record the filing of the case, the minutes of the hearings, the decisions and the reasoning. It has modules for audio recording of court sessions and it provides statistics. Decisions with reasoning and statistics are reported on the National Web portal of the Judiciary www.datalex.am, which is the public interface fed by CAST. Datalex is a well-built, mobile-friendly website. The public by logging in on the portal can consult files of their case, check the calendar of hearings, see minutes, and perform other services online. It is envisaged to start e-filing by November 2017: the filing process is therefore still paper-based. However, we did not see much paper in the court we visited. CAST shall be connected with other systems in the Justice chain, such as the Police, Prosecution, Prisons and Bailiffs in order to have fast and easy access to data and electronic files. CAST has also a HR management module and can be used as a File Transfer Protocol among jurisdictions. Datalex is interconnected with the ECHR portal and jurisprudence.

5.1.3. Digital Audio Recording

The audio-recording system is implemented in most courts, and is connected to the case management system CAST. No video recording of hearings is reported. Audio recording is supposed to be a tool of transparency and anti-corruption. We frankly do not find the emphasis on such technology as justified. The system, indeed, can easily be circumvented, and judges are reported having ordered the chancellor to stop the recording. Voice recordings are stored on CDs and destroyed after 3 years.

5.1.4. Natural Judge. Automated Random Case Assignment (ARCA).

In order to fulfil the principle of the natural and predetermined Judge, CAST system contains an automated case assignment module. No lottery is drawn to assign cases, as this is done automatically by the system. Apparently CAST system is not open to manipulations, as there should be no way to intervene on the RCA process. However, the fact that case assignment is done not immediately, at the moment of filing, but later in the evening (at 20,30h) leaves space for speculation. Besides, many courts are staffed by so few judges that it makes little sense to talk about 'random assignment'.

→ *We do recommend that once established the e-filing process, the assignment be done immediately;*
→ *RCA should take into account case complexity.*

5.1.5. Other E-gov projects

- → *Armenia has a vast programme of e-government and e-justice, with more than 20 tools, which earned the country a place in the top ten e-gov countries. The MoJ has the lead of such programme. The e-gov strategy is seen not only as a matter of efficiency, but a mean for enhancing trust in institutions, while hampering corruption. It is now possible to register a LLC in 10 minutes, which has improved Armenia position in Doing Business rankings. To overcome digital divide such services are accessible through post offices and bank. The EU invested 6mln€ on interoperability platforms.*
- → *In the area of Law the e-penitentiary, e-notary, e-register, e-civil registry, e-draft systems were introduced and improved.*
- → *An e-draft.am portal enables citizen to get aware of legislative drafts, discuss them and present amendments. A further e-petition project is envisaged.*
- → *E-register is aimed at improving the business environment, allowing to register Limited Liability companies in 20' only.*
- → *We are seriously impressed by the achievements on such item and recommend to go on this path.*

5.2. Transparency, Accountability, Publicity

5.2.1. Judicial Statistics: reliability, compilation, verification and reporting

There are four strong cases for having good, reliable, public statistics:

1. Transparency
2. Predictability of Court decisions
3. Support to Decisions
4. Productivity Assessment

Transparency is a general value. Justice, since the beginnings, is done in public. If we don't want that the concept of public Justice be reduced to a sort of theatrical representation, we must allow that relevant information about the system be fully disclosed.

Predictability of Court decisions helps people to take a well-grounded choice whether going to litigate in Court, by considering the probability of success of their claim. It helps, therefore, to defuse frivolous litigations that often clog the judicial system.

Disclosure of data can help Judges **to decide consistently with the country's case law**. One of the next developments of Case Management system could be into a Decision Support System (DSS)[10].

[10] DSS are software that help people in planning and deciding.

No Court, worldwide, is happy with statistics. The same concept of "extracting" statistics is flawed, as statistics should be naturally provided by the tools we work with, and should require no extra work to get them. It is obvious that the more data are manipulated the more there is room for mistakes or falsification.

5.2.2. Performance assessment

Court activities are monitored regarding: Number of incoming cases, Number of decisions delivered, Number of postponed cases, Length of proceedings (timeframes). Backlogs and cases that are not processed within a reasonable timeframe are not monitored. There isn't an evaluation process to monitor waiting time during court procedures, neither a system to evaluate regularly the activity (in terms of performance and output) of each court. There aren't performance targets defined at court level. There aren't defined performance and quality indicators except those regarding the caseload. The number of appeals is considered a quality indicator as well. There are quantitative performance targets for judges set by the Legislative and Judicial power. The nature of such targets is not clear.

The Judicial Department is responsible for collecting statistical data regarding the functioning of the courts and judiciary. Statistics on the functioning of each court are published on the Court.am portal. Individual courts are not required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity). Agenda setting: no channels of dialogue between the public prosecutor service and courts or between lawyers and courts as regards the way cases are presented before courts (for example the organisation, number and planning of hearings, duty periods for urgent cases)

- → *Performance assessment and social reporting are rudimentary.*
- → *Statistics published are produced manually by the Judicial Department*
- → *Statistics appear not to be laid out according to CEPEJ standard, but to local standards only.*
- → *The percentage of convictions in criminal cases is frighteningly high:* ***95%.*** *This is probably in accordance to an old practice diffused in the former USSR, where the defendant had little chances to be acquitted, and, if found innocent, he was charged and condemned for other crimes. However, far from being concerned, authorities presented this result as a quality indicator, a sign of how the prosecution is unbiased by presenting only cases which have a chance of resolving in a conviction (sic!).*
- → *Pre-trial detention is alarmingly high, covering 10% of criminal cases. Detention term is of 2 months, renewable up to one year. Officially, this never happens, however several cases were reported, especially of political opponents.*
- → *Civil cases are reported of having tripled in the last years. This is explained by the increased litigation started by facility companies against insolvent customers.*

5.2.3. Public Access to Judgments

5.2.3.1. Concept and function.

Judicial decisions should be made available to all practitioners and the general public. Public Access to Court Decisions can be intended in two ways:

1) As a right, that stems from Article 10 of the Universal Declaration of Human Rights, to a "decision rendered in public". This is mostly intended as "*reading of the judgment in open court*", and has protection of litigants against a decision rendered in secret as its main object.
2) Publicity can also be intended as availability of the Court Decision as a material document.

Such availability cannot be limited, as stated by the European Court on Human Rights[11], to those who have a qualified interest. However, such sort of publicity could be fairly limited to the deposit in the Court's Registrar. This is «*publication*» as it is normally intended by most Codes of Procedure in Civil Law countries.

The Council of Europe[12] expressed the *desirability* of making court decisions easily accessible to the general public.

5.2.3.2. Coherence and uniformity of case law and legal certainty.

Apart transparency, availability of case law to practitioners also fosters the *coherence and uniformity* of case law and predictability of Courts decisions, improving legal certainty.

In Armenia, only decisions from the Cassation Court have value of precedent and form the Case-Law. Precedents are binding for the judge. Other Court decisions published on the Internet Court Portal are not precedents but are starting to be recognized as having official value, and therefore they can serve as proof in another judgment.

The Court Portal is easily searchable, and therefore is possible to grab from it what is the prevalent jurisprudence on a matter, and make forecasts on a lawsuit's chances of success.

5.2.4. Data Protection

Court decisions are published with the names and surnames of the defendant, or of the plaintiffs, disclosed. Other sensitive data are protected. In most sensitive cases, such as rape, or juvenile crimes, and other categories at risk, names are also encrypted.

[11] ECHR Werner vs. Austria, and Szucs vs. Austria, 1997

[12] "Recommendation of the Committee of member States on the delivery of court and other legal services to the citizens through the use of new technologies R (2001) 3" (28th February 2001)

→ *According to European Standards, publication of court rulings should consider all aspects relating to the protection of personal data. While Armenian authorities did an appreciable effort, we recommend court decisions should be further anonymized, including surnames.*

→ *For such purpose, we do recommend that surnames be omitted.*

→ *Once satisfied the need for better Data Protection, we recommend the widest and most general dissemination of Court decisions as beneficial for reasons stated above.*

5.3. Access to Justice

5.3.1. Legal Aid

5.3.1.1. Legal Basis

The right to legal aid is enshrined by:

- Article 6 (3)(c) of the European Convention on Human Rights (ECHR): guarantees the right to legal assistance where the defendant has insufficient means to pay for legal assistance, and to get free legal aid when the interest of justice so requires.
- Article 47 of the Charter of Fundamental Rights of the European Union : stipulates that legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

In Armenia, Legal Aid is provided under the Law on Advocacy, art. 41.

5.3.1.2. Type of assistance provided.

Free Legal aid is organized and granted by the Public Defender's office. In the previous year 5910 court cases and 4104 non-court cases were assisted. Eligible people are low-income citizens, as defined and listed by the law. In criminal cases either defendants, either victims, are eligible.

Legal aid essentially covers expenses for Lawyers (Representation in court and Legal advice in criminal and non-criminal cases), but is not granted for:

- Court fees and enforcement of judicial decisions
- other costs (fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc.)

Chamber of Advocates reported that in 2016 and 2017 the Public Defender's office was budgeted[13] 377.272.100 AMD, 70% of which have gone to salaries and internal expenses.

[13] According to the Law "On State budget of 2016", Annex 1, 3rd section (Public order, security and judicial functions) 3rd group (Judicial functions) 2nd class (Legal protection)

5.3.2. Court fees and tax issues.

High court fees *hamper access to civil justice to many, not only to vulnerable groups.*

Article 22 of the "Law on State Fees" states that "plaintiffs are free from paying state fees if their cases concern to claims for salaries and other payments equal to salaries, disputes on labour issues, claims for alimony, claims for compensation of material damages caused by criminal acts, exonerated persons are free from paying state fees if their cases concern to material compensation of illegal custody and detention etc". Rates are regulated by art. 9. On a 3000€ action for debt recovery a 2% fee will be levied.

Execution fees are established by Article 67 of the Law "On Judicial Acts Compulsory Enforcement". Rates are described in answer 176 to the questionnaire. Although there are exemptions, in some cases execution fees could sum up to the 50% of the executed value

Legal aid doesn't cover courts' and bailiffs' fees.

→ *The current system of court and execution fees in civil proceedings is a potential obstacle to accessing justice. Some rates appear disproportionate and may prevent some people from pursuing their rights in civil proceedings because of economic difficulties.*

6) KEY FINDINGS AND RECOMMENDATIONS

The continuous commitment of the Armenian leadership to the establishment of ever closer ties with the European Union, by setting legislation and practices in accordance to the best European standards, is only worth of the strongest and unconditioned praise.

In the field of "Efficiency of the Judiciary" a tremendous effort was done, with the passing of organizational measures and fundamental pieces of legislation. What is now needed is a new managerial, result-oriented approach.

Our concise assessment is that there is still **much room for improvement.** Steps forward need to be encouraged, while underlining the many gaps still existing should not be felt as discouraging.

We find two particularly interesting trends:

1) First, we are particularly impressed by the many young people - mostly females, highly-skilled, western-educated, with excellent command of English language - already in managing positions, we have met. The Ministry of Justice itself is led by a young and dynamic female Minister. The empowerment of so many young persons is clearly not a coincidence but the result of a policy which is particularly important - in a country that always suffered of mass migration – to prevent further brain drain. The main wealth of a Ministry lies in its employees – qualified specialists,

experts and managing officials with a vast future vision ensuring high quality ministerial work. In perspective, they offer an opportunity to the Ministry of Justice to become a trustworthy partner in European and international judicial matters.

2) We also appreciate the emphasis on innovation and e-government as a mean to improve citizens' confidence, tackle corruption, foster private and foreign direct investments. The experience from former SSR and Caucasus shows this is the right path. The fact that the justice system (in most countries a place for formalistic and traditional thinking) is at the forefront of such innovation process is also note- and praise-worthy.

It must be acknowledged that the trust in courts is so low that the practical experience of users may then offer positive surprises: hence the somehow incongruous positive mark in court satisfaction users, resulting from the CoE poll.

We therefore recommend the EU should side and encourage those two change agents. Technological innovation and generational turnover can do much more than legal reforms to improve living conditions.

However, as we are required to assess the justice system as it is, we must note that it (despite the effort done), that must nonetheless be acknowledged, needs further work and funding.

To cut a long story short, the Armenian judiciary is too small to be fully functional. It has very few judges, an architecture that is too elementary, and it is clogged by an excessive backlog mainly generated by small claims, evictions and other disputes between landlords and tenants. The old and new strategy put little attention to Non-Judge Staff, which are poorly trained.

We therefore recommend that the new strategy:

1) Should provide for the hiring of more Judges
2) Should put more emphasis on alternative dispute resolution as a mean to deflate litigation.
3) Should address the issue of inflated small claims, providing for court-enforced dunning procedure.
4) Should revise the Codes in order to create differentiated procedures according to the importance of the issue to be decided. Summary judgements should be provided.
5) Should provide for a Serious Crime Division in criminal affairs and a Small Claims Division in civil ones (or separate courts as well). Serious Crimes and High Value Litigations should be tried by a Collegiate Judge in panel, or by Jury.
6) Should provide for specialized Judges in Juvenile affairs, bankruptcy, surveillance on probation.
7) Should provide the revision of the Judicial Geography in order to obtain economies of scale. While the intent to have a proximity justice is laudable, maybe the many Erevan Community Courts could be merged in a metropolitan one. We also see little reason in having 3 different nationwide Appeal Courts for separate jurisdictions (Admin, Civil, Criminal), while there could be 3 territorial ones with different chambers.
8) Should provide for more attention to non-judicial human resources, their recruitment and training. A strategy of human resource management for non-judicial staff is missing. The way NJS is recruited and trained is not well defined, as if it were a non-issue. We feel the NJS should be given more

consideration as it is a determinant component of any well-functioning Justice mechanism. The notion and profile of "Judge Staff" (those that in good English are referred as Law Clerks, and commonly as 'Judge assistants') and of "Court Staff" (the Registrars in charge of the correct maintenance of the records) should be better clarified.

9) Should separate the Judicial Department from the Court of Cassation, making it an autonomous agency either under the Ministry of Justice, either under the Judicial Power as a whole.
10) Should provide that courts should be able, in the person of the HoC and Court Administrator, to plan and negotiate their own budget autonomously. Budget should not be a sum of requests, but an exercise in planning and forecasting. Therefore, visioning court leaders should have an incentive in making projects on user-friendly courts, in order not to limit their scope on the sole adjudication process, but on the court experience as a whole.
11) Should provide that Courts be able to withhold court fees as a mean for self-financing.
12) Should provide that part of the rewarding scheme of Judges and other court personnel be on a PPP (pay-per-performance) basis, by considering either individual performance, either the performance of the Court, or of the Court system as a whole: this is to encourage teamwork and team spirit in an environment where too often the work of the single judge is segregated from the others, and indifferent to systemic issues.
13) Should in any case provide for more funding.
14) Should provide for an awareness-raising communication and educational strategy of the Judiciary, so to educate the public about its functioning.
15) Should provide for more attention to Legal Aid provision
16) Should provide for better data protection in court decision's publishing.
17) Should provide for lower court and execution fees, always proportionate to the value of the litigation.

→ *While strongly commending the Armenian authorities for their commitment to Rule of Law and efficient Justice, we invite DG NEAR to sustain and support the reform process, by calling for a workshop with all relevant stakeholders and by encouraging, with grants and study visits, young professionals engaged in the reform.*

7) ANNEXES

7.1. Acronyms

ADR Alternative Dispute Resolution
AGS Average Gross Salary
AMD Armenian Dram (currency)
ARCA Automated Random Case Assignment
CDT Case Disposition Time
CEPEJ European Commission for the Efficiency of Justice
CivPC Civil Procedure Code
CrPC Criminal Procedure Code
DC District Court
EUC European Commission
EUD EU Delegation
EUMS European Union Member States
HoC Head of Court (President)
JACS Judicial Acts Compulsory Service (Bailiffs)
JD Judicial Department of the Court of Cassation
NEAR European Commission DG Neighbourhood
NJS Non-Judge Staff
RA Republic of Armenia

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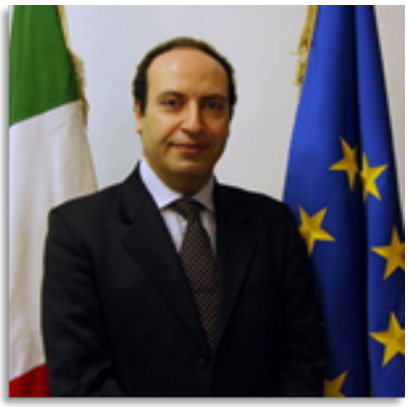
7.3. Bio and contacts



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I, the undersigned, certify that the information contained in this Peer Assessment Report is correct to the best of my knowledge.

EoD - This document was closed on March 22th 2017 in Ostia, Italy,
and revised on 28th April 2017 after local authorities comments.

Dario Quintavalle