

# **Funding the Judiciary: how budgeting systems shape justice**

The impact of budget practices on allocative efficiency, organisational development, and judicial values

**Financiering van de Rechterlijke Macht: hoe begrotingssystemen de rechtspraak vormgeven**  
**De impact van begrotingspraktijken op allocatieve efficiëntie, organisatieontwikkeling en professionele waarden van rechters**

(met een samenvatting in het Nederlands)

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# Funding the Judiciary: how budgeting systems shape justice

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## Abstract

How much judicial organisations and courts get from the state budget, how that happens, and how they account for what they spend is of the utmost importance for the judiciary's independence and for the courts' proper functioning. Although budgeting is of great importance for the functioning of the courts, it is one of the most neglected topics in studies on the management of judges and court organisations in Europe.

In the early days of the New Public Management wave, budget and budgeting played an essential role as a powerful management tool to improve planning, policy development, services provided and accountability mechanisms in public administration. In general, the management of the judicial organisations of EU Member States was not adapted to the new management techniques, and this applies in particular to budgetary planning and expenditure. In many cases, the budget of the judicial organisations and courts is only drawn up on the basis of historical costs.

However, in recent years, some countries have developed new approaches to the management of judicial organisations and the budgeting of courts, using a "performance-based" budgetary perspective, which links organisational costs and organisational output, policy development and resource allocation, performance targets and resource appropriation, managerial discretion and accountability.

This work compares the different performance budgeting models used in the judiciary of three European countries: Italy, Finland, and the Netherlands. These three countries use a performance-based budget approach with different characteristics and nuances. In Italy, a programme budget is used at the national level, but the allocation of funds to the courts is usually related to historical criteria. In Finland, a weighted caseload system is used to measure workload and assess budget needs; a negotiation process is underway to allocate funds from the Ministry of Justice to the judicial organisations. The Netherlands has developed an advanced calculation of "costs per type of case", which forms the basis for assessing budget needs and allocating budgets to the courts, using a direct relationship between the number of decided cases and the funding of courts.

This study analyses the effects of the different budgeting models on the judiciaries of the three countries, in particular, the impact on allocative efficiency, management and organisation of courts, pressure on judges and work-related stress.

The findings of this study suggest that funding models based on transparent and objective criteria ensure a more rational allocation of resources commensurate with the needs of court organisations, resulting in a more balanced performance across the country. At the same time, these models do not seem to put judges under extra pressure because experienced stress has more to do with

allocated caseloads. However, a tight organisation seems to be a necessary condition for the effectiveness of the funding model and the efficient functioning of the courts.

The different funding models described in this work can serve as examples for other countries that want to reform the budgetary processes for their judiciary. In particular, this examination shows the importance of using rational and transparent funding criteria to ensure both independence and accountability of the judicial organisation and to balance the performances of the courts. The starting point is that before the law, citizens are equal, and therefore they should also receive the same treatment within the courts and nationwide.

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Hoeveel budget rechterlijke organisaties en gerechten uit de staatsbegroting krijgen, hoe dat gebeurt, en op welke manier ze verantwoording afleggen over wat ze uitgeven, is van groot belang voor de onafhankelijkheid van de rechterlijke macht en voor het goede functioneren van de gerechten. Terwijl de budgettering zo belangrijk is voor het functioneren van de gerechten, is het tot nu toe een van de meest verwaarloosde onderwerpen in studies over het beheer van rechters en gerechtsorganisaties in Europa.

In het begin van de New Public Management-golf hebben budget en budgettering een belangrijke rol gespeeld bij de ontwikkeling van managementinstrumenten om planning, beleidsontwikkeling, geleverde diensten en verantwoordingsmechanismen in het openbaar bestuur te verbeteren. Over het algemeen is het beheer van de rechterlijke organisaties van Europa echter niet aangepast aan de nieuwe managementtechnieken, en dit geldt met name voor begrotingsplanning en -uitgaven. De begroting van de rechterlijke organisaties en gerechten is en wordt in veel gevallen alleen opgesteld op basis van historische kosten.

Maar in de afgelopen jaren hebben sommige landen juist wel nieuwe benaderingen van het beheer van rechterlijke organisaties en van de budgettering van gerechten ontwikkeld, gebruikmakend van een "op prestaties gebaseerd" begrotingsperspectief, dat organisatorische kosten en organisatorische output, beleidsontwikkeling en toewijzing van middelen, prestatiedoelstellingen, en beleid met elkaar in verband brengt en ook met verantwoording over middelen en resultaten aan publiek en politiek.

In dit onderzoek worden de verschillende prestatiebudgetteringsmodellen vergeleken die worden gebruikt in de rechterlijke macht van drie Europese landen: Italië, Finland en Nederland. Deze drie landen gebruiken een op prestaties gebaseerde budgetbenadering, maar met verschillende kenmerken en nuances. In Italië wordt op nationaal niveau een programmabegroting gebruikt, maar de toewijzing van middelen aan de rechtbanken is meestal gerelateerd aan historische criteria. In

Finland wordt een gewogen caseload-systeem gebruikt om de werkdruk te meten en de budgetbehoefte te beoordelen; daarnaast is er een onderhandelingsproces gaande om middelen van het ministerie van Justitie toe te wijzen aan de gerechtsorganisaties. Nederland heeft een geavanceerde berekeningswijze van "kosten per type zaak" ontwikkeld, die de basis vormt voor de beoordeling van de budgetbehoefte en de toewijzing van budgetten aan de gerechten. Daarbij wordt gebruik gemaakt van een directe relatie tussen het aantal afgehandelde zaken en de financiering van rechtbanken.

In dit onderzoek worden de effecten van de verschillende budgetteringsmodellen op de rechterlijke organisaties van de drie landen geanalyseerd, met name de effecten op de allocatieve efficiëntie, het beheer en de organisatie van de gerechten, de druk op rechters en werk-gerelateerde stress.

De bevindingen van dit onderzoek suggereren dat financieringsmodellen op basis van transparante en objectieve criteria een rationelere toewijzing van middelen garanderen die in verhouding staat tot de behoeften van gerechtsorganisaties, wat resulteert in een meer evenwichtige prestatie van gerechtsorganisaties in het hele land. Tegelijkertijd lijken die modellen rechters niet extra onder druk te zetten, want ervaren stress heeft eerder te maken heeft met caseload en werkdruk. Een strakke organisatie lijkt echter een noodzakelijke voorwaarde voor de effectiviteit van het financieringsmodel en het efficiënte functioneren van de gerechten.

De verschillende begrotingsmodellen die in dit werk worden beschreven, kunnen als voorbeeld dienen voor andere landen die de begrotingsprocessen voor hun rechterlijke organisatie willen hervormen. Uit dit onderzoek blijkt met name het belang van het hanteren van rationele en transparante financieringscriteria om de onafhankelijkheid van en verantwoording door de rechterlijke organisatie te waarborgen en de prestaties van de gerechten onderling in evenwicht te brengen. Het uitgangspunt daarbij is dat burgers voor de wet gelijk zijn en daarom ook in de rechtspleging zowel binnen de gerechten als landelijk dezelfde behandeling behoren te krijgen.





## Table of Contents

1. Introduction.....	9
2. Methodology.....	12
2.1. Research questions .....	12
2.2. Research methodology .....	14
2.2.1. Literature research .....	14
2.2.2. Case studies.....	14
2.2.3. Preliminary interviews .....	15
2.2.4. First part results .....	17
2.2.5. Choice of variables .....	17
2.2.6. Data analysis.....	18
2.2.7. Online survey.....	19
2.2.8. Second part results.....	21
2.2.9. Relevance of research.....	21
2.2.10. Limits of research .....	22
3. Theoretical framework.....	23
3.1. Administration of justice .....	23
3.1.1. Judicial efficiency and the New Court Management .....	23
3.1.2. Performance measurement and management in the judiciaries.....	25
3.1.3. Courts as professional bureaucracies and loosely coupled organisations.....	28
3.1.4. The managerialisation of justice.....	28
3.1.5. Judicial independence .....	30
3.1.6. Professionals and managers in the Judiciary.....	32
3.2. Budgeting in public administration and the Judiciary.....	35
3.2.1. Performance-based budgeting models .....	36
3.2.2. Performance-based budgeting in judiciaries .....	41
3.3. Budgeting and the Judiciary: a conceptual map.....	42
3.3.1. Budgeting for judiciaries in representative democracies .....	42
3.3.2. Budgeting, judicial independence and accountability .....	46
3.3.3. Performance-based budgeting and judicial efficiency.....	48
3.3.4. Performance-based budgeting and professionals.....	50
3.3.5. Performance-based budgeting and its effects on management and organization .....	53

3.3.6. Budgeting, judicial quality and values.....	54
4. Budgeting models.....	58
4.1. The budgetary models in the judiciaries of Finland, France, Italy and The Netherlands.....	59
4.1.1. The budget cycle.....	61
4.1.2. The use of performance information and the criteria for budget allocation .....	64
4.1.3. Court management.....	68
4.2. Conclusions and discussion .....	70
5. Allocation of resources and performance variability .....	74
5.1. Coefficient of Variation .....	75
5.2. Results .....	76
5.3. Conclusions and Discussion.....	82
6. Pressure on judges .....	84
6.1. The effects of performance budgeting on judges' autonomy .....	84
6.1.1. Finland.....	85
6.1.2. The Netherlands .....	87
6.1.3. Italy.....	88
6.2. The effects of managerialisation of justice on judges' autonomy and job-related pressure ....	90
6.2.1. Defining "pressure on judges".....	91
6.2.2. Variables .....	92
6.2.3. Results.....	95
6.3 Conclusion and Discussion.....	113
7. Discussion .....	117
8. Conclusions.....	132
References.....	136
Annex I – performance indicators.....	153
Annex II – survey results .....	164

# 1. Introduction

The first time I set foot in an Italian court, I was under the impression that time had stopped. It was 2008, and ICT was widespread, but the civil process was still based on paper. Courts and prosecutor offices were accused of wasting public resources, and they were considered “temples” where no one knew exactly what happened inside. In 10 years, many things have changed. ICT is now an integral part of the judicial proceedings, and, above all, there has been a cultural change towards a managerial culture and the rising awareness that justice is not only a power of the State but also a service to the citizens, and, as such, it must be efficient and accountable. However, the financial aspects are still relatively ignored, and judicial efficiency is still far from being reached.

My task at the time was to study the possibility of applying a management control system to the courts' expenses. The underlying idea was that, in order to be efficient, courts not only had to increase their productivity but also reduce any waste of money. The final aim of the research and consultancy project I was in charge of was to calculate standard costs per activity, as well as it was done in the healthcare sector. Immediately, I collided with the impossibility of collecting any data related to costs and expenses: the courts were not autonomous in managing their budget, and for that reason, they did not have a balance sheet, and they did not take into account any form of expenditure or revenue. Most of the courts' presidents and chiefs of prosecutor offices were completely unaware of the expenses related to their court's activities, and anyway, they were not interested at all.

At the same time, something was slightly changing. The first step towards costs awareness and the first attempt at cost control was made by the Bolzano Prosecutor office in 2006 when they published for the first time in Italy the “sustainability report”, where they gave an account to the stakeholders of all the activities done by the court and all the expenses incurred to perform those activities. They built for the first time a balance sheet, and they managed to reduce the costs of telephone tapping by making a deal with the companies in charge of providing this service.

The Italian media gave wide publicity to that sustainability report, especially the part related to cost reduction. From then on, courts and prosecutor offices have started improving their accountability and communication with the citizens, and many judicial offices have progressively published their sustainability reports.

However, the accounting of expenses remained a problem. As a consultant, I was in charge of helping judicial offices draft those sustainability reports. The most challenging part was to build a

## Funding the Judiciary: how budgeting systems shape justice

balance sheet, as different institutions incurred different costs, and not all revenues were taken into account. This activity seemed merely a stylistic exercise.

When I first heard about the Dutch system of standard costs per proceeding, I was fascinated, and I asked myself if it was possible to import such a system into the Italian courts. In 2017, I participated in a conference in Latvia organised by the European Commission for the Efficiency of Justice of the Council of Europe (CEPEJ) in which different models of performance-based budgeting (funding based on performance) in the Judiciary were presented (Estonia, France, Finland, Ireland and the Netherlands), and I decided that I wanted to investigate that topic.

My initial idea was that a more rational distribution of resources (as performance budgeting methods promised to guarantee) could help courts to be more efficient and accountable to parties and citizens. Efficiency in general, and length of proceedings in particular, were and still are crucial issues in European countries, especially in Italy, where the length of litigious civil proceedings is the highest in Europe. Italy has been condemned several times for breaching article 6 of the European Convention of Human Rights, according to which “everyone is entitled to a fair and public hearing within a reasonable time”.

Court delays can be due to several factors, among which previous backlogs, features of court proceedings, court and case management, court organisation, technology and budget (Langbroek & Fabri, 2003, p.4-7; NG, 2007, p.7). Among these topics, budget remains the least explored one.

The purpose of this work is to investigate the impact of budgeting in general and performance-budgeting in particular, on the Judiciary and to understand if and how a performance-based budget can be helpful to improve the functioning of the Judiciary as a whole and the constituent courts. It is also important to examine the effects of different budgeting models on professionals and how these models relate to courts' organisation and judges' behaviour.

It is intriguing part that budgeting is a quite neglected subject in the court administration literature, although it is influencing many aspects such as judicial independence, efficiency, quality, organisation, accountability and judicial values. Budgeting based upon transparent and objective criteria chosen with the involvement of judges can help to strengthen judicial independence and accountability. Budgeting based on performance can facilitate a rational allocation of resources but also put pressure on the judge's efficiency, with negative consequences on the quality of decisions. Budgeting orientated towards the increase of efficiency can lead to a change in the organization of judicial offices by strengthening the role of managers and creating friction with judges, with negative consequences on their professionalism.

The research question is: in what way and to what extent does the budgeting mechanism have an impact on judicial efficiency, organisation and values?

To answer this question, in this study I tried to analyse the effects of the different budgeting models on the judiciaries of the three countries: Finland, Italy and the Netherlands, which have three different budgeting models. After having examined the literature and described the three different models, I investigated the impact on the allocative efficiency among courts, on management and organisation of courts and on pressure on judges and work-related stress.

As specified in the methodological part, this manuscript is based on four articles published in peer-reviewed journals. The first two articles, “Pressure on Judges: How the Budgeting System Can Impact on Judge’s Autonomy” (Viapiana 2018) and “Funding the Judiciary: How Budgeting System Shapes Justice. A Comparative Analysis of Three Case Studies.” (Viapiana 2019) are based on literature review and interviews and provide a description of the budgeting systems in different countries and their impact on judicial efficiency and judges’ behaviour. The third article, “A performance-based budget in the judiciary: allocation of resources and performance variability in first instance courts. An analysis of three case studies” (Viapiana 2021), is based on data analysis and studies the impact of performance budgeting on allocative efficiency. The fourth article, “Pressure on judges: how managerialization and evolving professional standards affect judges’ autonomy, efficiency and stress”, written together with Frans Van Dijk and Bart Diephuis, provides the survey results on work-related pressure and is under review at the moment.

The content of the four articles was then combined and expanded to draft the present manuscript. This manuscript is composed of five chapters. The first chapter is the introduction. The second chapter presents the research questions and describes the methodology used. The third chapter presents the theoretical framework and introduces performance budgeting as a part of the “new court management” approach. Next, it explains in detail what performance budgeting is and what models can be identified. Furthermore, it focuses on performance budgeting in the judiciary and the relationship between judicial budgeting and judicial independence, accountability, efficiency, quality, organisation and judicial values. The fourth, fifth and sixth chapters present the qualitative and quantitative analysis results. The seventh and eight final chapters summarise and conclude the research.

## 2. Methodology

In this chapter, the research questions, the choice of case studies and the methodology for data collection and analysis will be described.

### 2.1. Research questions

Budgeting is related to judicial independence, accountability, organization and management, efficiency and quality, and other judicial values. As will be explained in detail in the theoretical chapter, budgeting based upon transparent and objective criteria chosen with the involvement of judges can help to strengthen judicial independence and accountability. Budgeting based on performance can facilitate a rational allocation of resources but also put pressure on the judge's efficiency, with negative consequences on the quality of decisions. Budgeting orientated towards the increase of efficiency can lead to a change in the organization of judicial offices by strengthening the role of managers and creating friction with judges, with negative consequences on their professionalism.

The research question is: in what way and to what extent does the budgeting mechanism have an impact on judicial efficiency, organisation and values?

The theoretical chapter will develop the main concepts that led to the formulation of the research sub-questions, which are presented here.

As we will see, the performance-based budget is primarily a tool to ensure a rational and fair distribution of resources among courts. The calculation of the resources necessary to make the judiciary function properly is not based on just an incremental approach from the previous year. Still, it takes into consideration the past and forecasted performance to better estimate the resources needed and then allocate them to the courts in the most effective way. In this case, the issue at stake is "allocative efficiency," in particular the criteria and the extent to which resources, and courts' and judges' performances, are balanced. If efficiency and effectiveness are not balanced across the country's courts, the budgeting system is not serving its purpose.

As a further step, the opportunity to evaluate the impact of budgeting on technical efficiency and judges' productivity could be explored; however, it is difficult to isolate the effects of budgeting from other variables. Therefore, the present work proposes to adopt a different approach, observing the effects of different budgeting models on "allocative efficiency", intended in this case as the proportional allocation of resources allowing the balanced performance of courts. This issue is

particularly relevant in the judiciary, where the system's priority must be to guarantee equality in the treatment of citizens before the law, especially with regard to the timeliness of decisions.

In this area, the sub-questions are:

- Does the PF-based budgeting change and balance the allocation of resources?
- Does the PF-based budgeting balance the performance of courts and judges?

The change in budgeting approach can also affect the organisational development, at the national level (change in the judicial system governance settings, for example, the creation of a Court Administration Agency for the Judiciary in Finland), at the court level (creation of management boards, role and powers of managers), and at the single judge level (e.g. organisational autonomy, changes in the case assignment system, pressure to increase productivity, individualistic or team-oriented approach, commitment to the court). Organisational changes can be required by explicit norms, or they can rely on praxis. A specific aspect of court organization is court management in general and managers – professionals' relationship in particular. Performance budgeting can influence this relationship by putting pressure on efficiency.

In this area, the sub-questions are:

- Does the PF-based budgeting affect changes in the court organisation and in the judge's work? If so, how?
- Does the PF-based budgeting affect the relationship between managers and professionals in the judiciary? If so, how?

Finally, a rational and balanced distribution of resources can help to ensure some fundamental values that underpin the judiciary in democratic societies. A resource allocation based on transparent criteria can contribute to guaranteeing judicial independence from the other governmental branches, as well as a transparent allocation of resources can also improve the trustworthiness of the judiciary. A proper allocation of resources on judicial salaries and training can ensure the integrity and competence of the court personnel. An allocation of resources aimed at pursuing equal performance of the different courts is reflected, in a sense, in equal access to justice. This research will deal with the relationship between budget and values, investigating how the public debate and the judges' perception is evolving.

The change in the funding process can impact judges' decision-making and work, with pressure on production, the definition of cases prioritisation, access to resources (staff, technology), training opportunities, investments in innovations, etc. The working conditions can, in turn, affect the main values that underpin the judiciary.

The research sub-questions are:

## Funding the Judiciary: how budgeting systems shape justice

- Does the PF-based budget affect the main values of a judiciary, such as accessibility, equality, independence, transparency, and professionalism?
- Do the judges perceive a change in their behaviour once the PF-based budget has been deployed? Do they perceive that the PF-based budget has an impact on autonomy, quality of decisions, pressure on efficiency and work-related stress?

### 2.2. Research methodology

In this paragraph, we will elaborate on the research methodology, exploring both its limitations and the opportunities it presents.

#### 2.2.1. Literature research

As I said in the introduction, the idea for this thesis came after having attended a conference organised by the CEPEJ in which different models of performance-based budgeting in the judiciary were presented. The conference was technical without theoretical references, so the first effort was to attach all those techniques to a solid theoretical framework.

The analysis of the performance-budgeting literature was the first step. This was necessary in order to be able to identify and label the different budgeting models in use in the judiciaries of the European countries. A reconnaissance of the diverse budgeting approaches was made by ENCJ (2016 and 2019), EU Scoreboard (2019) and CEPEJ (2018 and 2020); these studies were useful for getting an overview and choosing the case studies.

The second step consisted in broadening the literature research not only to all studies related to the efficiency of justice and court administration but also to the wide literature on public management, including organization, performance measurement and management, monitoring and evaluation.

The third step consisted in focussing on a few countries that implemented different forms of performance budgeting in the judiciaries (in particular, Finland, France and The Netherlands) and examining their budgeting models through what was already present in the literature. Italy, which is included as a case study in the second part of the research, has not a proper performance-budgeting model in the judiciary but was chosen as a “control sample”.

#### 2.2.2. Case studies

The second part was narrowed to three case studies: Finland, Italy, and The Netherlands. The choice of the three countries was made using a “diverse case method” (Seawright & Gerring, 2008) as they



represent three different examples of budgeting models with three different tightness of link between performance and funding. In Finland, a weighted caseload system is used to measure the workload and assess the budget needs; in addition, a negotiation process is in place to allocate resources from the Ministry of justice to the courts. The Netherlands developed a sophisticated calculation of “cost per case,” which is the basis for assessing budget needs and allocation. Italy is a sort of “control group” because, formally, program budgeting is in use, but in practice, resource allocation is not based on performance. Furthermore, these three cases represent three different European geographical areas with three different legal traditions.

Choosing the Netherlands and Italy was also a practical choice: the Netherlands is the country that “hosted” me for this PhD thesis, while Italy was my country of origin, whose judiciary I know well. These two countries presented two extremes in the approach to judicial management and budgeting; therefore, I felt the need to study a third country between the two. Initially, the choice was France, and in fact, a small part of the research describes its budgeting system, but finally, its judicial system was too similar to the Italian one; therefore, the choice fell to Finland, which represents a third different type of approach.

### 2.2.3. Preliminary interviews

Given the lack of literature on budgeting methods in the European judiciary, the analysis needed to be integrated with some semi-structured in-depth interviews with national professionals and experts.

During the first part of the research, the following interviews were conducted:

**Table 1: List of interviews**

Institution	Role	Day	Length
The Netherlands			
Council for the Judiciary	Financial Director	11 and 12 April 2018	180 min
	Former Strategy and Development Director		60 min
	Financial Trainee		
Finland			
Ministry of Finance	Counsellor of Legislation	27 August 2018	60 min
Ministry of Justice— Department of Judicial Administration	Head of Department Head of Planning Senior Planning Officer	27 August 2018	90 min
Helsinki District Court	Chief Judge Counsel to the Finance Committee Counsel to the Legal Affairs Committee	28 August 2018	120 min
Parliament	Counsel to the Finance Committee Counsel to the Legal Affairs Committee	28 August 2018	60 min
Market Court	Chief Judge Permanent Secretary	29 August 2018	60 min
Supreme Court	Judge of Supreme Court	30 August 2018	45 min

## | Funding the Judiciary: how budgeting systems shape justice

Since in Finland there is relatively less literature on the topic, it was necessary to conduct more interviews than in the Netherlands.

The interviews were semi-structured and explorative. Their aim was to understand the functioning of the budgeting process and to obtain indicative information about the perceived impact of budgeting on efficiency, court organization and management, judges' behaviour and quality of decisions.

The following outline represents a general guide that was followed during the interviews:

### Interview outline

- Budgeting process: Formulation, approval, execution, audit
- Budget composition
- Budget allocation criteria
- Performance indicators
- Case weighting system
- Court's autonomy
- Court management board: role and leeway
- Judicial map reform
- Impact of PF budgeting on efficiency
- Impact of PF budgeting on judges' perceived autonomy and pressure on efficiency
- Impact of PF budgeting on judges' workload and performance
- Impact of PF budgeting on the quality of organization and judicial decisions
- Strengths and weaknesses of the budgetary model

During the interviews, some important documents were collected:

### List of documents collected during the interviews

#### The Netherlands:

- Performance Based Budget presentation
- Consolidated budget reports for 2006–2016
- Time spending research

#### Finland:

- Performance Based Budget presentation
- Budget annual timetable
- Weighted caseload system
- District Court performance targets

In Italy, I did not conduct interviews, as my knowledge of the system was derived from 10 years of work as a management and organization consultant in courts and four years as a tutor and teacher at the Italian High School of Magistrates.

### 2.2.4. First part results

As a result, the first part of the research provided a description of budgeting and funding mechanisms in three countries that have implemented different forms of performance-based budgeting (Finland, France, Italy and the Netherlands). After a literature analysis on the topic, the budgeting models of the three countries have been compared, focussing on assessing budget needs, budget appropriation processes, indicators and criteria used for budget allocation (distinguishing between the budget of the judiciary as a whole, the budget of courts and the way the budget is allocated within the court), actors involved in the budget process, budgetary structure, amount of budget allocated, court presidents' or court boards leeway to manage resources, the relation between performance indicators and funding, policies and practices to balance judicial independence and accountability.

This first part was based on a literature review and secondary data analysis. Secondary data analysis referred to budgetary quantitative and qualitative data collected by CEPEJ and ENCJ, while literature analysis examined the main budgeting practices for the judiciary in countries that have experienced a performance-based budget.

The output of the first phase consisted of two articles based on the evidence of this first part of the study: *Funding the Judiciary: how budgeting system shapes justice. A comparative analysis of three case studies*, published in the *International Journal for Court Administration* at the beginning of 2019, and *Pressure on judges: how the budgeting system can impact on judge's autonomy*, published in *Laws* at the end of 2018.

### 2.2.5. Choice of variables

This second part was aimed at analysing the impact of the budgeting process on the functioning of the judiciary in the three countries, concerning three dimensions: allocative efficiency, organisation and management, and judicial values, and on three levels: national level, courts level and single judge level.

The table below sums up the approach that was used to analyse if and how the budgeting system affects the judiciary in the three case studies (Finland, Italy, and The Netherlands).

## Funding the Judiciary: how budgeting systems shape justice

Table 2: Variables and levels of analysis

Variables/level of analysis	Allocative efficiency	Organisation and management	Values
National	Balance in resources allocation among courts	Changes in judicial system governance settings	Debate on efficiency and other values
Courts	Balance in court performance	Changes in court organisation	Court's perception of impact on accessibility and equality
Judges	Balance in judges' performance	Changes in judges' behaviour and self-organisation	Judges' perception of impact on judicial independence, integrity, competence, and public trust

To resume, the purpose of the second part of this research was to analyse the effects of performance budgeting models on judicial efficiency, organisation and values (in particular, judges' approach and behaviour). In this case, the budgeting model (and the tight of the link between performance and budget) can be considered as the independent variable, while judicial efficiency, organization and judges' behaviour could be considered as the dependent variables.

The underlying assumption, based on the literature collected at the beginning of the research, is that a performance budgeting model with a strict relationship between performance and budget is associated with increased efficiency and productivity, but it can result in reduced autonomy of judges and quality of the decision.

This second part of the research was addressed with data analysis and an online survey.

### 2.2.6. Data analysis

Quantitative data analysis was used in the study of the impact of budgeting models on allocative efficiency. To analyse the allocative efficiency for each country, national data have been collected, and performance indicators of different courts have been calculated and compared:

- Data source:
  - European Commission for the Efficiency of Justice (CEPEJ) data: CEPEJ dynamic database;
  - National data from Finland: data provided by the Ministry of Justice;
  - National data from Italy: data published by the statistics directorate of the Ministry of Justice on the website <https://webstat.giustizia.it>;

- National data from the Netherlands: data provided by the Judicial Council;
- Data set:
  - Incoming, resolved and pending cases per category per individual court;
  - courts' budget;
  - number of full-time-equivalent (FTE) judges and staff per court;
- Data analysis:
  - Resource allocation indicators:
    - “Cost per caseload”, calculated as the ratio between the court’s budget and the number of incoming cases and initial pending cases;
    - “Caseload per judge”, calculated as the ratio between the total caseload (sum of incoming and pending cases) and the number of judges FTE;
  - Efficiency and effectiveness (CEPEJ indicators):
    - “Calculated disposition time”, calculated as the ratio between pending cases in a given time and resolved cases in one year;
    - “Cost per resolved case”, calculated as the ratio between the court budget and the number of resolved cases in one year;
    - “Resolved cases per judge”, calculated as the ratio between resolved cases in one year and the number of judges;
    - “Resolved cases per staff”, calculated as the ratio between resolved cases and the number of non-judge staff in one year;
  - Variation of performance among courts (Coefficient of Variation of the previous indicators).

### 2.2.7. Online survey

An online survey was used to investigate managers–professionals’ relationship, court organization and judges’ behaviour.

The survey was addressed to all first-instance judges working in courts of general jurisdiction in the three countries. In Finland, the questionnaire was sent by the National Court Administration to all judges of first-instance ordinary courts (about 500 judges). In the Netherlands, it was brought to the attention of all first-instance judges (about 2.000 judges) by the Council for the judiciary with the endorsement of the presidents of the courts and the explicit support of the National Association of Judges. In Italy, in order to speed up the process and avoid having answers affected by the pandemic situation, we sent the survey by personal e-mail to all court presidents and, after a week, to all judges (about 4.500 judges). As regards data protection, the data cannot be connected and traced back to the respondents in any way. Anonymity is guaranteed. By proceeding with the questionnaire, judges declared that they had been informed about the objectives and method of the survey.

## Funding the Judiciary: how budgeting systems shape justice

In Italy, the questionnaire was sent on the 25th of June 2020 and remained open until the 15th of September; in Finland, it was opened on the 29th of June and closed on the 19th of September, while in the Netherlands, the formal approval by the Judicial Council required more time, therefore it was sent the 23rd of November and closed the 31st of December. In total, we collected 450 answers from Italy (2 of them were not considered as the respondents were not first-instance judges), 73 answers from Finland and 198 answers from The Netherlands.

**Table 3: Key data on the survey in three countries**

	Language	Time period	Total number of judges who received the questionnaire (approx.)	Answers	Response rate
<b>Finland</b>	English	29 June 2020 – 15 September 2020	500	73	15%
<b>Italy</b>	Italian	25 June 2020 – 15 September 2020	4.500	450	10%
<b>Netherlands</b>	English	23 November 2020 – 31 December 2020	2.000	198	10%

The questionnaire was submitted through Google forms. It contained multiple choice questions (mostly on a Likert scale), check box questions, short answer questions and open questions (short paragraphs).

In the quantitative analysis, data were analyzed using Excel, Tableau and SPSS. First, a descriptive analysis was performed to determine average scores, standard deviations and frequencies.

Secondly, per question, we used single-factor (one-way) ANOVA to test the null hypothesis that the means of the three countries are the same. When these F-tests (or in the case when homogeneity of variances is not met, Welch-test) show that the means of the three countries are significantly different, we performed Tukey's honestly significant difference (Tukey HSD) post hoc test (or in the case when homogeneity of variances is not met, Games-Howell) to determine which of the countries differ.

The open questions have been treated as qualitative data. They have been rearranged and synthesized to aggregate similar comments that support the same view. The most explicative comments among those reflecting the same opinion were selected, and these are cited in italics to support the quantitative analysis.

### 2.2.8. Second part results

The outputs of this second phase were two papers: A performance-based budget in the judiciary: allocation of resources and performance variability in first instance courts. An analysis of three case studies, published in the Journal of Public Budgeting, Accounting and Financial Management, and *Pressure on judges, how managerialisation and evolving professional standards affect judges' autonomy and efficiency*, currently under review by the Oñati Socio-Legal Series Review.

### 2.2.9. Relevance of research

As described in the previous paragraphs, budgeting in the judiciary influences judicial independence, accountability, efficiency, quality, organization and judicial values. In this sense, budgeting is crucial for the functioning of justice.

However, despite its importance, at the time this thesis was being written, the literature about budgeting in the judiciary was limited, mostly descriptive, and not embedded in the performance–budgeting literature (Wittrup, 2010; The World Bank, 2011; Contini et al. 2017; Langbroek, 2018; Visser, 2019). Wittrup describes different budgeting models based on the authority responsible for preparing and managing the budget (Ministry of Justice of Judicial Council), The World Bank describes five good practices in budgeting methods that can inspire judicial reforms in developing countries, Contini gives special attention to the budgetary process, and how it can affect the quality of justice, while Langbroek and Visser focus on the managerialisation of justice and the negative pressure perceived by the Dutch judges. None of these studies contain data analysis and they examine neither resource allocation nor performance issues. This work aims at filling these gaps by including the analysis of budgeting of the judiciary in the performance-based budgeting literature, and expanding the court administration literature by exploring the issue of budget and resource allocation.

In conclusion, this research aims to provide an analysis of the judiciary budget and budgetary process from a judicial administration perspective, using a multi-disciplinary approach involving law, economics, and organisation.

This work contributes to the existing performance-based budgeting literature by studying its application to the judiciary, which, due to its peculiarities, is an area that has been overlooked in previous studies and deserves further attention.

### 2.2.10. Limits of research

This work represents a step forward in the knowledge of budgeting for the judiciary and the impact of different forms of performance budgeting on the judiciary. However, despite its relevance and novelty, there are obvious limits to this research.

First of all, the analysis is limited to three case studies, and conclusions should be interpreted with caution and cannot be automatically extended to other countries, as the same type of performance-budgeting model in different contexts may lead to different levels of (good) functioning of the judiciary.

Secondly, I was not able to answer all the questions. In particular, I was not able to evaluate in a quantitative manner the impact of performance budgeting on courts' productivity since I was not able to collect data from before the introduction of performance budgeting models. Generally speaking, it was difficult to establish a cause-effect relationship between the performance budgeting models and the studied variables, so in the end, this research gives hints and preliminary results that should be tested in future research by applying the same methodology to different case studies. In this sense, it would be interesting to extend this research to other countries that are now shifting from a line-in budgeting system to performance-based budgeting, such as Latvia and Moldova. In this case, the possibility of collecting data from the years before the change in the budgetary approach can give a better measure of the impact of the new budgetary policies.



# 3. Theoretical framework

The theoretical chapter is ideally divided into three “blocks”. The first block regards the administration of justice in general and courts in particular, and it presents the most debated issues related to the administration of justice. The second block regards budgeting, and it introduces the different forms of performance budgeting. The third block puts the two concepts together, describing all the different issues related to the implementation of different forms of budgeting in the judiciaries.

## 3.1. Administration of justice

Administration of justice as a research field has been defined as “a set of theoretical concepts and research methods and techniques, designed to investigate the management processes associated with the use and articulation of resources, knowledge and institutions, at different levels of the justice system and their influence on the provision of justice in a given social context.” (Guimares et al., 2018, p. 478) It involves the relationship between the Judiciary and the other powers, the connections with other public and private organisations, the organisational structure and the management of work. Efficiency, management and legitimacy are central themes. In particular, courts, like other public institutions, need to be efficient and accountable. At the same time, courts are professional bureaucracies formed by a particular kind of professional: judges. Judges must be independent, and this aspect creates some complications in measuring and managing performance. The following paragraphs will describe efficiency and court management, performance measurement and management, the relationship between professionals and managers and the issue of judicial independence.

### 3.1.1. Judicial efficiency and the New Court Management

Efficiency has been an increasing target for public administration over the years. Starting from the '80s, under the slogan “do more with less” (Osborne & Gaebler, 1992, p. 349-356), a new, business-like approach to public management called New Public Management (NPM) was developed. NPM is primarily a label that groups a series of similar principles used to modernise public management (Hood, 1991, p. 3-19) that consist in applying the private sector’s management techniques with the aim of improving public sector efficiency. The NPM refers to institutional and organisational change related to expenditure planning and financial management, organisation, civil service and labour relations, audit and evaluation (Barzelay, 2003, p.251).

## Funding the Judiciary: how budgeting systems shape justice

Later than the other public institutions, the courts have felt the need to measure their performance and improve efficiency and effectiveness in answer to the growing complaints about delays in justice and the reduction of public resources. Due to its unique features, in many countries, the Judiciary was only marginally, and anyway late, affected by NPM principles and subjected to NPM reforms. Only in the late 90's the requirement for efficiency and the need to improve the judicial service push European judiciaries to deal with an NPM perspective (Maier, 1999; Fabri & Langbroek, 2000; Fabri et al., 2003). The difficulty in applying managerial and innovative budgeting techniques to the Judiciary is mainly due to a concern about judicial independence and, generally speaking, a non-managerial attitude of the legal profession. "Calls for increased accountability in performance were often discarded based on an understanding of judicial independence largely perceived as an entitlement of judges" (Decker et al., 2011, p.14). In some countries, justice is the last public sector body to be subjected to public sector discipline (Loveday, 2000, p.167-187). The absence of an appropriate management culture (Ostrom et al., 2007, p.1-21), together with a general concern about judicial independence, had often prevented judiciaries from introducing modern management techniques into courts.

Traditionally, justice was evaluated only from a legal perspective, checking if the law (procedural and substantive) was being correctly applied in individual cases (Contini & Carnevali, 2010, p.3). Before the introduction of NPM in the Judiciary, justice was characterised by an "emperor-like relationship with time", which was not accounted for (Garapon, 2010, p.45): the judge's decision arrived after a long reflection, a long time after the events. Neither the length nor the costs of decisions were taken into account.

This situation began to change in the late 1990s when many judiciaries had to face an increased caseload, combined with financial cuts, which led to a rise in the length of proceedings and a consequent decline in public trust and confidence in the Judiciary (Fabri et al., 2003; Contini & Mohr, 2008; Bunjevac, 2017). Together with low public trust, courts were perceived as expensive, slow and generally inefficient.

In the '90s, two phenomena contributed to drawing attention to efficiency: the "litigation explosion" on the one side, meaning the widespread increase in the number of incoming cases, and the change in the social expectations on the other side, which wanted courts to be not only independent but also efficient and effective as the other public institutions needed to be. Furthermore, the growing globalisation posed new challenges for legal systems and renewed attention to the efficiency of the courts, as the functioning of the courts has consequences on the market and investments (Van Dijk, 2014, p.2-16). As summarised by Rizos et al. (2021, p.1-30), there is a wide literature on the relationship between the well-functioning of the judicial system and economic growth. In particular, the efficiency and quality of judicial systems resulted in influencing the size of the firms (Kumar et

### 3. Theoretical framework

al., 2001; Beck et al., 2006; Giacomelli & Menon, 2013; Lorzio & Gurrieri, 2014), the foreign direct investments (Benassy-Quere et al., 2007; Bellani, 2014), and the interest rates (Levine, 1998; Djankov et al.; 2008). The Doing Business index, developed by the World Bank to measure the ease of doing business in a country, includes among the parameters the capacity to enforce contracts, which is related to the efficiency and effectiveness of the courts in resolving disputes. It is, therefore, of uttermost importance to guarantee the good functioning of justice.

The demand for greater efficiency and improved timeliness pushed judiciaries to adopt the NPM perspective (Maier, 1999; Fabri & Langbroek, 2000; Fabri et al., 2003). This phenomenon is known as “New Court Management”, and it developed in the mid-1990s (first adopted in the United States (Schauffler, 2007, p.113). The new managerial paradigm moved the focus from institutions to individuals (citizens), from “justice as a power” to “justice as a public service”, and from a centrality of rituals to a focus on results. During the following years, new elements such as cost control and performance measurement were introduced, with a renewed focus on case clearance and a reduction in delays (Garapon, 2010, p.81).

#### 3.1.2. Performance measurement and management in the judiciaries

The first step necessary to reach efficiency and effectiveness is to measure performance. Performance measurement and management had a central role in the NPM wave of reforms (Bouckaert & Halachmi, 1996; De Decin, 2007; Bouckaert and Halligan, 2008; Van Dooren et al., 2015). Performance measurement means “systematically collecting data by observing and registering performance-related issues for some performance purpose” (Van Dooren et al. 2015, p.7), while performance management implies the use of performance information in decision-making processes. Although known and practised previously, during the 1990s, performance measurement and management became more intensive (with more levels included), extensive (with different uses, from decision-making to accountability), and external (available to the general public) (Bouckaert & Halachmi, 1996, p.234).

Purposes of measurement vary. Van Dooren et al. (2015, p.37) distinguished three possible uses of performance information: to learn (identifying what is working and what is not and improving policies), to steer and control (monitoring performance and evaluating if it is in line with targets) and to assign accountability (being accountable to citizens for policies’ results). Different purposes require different measures: for learning, input, output and outcome indicators are used; for steering and control, a combination of input and output indicators is needed; while for accountability, the main indicators should be outcome measures. “Output” is a measure of production, and it is related to efficiency, while “outcome” is related to effectiveness and to the effects that output produces (Osborne & Gaebler, 1992, p.350).

## Funding the Judiciary: how budgeting systems shape justice

Nevertheless, “The assumption of a direct link between input, activities and outputs suggests a mechanistic relationship that is founded on a machine-based, routine-featured production function that is linear if possible. Reality is more complex, especially in the public sector” (Bouckaert & Halligan, 2008, p.15). Outputs in the public sector are easy to measure, but they are not an end in themselves. By contrast, outcomes are what people care most about; they are not directly observable, they are hardly measurable, and, therefore, it isn’t easy to quantify them. In addition, outcomes can depend on unpredictable external factors or on the activities of other agencies. Furthermore, not only efficiency and effectiveness but also public perception of the quality of services must be considered as part of performance management (Hatry, 1981; McGowan, 1984; Van Dooren et al., 2015), but public perception of quality is often disconnected from measures of improved performance (Van Dooren et al., 2015, p.149).

This paradox of public sector performance management is also reflected in the Judiciary, where the outcomes most people care about (security, legality, timeliness, quality of decision, fairness, access to justice and equality) are hardly quantifiable. The relation between “what is measured” and “what is important” is ambiguous, especially in the public sector, where activities and public programmes are complex, and this situation often prevents performance information from being used (De Bruijn, 2007; Talbot, 2010). It is, therefore, fundamental that judicial performance management is grounded on a solid system of performance indicators that take into account and balance different measures of output and outcome, quantity and quality.

The use of performance information can be instrumental in decision-making, but it can also be “symbolic”, with positive or negative connotations (Vecchi, 2018, p.104-105). A positive connotation can be identified when performance measurement is used to legitimise public organisations in the eyes of the citizens, while a negative connotation implies the opportunistic use of performance information. Examples of the latter are: declaring its use as a basis for decision-making without actually using it, collecting only information useful to support a decision that has already been taken, and using it as a mere fulfilment or mimetic isomorphism (Di Maggio and Powell, 1991; Vecchi, 2018).

In the European judiciaries, the collection, analysis and publication of performance data marked the transition from justice as a public function to justice as a service to citizens (Vecchi, 2018, p.164). Legitimacy theories recognise that performance management strengthens the legitimacy of an organisation (Hoque, 2005, p.370). This is also valid for the Judiciary, where performance measurement is the basis for judicial accountability, legitimacy, efficiency and quality. “If courts do not measure their performance or present their goals, this undermines the legitimacy of the judiciary in running its own affairs.” “Monitoring and evaluation systems should facilitate the improvement of the efficiency of justice and the quality of the work delivered by the courts and therefore affect a

### 3. Theoretical framework

more consistent implementation of policies” (European Commission for the Efficiency of Justice (CEPEJ), 2007). Obviously, courts and judges should also perform in ways that are not easily measurable. The way they conduct the hearing, for example, and take and write convincing decisions. In general, all professional services are difficult to measure, and strict performance management can sometimes be counterproductive. But it is still important to measure the overall efficiency of judicial systems and courts in order to improve the service to the citizens and “deliver justice within a reasonable time”.

Measurement tools for courts and judiciaries have been developed in the last decade. The best known are CourTools in the United States, the CEPEJ Evaluation Report and the EU Justice Scoreboard in Europe. CourTools, developed in 2005 by the National Center for State Courts (NCSC), are a set of 10 indicators designed to assess key aspects of a court’s performance, such as access, clearance rates, time of disposition, age of active pending caseload, employee satisfaction and cost per case. The CEPEJ of the Council of Europe has evaluated European judicial systems since 2006 through the publication of a biennial report. The report is intended as an informational tool for policymakers to improve the quality and efficiency of justice. At the same time, the CEPEJ has been developing evaluation methods for courts. Proposed indicators for these evaluation methods are the clearance rate, case turnover ratio, calculated disposition time, age of pending cases, efficiency rate (number of resolved cases per judge and staff unit), cost per case and appeal rate (CEPEJ, 2016). In 2014, the European Commission introduced the European Union (EU) Justice Scoreboard to evaluate the performance of judiciaries in member states, using part of the data collected by the CEPEJ together with other data collected by other organisations (e.g., European Networks of Councils for the Judiciary ENCJ), to stimulate policymakers to improve their systems. The indicators used are clearance rate, the average length of proceedings, the number of pending cases and quality indicators that measure the perception of judicial independence, use of information and communications technology, training of judges and use of resources.

Although all European states can nowadays provide the performance information and indicators requested by the CEPEJ and the European Commission (meaning that they are collecting and analysing performance measures), the use of performance information (performance management) varies from country to country. In general, performance management entails setting performance targets, planning the activities necessary to reach these targets, monitoring performance results, analysing gaps between objectives and results and use of performance information as a basis for future planning and funding decisions (Politt, 2001; Van Dooren et al., 2015). Among judiciaries, “The approaches to be found range from traditional statistical surveys of caseload, largely lacking in any consequences, to performance-based remuneration systems that define the salary of individual judges based on the number of cases they decide” (Contini and Mohr, 2008, p.25). Performance

## Funding the Judiciary: how budgeting systems shape justice

measurement and management practices vary from country to country and, in some cases, from court to court. It is important to explore them because they can impact the organisation of courts and the relationship between professionals and managers, as described in the following paragraphs.

### 3.1.3. Courts as professional bureaucracies and loosely coupled organisations

From an organisational point of view, courts can be described as “professional bureaucracies”, like schools, universities, and hospitals, as they all are organisations where services are dealt with by professionals (Mintzberg, 1978, p.333; NG, 2007, p.3). The professionals – judges in this case – perform the core professional function of the courts, and they are supported by administrative staff. As professionals embedded in organisations, judges have to respect not only their professional standards but also organisational rules and accountability procedures.

However, courts have also been described as “loosely coupled organisations” (McQueen, 2013; Zan, 2003; Zan, 2011), where individuals within the organisation and organisational units within the system have a high level of autonomy (Weick, 1976; Gilmore et al., 1999; Verzelloni, 2012). Traditionally, the president of the court was considered a “primus inter pares” with mild coordination tasks; the focus of the evaluation was only on the individual judge’s performance (mainly the quality of decisions) and the overall effects of judicial performance on the economy and society were not taken into consideration. Nevertheless, courts participate in the political and economic process as part of the organised apparatus of the State (Fix-Fierro, 2003, p.25). The functionality of the courts depends on State authority, but State’s functions depend on the services provided by the courts. As already described, courts’ decisions have economic consequences, and the timeliness of decisions can influence the attractiveness of investing in one country.

For these reasons, as loosely coupled organisations, courts need a high degree of control over resource allocation and goal setting, together with an effective and credible management system (Tobin, 1997; Ostrom et al., 2007); otherwise, they risk losing legitimacy and, consequently, undermining their independence.

### 3.1.4. The managerialisation of justice

The NPM wave, with its stress on performance measurement, efficiency, cost-control and managerialisation, led, above all, to a cultural change in public administration. Generally speaking, the NPM was the response to an increased demand for transparency and accountability coming from citizens, politics and the media due to changes in demographic, socio-economic and cultural patterns.

### 3. Theoretical framework

The same drivers that pushed the judicial system towards the search for efficiency led to a “managerialisation” of justice, intended as the application of private-sector techniques to the administration of courts to improve the functioning of justice. Some of these techniques involve the engagement of professional managers at the courts, the re-organisation and optimisation of services, the use of performance measures and management and the implementation of new budgeting models. The pressure of society on public organisations is reflected in the pressure of public organisations on public service professionals (Noordegraaf and Steijn, 2014, p.12-14).

Starting from Mintzberg (1978), several authors have identified the characteristics of professionals: they deliver high-knowledge services, they are skilled and experts in their domain, and they work autonomously and in direct contact with the client. They are represented by professional associations and communities, where they share ethics and codes of conduct. These professional associations are often in charge of the training, selection and peer supervision of professionals.

Judges are public service professionals: they are experts embedded in a professional community with ethics and values, they have specialist knowledge supported by experience, they deal with users, and, at the same time, they serve public goals.

In this scenario, the role of managers and managerial control is extremely important. The enhanced control exercised by managers over professionals is a characteristic of new public management, except that judges are a peculiar kind of professionals, as they must remain independent, and any attempt to standardise the organisation of their work could be seen as a threat to their independence. Many studies underlined the tension between managers and professionals, as managers are seen as a threat to professional autonomy.

The relationship between professionals and managers is not easy. Professional bureaucracies run into problems of coordination and control. Since professional activities are high-knowledge and abstract activities, they are difficult to evaluate, especially by those who are not professionals. Work processes are complex and difficult to standardise. In professional organisations, managers try to control professionals through supervision and standardisation of work processes and outputs. This control, according to Mintzberg, can lead to dysfunctional behaviours because it “measures the wrong output, forcing the professionals to play the machine bureaucratic game, satisfying the standards instead of serving the clients.” (Mintzberg, 1978, p. 377).

Before exploring the relationship between professionals and managers in the Judiciary, a specific focus on judicial independence is needed.



### 3.1.5. Judicial independence

The “separation of powers” principle implies that the three powers (executive, legislative and judicial) must be separated and independent from each other to avoid the concentration of powers in one place. According to Vile (1998), to maintain the separation of powers, each power must be “unable to exercise an undue control or influence over the others” (p.19). Each power must check and limit the other two powers, meaning that each branch can exercise a degree of direct control over the other two, and all three powers should have the same weight (“checks and balances”).

The Judiciary is the mouthpiece of the law (Montesquieu, 1748), and it must decide according to the law. Therefore, it must be independent and impartial. Impartiality regards, in particular, the right of the parties to have their case decided by a judge who is not biased or influenced in their decisions.

However, the principle of separation of powers has evolved in representative democracies. While initially, the Judiciary was supposed to strictly apply legislation without its own interpretation (Ten Kate & Van Koppen, 1994, p.145), and the Parliament was considered the best-placed institution to protect the rule of law and human rights, in many cases the legislative powers were delegated to the executive creating instability in governments. Gar Yein NG (2013) shows how, through history, the role of the Judiciary became more important by the “increased jurisdictional scope of the courts given by political bodies” and the “increase in dialogue between the three branches of government” (p.4). However, despite this shift in the paradigm, in the Netherlands, the Judiciary still has the weakest form of judicial review (compared to France and the UK – England and Wales), and the Parliament is the institution in charge of the protection of human rights and the rule of law (p.44). Di Federico, in describing judicial independence in Italy (in Seibert-Fohr 2012), describes instead a system in which the expansion of the powers of the Judicial Council has “generated recurrent conflicts with members of the Executive and even with the President of the Republic” (p.365). The main issue in Italy seems to be related not to the lack of judicial independence but to the lack of accountability, which in the past was considered one of the causes of courts’ delays (p.399). These examples show that, when it comes to judicial independence, different countries are facing different challenges to ensure a balance between powers and guarantee judicial independence without neglecting its accountability.

When we talk about the independence of the Judiciary, we can intend the whole Judiciary as well as the single judge or the courts. There can be different forms of independence, as shown in the table below.



Table 4: judicial independence - who and of whom

Who	of
Judiciary	The other two branches (executive and legislative power)
	Politics
	Public opinion
Courts	Judicial Council
	External pressures (local institutions, professional associations etc.)
Judges	Parties
	Other judges
	Court management
	External pressures
	Prejudices

The Judiciary as an institution must be independent of the other two branches, according to the separation of powers principle, and, at the same time, it must be detached from politics and not influenced by public opinion. This concept has been defined by Fiss (1993) as “political insularity” (p.59), and it entails the obligation of the judges to decide what is just (according to the law) and not what is most politically and publicly desirable. At the same time, “removing the Judiciary from popular control might well interfere with democratic values. For that very reason, the political insularity of judges within a democratic order is not and should not be complete” (p.66).

Here, the concepts of legitimacy, public trust and public consensus are involved. The legal legitimacy of each institution is the foundation of its authority and relies upon a different basis: it can be the constitution, the law, a specific act etc. (Weber, 1922). Legitimation is the process by which, with an act of trust, the society acknowledges the legitimacy of the institution as part of its values. A public institution must not chase public consensus but build public trust<sup>1</sup>. It is not easy to draw a line between the two concepts, but it appears necessary because they define the demarcation line between an independent and a not independent judiciary.

Public consensus is something ephemeral, determined by emotional and irrational factors, changes rapidly, and is influenced by propaganda, and sometimes, it is negatively affected by partial knowledge or fake news. Public opinions can sometimes be exploited by politicians to delegitimise the Judiciary (Ferrajoli, 2009, p.9-22)

Building public trust instead is of paramount importance. Public trust is enhanced if the Judiciary is perceived as impartial and transparent in its organisation, operations and decisions.

Independence, in fact, must not be perceived as a privilege of judges but as an instrument aimed at ensuring judges’ impartiality to the parties. As the Bangalore Principles of Judicial Conduct states, “A judge shall exercise the judicial function independently on the basis of the judge’s assessment of

<sup>1</sup> [http://questionegiustizia.it/rivista/2018/4/recuperare-la-fiducia-e-non-rincorrere-il-consenso\\_597.php](http://questionegiustizia.it/rivista/2018/4/recuperare-la-fiducia-e-non-rincorrere-il-consenso_597.php), retrieved in November 2022

## Funding the Judiciary: how budgeting systems shape justice

the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason”<sup>2</sup> and “A judge shall perform his or her judicial duties without favour, bias or prejudice.”<sup>3</sup> External influences and prejudices are not the only factors that can compromise judicial independence: some forms of pressure can come from the other judges (colleagues or higher courts’ judges), the Court Management or the Judicial Council. The Court, as an organisation of judges and non-judge staff, must be independent too, especially in a local context, where they risk being subject to the undue influence of other public institutions or professional associations, private actors or companies, or even criminal organisations.

Another main distinction is between de jure and de facto independence (Feld & Voigt, 2003; La Porta et al., 2004; Figueroa & Staton, 2013; van Dijk & Vos, 2018), otherwise defined as “structural independence” and “substantial independence” (Salzberger, 1993, p.27). De jure independence comprises all the formal rules and institutional arrangements aimed at protecting judges and their independence. The European Commission measures it on the basis of three components: how difficult it is to transfer judges against their will, how difficult it is to dismiss judges, and how difficult it is to manipulate the allocation of incoming cases to individual judges (EU Justice Scoreboard). The ENCJ adds other parameters, including financial independence. De facto independence is based on facts. It regards judges’ actual autonomy in decision-making and influence on the enforcement of the decision (Ross-Figueroa & Staton, 2012, p.105). As it is difficult to measure (van Dijk & Vos, 2018, p.6), it is mainly evaluated on perception (judicial independence as perceived by judges, citizens, lawyers etc.).

Judicial independence is a central theme because it can be seen as the main deterrent to the managerialisation of justice, especially as regards managerial control. In the following paragraph, the relationship between managers and professionals is explored.

### 3.1.6. Professionals and managers in the Judiciary

Since the beginning of the managerialisation process of public services, public professionals have increasingly been confronted with public managers. Many scholars underlined the tension between managers and professionals. Managers are accused of interfering with professional autonomy. “Managerial control mechanisms are superfluous in well-functioning professional organisations. Professionals are always embedded in a professional community, with its own codes, that contribute to the quality of the service delivery” (De Bruijn, 2010, p.1). However, the increasing demand for

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<sup>2</sup> The Bangalore Principles of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, 25–26 November 2002—Principle 1.1.

<sup>3</sup> The Bangalore Principles of Judicial Conduct—Principle 2.1.

### 3. Theoretical framework

efficiency imposed new standards different from the existing professional standards, and the response to this demand required a new kind of expertise, different from the professional expertise (De Bruijn, 2010, p.1).

Even if courts seem to be fully-fledged professional organisations, some important differences involve the relationship between professionals and managers:

1. Professionals are autonomous. Judges are more than autonomous: they must be independent. Therefore, the managers' room to manoeuvre is limited because every decision that affects the judge's behaviour can be perceived as a threat to judicial independence;
2. While in classic public professional organisations, managers are non-professionals, "too powerful, while they know little about the profession" (De Bruijn 2010, p.1), in courts, the court manager is a judge itself. The figure of the "court manager" with a different kind of professionalism has not developed in Europe (Consultative Council of European Judges of the Council of Europe (CCEJ), 2016), so in most countries, the court manager coincides with the court president, that is the chief judge. The power of the court president in most countries is partial, and the chief judge is considered "primus inter pares." If, on the one hand, the tension between managers and professionals is mitigated because judges are headed by one of them, on the other hand, the managerial skills of the manager necessary to manage an organisation are quite limited;
3. In courts, there are no monetary incentives for the judges, nor monetary sanctions: Judges cannot be moved from the court, and salaries, in most countries, are fixed by law<sup>4</sup>;
4. Another limitation to the court manager's power comes from the procedural norms: while in the classic professional organisation, one of the tasks of the manager is to decide the procedures professionals must comply with, in courts the judicial procedure is laid down by law and judges are responsible for its implementation. Notwithstanding this, court managers still have the faculty to provide for organisational procedures or praxis that do not collide with the norms.

As NPM methods have found their way into the courts, the role of management has increased, and the objectives of the courts have shifted. As Lienhard and Kettiger put it succinctly, "the prevailing opinion is that court management should primarily or exclusively serve to ensure (i) the effective protection of legal rights (in particular the right to a timely and objective decision based on a fair procedure) and (ii) the efficient expenditure of public funds." (Lienhard & Kettiger, 2017, p.12). The

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<sup>4</sup> According to the (European Network of Council for the Judiciary (ENCJ) 2016). Funding the judiciary – Recommendation number 10: "The remuneration of judges must be constitutionally guaranteed in law and not altered to the disadvantage of judges after their appointment." This is another typical measure to protect judicial independence and judge's impartiality.

## Funding the Judiciary: how budgeting systems shape justice

first objective represents the typical view of judges, but the second elevates the importance of efficiency to a much higher level than before. Nobody will be against the efficient use of taxpayers' money, but it was and is not at the forefront of the minds of judges when it comes to adjudication, as our survey will show. Trying to achieve a reorientation is one thing, actually reaching it is another.

Many judges have misgivings about the benefits of managerialism (De Santis et al., 2016; Holvast & Doornbos, 2015). They share the view of other professionals who blame management for diminishing the space for professionals to do their job properly, reducing professionals to bureaucrats as well as burdening professionals with administrative tasks (Noordegraaf and Stijn, 2014, p.187). As to the latter, instruments such as performance budgeting require data about production processes, and these need to be registered. Also, the emphasis on efficiency leads in their view to insufficient budgets that are based on highly theoretical estimates of the possibilities for efficiency improvement. It is argued that managerialism reduces the courts to, in Switzerland, a shoe factory (De Santis et al., 2016, p.130) or, in the Netherlands, a biscuit factory (Holvast & Doornbos, 2015, Frissen et al., 2013). These metaphors reflect a genuine fear of Taylorism. There is also deep resistance against the terminology of management, which is seen as not applicable to or not appropriate for the Judiciary. As De Santis et al. (p.130) notes, concepts like productivity, products and customers are resisted. We may add production targets and the terminology of strategy development, such as mission and vision. Also, measurement and quantitative analysis are often regarded with suspicion, reflecting doubts about their usefulness and the effort it takes to gather data.

However, professionals, in general, are not passive victims of managers and bureaucrats (Noordegraaf & Steijn, 2014). They shape their profession. Among the professionals, this holds, in particular, true for judges who are supposed to be independent and can take recourse to the courts themselves if they feel their independence is at stake. Judges that hold states and multinational companies to account in their judgments can hardly be expected to bow to management easily. They regularly can and do refuse to go along with human resource management techniques such as individual performance evaluation. Collectively, they can and actually do make their views known about governance and management of the Judiciary to councils for the Judiciary, politics and media, with large impact, e.g. manifesto of Dutch judges of 2012 and follow-up actions (Holvast & Doornbos, 2015; Berendsen et al., 2015; Fikkers et al., 2017). Consequently, one can also see the management of a court as a daunting task. It is arbitrary how far judicial independence extends. It extends obviously to the content of judgments but also to what the judges deem necessary to reach fair decisions within the confines of the law. In particular, art. 6 ECHR provides guidance: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is

### 3. Theoretical framework

entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” The authority to determine the procedure and the time needed to adjudicate cases is part of independence. But independence may extend further to varied subjects as the requirements for digital proceedings, including online hearings and the content of professional training. Thus, next to stressed professionals, management, often consisting of judges themselves, is squeezed in between external demands and constraints regarding budgetary resources and the professional standards of the judges. Management has to make a court and the court system work as a whole, sharing with the judges the responsibility to secure the independence of the Judiciary.

In the next paragraph, the topic of budgeting in general and performance budgeting, in particular, is explored, while the past paragraph will describe how budgeting can impact the administration of the Judiciary, in particular on efficiency, organisation, management, quality, accountability, independence and other judicial values.

#### 3.2. Budgeting in public administration and the Judiciary

Setting the budget is one of the many important issues a government has to cope with. Resources are limited by definition, and the prioritisation of their allocation creates competition among the different public branches: allocating more funds to one department means allocating fewer funds to the others. The challenge for governments is to ensure a good level of public services while reducing expenditures or to improve public performance whilst containing the growth of public expenditure: in other words, to be efficient.

Budgeting is a central issue in NPM reforms. It can be defined as “a comprehensive and coordinated plan, expressed in financial terms, for the operations and resources of an enterprise for some specified period in the future” (Fremgen, 1976, p.237). Budgeting is used as a key tool for achieving better organisational planning and performance. Many NPM reforms concerned the budgeting process, progressively moving from a line-item budget focused on the expenditures necessary to ensure public services (inputs) to a budget more focused on the results obtained from those expenditures (outputs and outcomes). In the new budgeting approach, the central question is no longer “how much money can I get?” but “what can I achieve with this money?” (OECD, 2007a, p.11).

Countries have adopted different approaches to budgeting process reforms. However, some common principles can be singled out: a) the use and the integration of performance information into the budget process; b) the improvement of the government’s planning and reporting framework; c) the focus on goals and priorities; d) the long-term approach; e) the monitoring and measurement of

## Funding the Judiciary: how budgeting systems shape justice

results; e) the attention to transparency; f) the use of incentives; g) the increasing of flexibility and accountability for public managers. (Curristine, 2005, p.132)

The reform in public budgeting in European countries is an ongoing process, and budgeting practices in the public domain are continuously evolving. One of the most widespread models nowadays is the “performance-based budget.” The OECD has defined performance budgeting (PB) in the public sector as “a form of budgeting that relates funds allocated to measurable results” and has distinguished three Performance Budgeting categories based on the strength of the link between performance information and funding (OECD, 2003, p.7). These three categories will be described in the following paragraph. The aim of modern budgeting techniques is not only to reduce costs and improve performance but also to create conditions that foster allocative efficiency. According to Schick (2011, p. 9-26), all budgeting systems (modern or traditional) must accomplish three purposes: a) to maintain aggregate fiscal discipline (meaning to control the budget totals effectively); b) to allocate resources in accord with governments priorities (meaning to guarantee allocative efficiency); c) to promote the efficient delivery of services (meaning to ensure operational efficiency).

In particular, “allocative efficiency refers to the capacity of government to distribute resources on the basis of the effectiveness of public programs in meeting strategic objectives” (Schick 1998, p.89). This entails the capacity to establish priorities among the programs in correspondence with the government’s objectives and to shift resources from one program to another according to their effectiveness and to those priorities.

### 3.2.1. Performance-based budgeting models

In this chapter, I will describe the performance-based budgeting models, their aims and their application in the judiciaries.

The practice of Performance-based budgeting has a long history, but it gained renewed attention with the rising of the New Public Management (NPM) movement, a wave of reforms that, since the beginning of the ‘90s, has promoted the private sector’s management techniques to improve public sector efficiency (Hood, 1991). Many NPM reforms concerned the budgeting process, progressively moving from a line-item budget focused on the resources necessary to ensure public services (inputs) to a budget more focused on the results obtained from those resources (outputs).

In the last 20 years, many European Countries (e.g. Denmark, France, Finland, the Netherlands, Sweden, Switzerland, and the UK) have progressively moved from a historical line-item budget, focused on the expenditures necessary to carry out public services (inputs), to budgets models more

### 3. Theoretical framework

focused on the results (outputs and outcomes) obtained from those expenditures. The different aims of budgetary reforms, combined with different constitutional, political, and economic structures of European countries, have produced a variety of budgetary models that are “performance-based”.

According to the OECD (2017, p.5), performance budgeting can serve a number of purposes. From the citizens’ point of view, a budgeting system that takes into account the performance of different departments can enhance transparency and accountability since it makes explicit the link between resources and results and enables the taxpayers to evaluate the proper use of public funds and the achievement of public goals. From the government’s point of view, it helps to make budgeting decisions underpinned by performance data, to compare departments, and to weigh priorities. Finally, the performance-based budget can stimulate efficiency.

The expected main results of this new budgeting process are a) to ensure transparency and accountability, b) to rationalise the allocation of public expenditure, c) to prioritise services of higher social value, d) to increase efficiency and productivity. Therefore, this process is supposed to boost the allocative and technical efficiency of public resources to improve the quality and quantity of services delivered to citizens (OECD, 2017, p.6).

The budgeting reform process in Europe is still an ongoing process, and budgeting models’ practices are continuously evolving.

A first classification of three different types of “performance-based budget”, which can be defined as “a form of budgeting that relates funds allocated to measurable results” (OECD 2003, p.7), takes into consideration the link between performance information and funding. These three types are 1) presentational performance budgeting, 2) performance-informed budgeting, 3) direct/formula performance budgeting.

In “presentational performance budgeting”, there is no formal link between performance information and budget allocation (funding). However, Ministries, or agencies, in charge of drafting the budget can decide to produce performance information to orient budget negotiation and then, allocation.

In “performance-informed budgeting”, performance statistics inform political decision-making concerning budget allocation and must be taken into account in accordance with legal budgeting norms. The collection of performance information is formally part of the budget process, but there are also other factors that are considered in the decision-making process (e.g. policy priorities). The performance information can be used for planning or accountability purposes. In this case, performance information and budget allocation are loosely linked, and they are partially used to plan next year’s funding



## | Funding the Judiciary: how budgeting systems shape justice

In “direct/formula performance budgeting”, legal budgeting norms imply that performance measurement outcomes are input for a pre-set budget calculation formula.

A more detailed classification of performance-based budget models is proposed by Robinson (2007, p.1-16), who takes into consideration a) purposes; b) performance information used; c) link between performance information and funding.

The table below shows the different performance-based budget mechanisms coming from this classification. These mechanisms are not mutually exclusive; in practice, each government can use a combination of these methods or different models for different areas of policy.



### 3. Theoretical framework

Table 5: Classification of performance-based budgeting mechanisms – based on Robinson (2007, Chapter 1)

	Purposes	Performance information	Link between Performance information and funding
Program budgeting	Allocative efficiency through expenditure prioritisation	Output (and outcomes) achieved by programs, resources used to achieve results	Loose. The budget is mainly allocated to the program activities
Zero-based budgeting	Allocative efficiency through marginal prioritisation techniques	Marginal cost and marginal benefits of decision packages	Loose. The budget is mainly allocated to the program activities
Budget-linked performance targets	Allocative and technical efficiency and effectiveness through target setting	Outputs and outcomes	Loose. Targets describe the level of performance expected at any given amount of money
Agency-level budgetary performance incentives	Better performance through incentives	Agencies' output and/or outcome	Medium. Future funding is related to past performance but not through a formula
Formula funding	Improve performance and allocative efficiency through a direct link between performance and funding	Output measures	Tight. Expected results are related to funding through an algebraic formula
Purchaser-provider model	Technical efficiency and performance through incentives (payment for results)	Output and cost measures	Very tight. The formula is $P \times Q$ (price per quantity of output) and it is related to actual results

“Program budgeting” and “Zero-based budgeting” models are aimed at allocating resources between different programs and realising allocative efficiency using formal methodologies for expenditure prioritisation. The program budget makes explicit the costs of the activities that are necessary to obtain the expected results of each program. Budgeting is strictly related to the “policy cycle”, and budget decisions are based on the evaluation of the results achieved by programs and on the

## Funding the Judiciary: how budgeting systems shape justice

resources used to achieve those results. Program budgeting facilitates the comparison and evaluation of the cost-effectiveness of alternative programs. In the zero-based budgeting model, programs are broken down into “decision packages” with different levels of priority and alternative budgets. The performance information is used as a base of knowledge to allocate funds.

The “Budget-linked performance targets” mechanism is characterised by the setting of specific levels of performance targets, and it is aimed at improving efficiency (through output targets) or effectiveness (through outcome targets). Performance targets are calibrated to the level of funding provided: targets describe the level of performance expected at any given amount of money, and any additional request for money from departments should be related to an improvement in output and outcome.

These models have a loose link between performance information and funding, while some PB models with a tight link are the “Agency level budgetary performance incentives”, the “Formula funding”, and the “Purchaser-provider model”, which is a specific “Formula funding” model.

The “Agency level budgetary performance incentives” mechanism, or “bonus funding” model, entails incentives or sanctions depending on performance. Best-performing agencies receive supplementary money, while poor-performing agencies receive less money. The forecasted budget is related to past performance (output or outcome), and the amount of funding is not calculated by an algebraic formula but by a more discretionary analysis of the performance information that does not take into consideration the cost of output. The explicit aim of this mechanism is to enhance performance through monetary incentives.

In the “Formula funding” model, the link between performance and funding is very tight, depending on an algebraic formula that links the planned output to the amount of funding, which can be the total amount or a part of the amount to be allocated. The budget amount is calculated by multiplying the expected number of output units by their “price”. The price is based on the estimates of the costs of delivering those outputs. If the actual output is different from the expected one, there is no reduction or increase in funding. The “Purchase-provider model” is a peculiar formula funding model in which the budget is calculated on the basis of the actual output multiplied by its given price. The more output is produced, the higher the budget allocated. These models are applicable only to outputs because outcomes are generally not measurable. According to Robinson (2007, p.1-16), this last model, compared to the others, creates more intensive pressure towards efficiency.

#### 3.2.2. Performance-based budgeting in judiciaries

The economic downturn following the financial crisis of 2009 had a twofold effect on the courts of justice of European countries: the courts found themselves “in a double bind: more cases and less budget. The likely result is a longer processing time, which is bad for parties, and also for the economy as a whole.” (Van Dijk & Dumbrava, 2013, p.4).

Adequate funding is necessary to ensure the functioning of the Judiciary because it determines the conditions in which courts perform their activities (CoE, 2010). The adequacy of judicial premises, staff, equipment and supplies affects not only the work of judges but also the quality of the service offered to the citizens and, therefore, the access to justice. At the same time, courts, like every public agency, must use the resources allocated efficiently, avoiding any waste. Without a link between the court’s performance and the court’s budget, there is a serious risk that resources are not being used efficiently. Linking the budget to information on performance could be an effective way of setting performance targets and incentivising the efficiency of courts.

However, “Performance budgeting is a troublesome enterprise because it is difficult to know how to use performance information. If a program performs poorly, does that mean it should be cut because it is wasting money or increased so that it can do better?” (Gilmour & Lewis, 2006, p.743). In the same way, if a court is performing poorly, does it deserve less or more resources? Different budgeting models give different answers to this question.

The main benefits of performance budgeting models in the public sector are manifold: transparency and accountability by making explicit the link between resources and results, efficiency by measuring and stimulating improvement and evidence-based policy-making by basing decisions on performance data (OECD, 2017). However, the use of performance information for budgetary decisions is characterised by “ambiguity” (March & Olsen, 1976; Osborne & Gaebler, 1992; Moynihan, 2005), as the causal relationship between actions and results (or output and outcome) and problems and solutions is unclear.

This means that the same performance results can be interpreted differently, or even with the same interpretation, the solution may not follow automatically. The “budgeting problem” is an old problem. Key asks the question (1940, p.1138), “On what basis shall it be decided to allocate x dollars to activity A instead of activity B?” Performance information does not answer Key’s question, nor will it make the decision simpler, “Even if we accurately understood in advance the cost and outcomes of programmes, that still does not provide a common basis for comparison since our willingness to fund services and specific levels of performance will depend on values. Indeed, the introduction of performance information simply adds related contextual questions: how do we know if more money

## Funding the Judiciary: how budgeting systems shape justice

will improve performance or be wasted? More broadly, how do we understand performance information and how we do relate it to action?” (Moynihan, 2005, p.12).

In the public sector, there is “widespread evidence that the availability of performance data is by no means a guarantee that such information will be used for decision-making” (Grossi et al., 2016, p.584). According to Grossi et al. (2016), the use of performance information as a basis for decision-making depends on external pressures, organisation and individual characteristics.

As it will be better described in the following paragraphs, the lack of managerial culture in the Judiciary has delayed the realisation of performance management, while opposing external pressures have resulted in a move towards the implementation of certain forms of performance-based funding. Furthermore, in many countries, the main actors affected by budgetary decisions (namely judges) perceive these budgeting mechanisms as a threat to their independence and stand against the use of performance information (Langbroek & Westenberg, 2018; Visser et al., 2019).

To sum up, there are different performance budgeting models depending on the strength of the link between performance and budget. Different models were designed to pursue different purposes, but in general, a more rational and transparent allocation of resources is the primary aim. Some models have been implemented with the objective of increasing technical efficiency, pushing in some way individuals to perform better. In the Judiciary, performance budgeting models can improve allocative efficiency and transparent allocation of resources. However, models with a close link between performance and budget have a direct impact on the judicial organisation, efficiency, quality, managerial pressure, judiciary independence and accountability and judicial values.

In the next chapter, I will describe how budgeting, in general, and performance budgeting, in particular, are related to these different aspects of the Judiciary.

### 3.3. Budgeting and the Judiciary: a conceptual map

This paragraph will provide a description of the different challenges associated with implementing diverse budgeting approaches in the judiciaries.

#### 3.3.1. Budgeting for judiciaries in representative democracies

Funding mechanisms, and budget allocation, in particular, can directly affect judicial independence, intended not only as the duty of judges to be impartial in their case management and decision-making without interference from the other branches of government but also as the assurance of receiving proper resources to make quality decisions. In the United States, this issue is known as

### 3. Theoretical framework

the “Inherent Powers of the Judiciary” (Jackson, 1993; Shapiro, 1994). It was triggered by a decision of the North Carolina Supreme Court, which confirmed a judge’s inherent authority to require the executive to provide necessary financial support for the judicial branch. In Europe, most governments, especially in East Europe, are transferring administration powers from the Ministry to a self-governed institution (Zimmer, 2006, p.62).

As more extensively described in the previous paragraphs, a judiciary is not just a public service; it is one of the three powers of the State. It must be independent, but its funding is in the hands of the other State powers, the executive or the legislative. The separation of powers principle is crucial to avoid the concentration of power in one single branch, but the one who holds the “power of the purse” has some “extra weapons” that could be used against the other branches. “An effective power of the purse gives the legislature a powerful trump card when disagreements arise between it and other branches of government, one that is so potent that it can threaten judicial independence” (Webb & Whittington 2004, p.13). If on the one hand, the dependence on an executive or parliamentary driven funding mechanisms can affect judicial independence, on the other hand, an “excessive financial independence of the judiciary could be used by some judiciary to shield themselves against legitimate reform efforts and reasonable expectations regarding performance” (Decker et al. 2011, p.15).

The Judiciary is not only a power of the State; it also uses public funds to deliver justice and enforce the rule of law, which is fundamental in a democratic society. As a public service, it must be accountable to the taxpayers and inform them about the use of resources and the results achieved with those resources. Transparency in the use of public funds is necessary to pursue public trust. Therefore, how and how much judiciaries get from the State budget and in which way they are accountable for what they spend are important for judicial independence, the well-functioning of courts, and public trust.

Rational and proportional distribution of resources can help to ensure some fundamental values that underpin the Judiciary in democratic societies. A resource allocation based on transparent criteria can contribute to guaranteeing judicial independence from the other governmental branches, as well as a transparent allocation of resources can improve the trustworthiness of the Judiciary. Transparency about resources and performances in different fields generates arguments towards politicians about the necessary funding for a well-functioning judiciary. A proper allocation of resources on judicial salaries and training can ensure the integrity and competence of the court personnel. An allocation of resources aimed at pursuing equal performance of the different courts is reflected, in a sense, in the equality of citizens before the law.

## Funding the Judiciary: how budgeting systems shape justice

There is a wide literature on the tension between judicial independence and accountability (Atchinson et al., 1999; Douglas, 2003; Langbroek, 2003 in Fabri et Al.; Contini & Mohr, 2007; van Dijk, & Vos 2018), but only a few articles have identified the budgetary issues as a critical nexus between the two values.

For example, J. Wittrup, in his paper “Budgeting in the era of judicial independence” (2010), distinguished two models: the “Ministry of Justice model”, where the budget is managed and allocated by the MoJ, and a more recent “Council model”, where the budget is managed and allocated to a more or less independent body, that can be either the Judicial Council or an agency for Court Administration. Wittrup states that the challenge of the MoJ model is to efficiently manage the judicial resources without being accused of violating judicial independence, and the solution “lies in the development of a transparent system of valid and objective indicators for workload and court performance” that can allow the Ministry to justify its choices. In the “Council model,” the Judicial Council must justify its choices, too, to avoid an accusation of favouritism from some courts.

A second example regards The European Network of Councils for the Judiciary. ENCJ has developed some guidelines for the budgeting process concerning the Judiciary, starting from the statement that “courts should not be financed on the basis discretionary decisions of official bodies but on the basis of objective and transparent criteria” (ENCJ, 2016, p.12). Some recent studies about quality in the Judiciary, such as “Handle with Care. Assessing and designing methods for evaluation and development of the quality of justice” (Contini et al. 2017), giving special attention to the budgetary process and how it can affect the quality of justice, in particular to the extent in which the restraint of resources can negatively affect the quality of justice.

In recent years, some judiciaries have been developing court budgeting systems, progressively integrating performance and quality indicators in the budgetary process, towards a “performance-based” budget perspective, which relates organisational costs and organisational outputs, policies development and resource allocation, performance targets and resource appropriation, managerial discretion and accountability. In the Judiciary, “what can we achieve with this money?” should be interpreted as “how can we achieve the values that each judiciary in a democratic society is supposed to pursue?”. Some of these values, sometimes embedded in the constitutions, are equality (before the law), fairness, impartiality, independence of decision-making, competence, integrity, transparency, accessibility, timeliness, certainty, professionalism, and trustworthiness.

The performance-based budget is part of broader “management for results” and “management by objectives” approaches. In these approaches, the specification of objectives, the setting of performance targets and the measurement of performance results are of paramount importance because they can impact courts’ organisation and judges’ behaviour.

### 3. Theoretical framework

While some forms of performance budget (e.g., program budget and zero-based budget) are aimed at improving allocative efficiency, many contemporary forms of performance-based budget (e.g., formula funding or purchaser-provider model) are intended to motivate the agencies to perform better (Robinson, 2007, p.2). Agencies (courts, in this case) are composed of individuals (judges and staff); an agency performing better requires that the individuals perform better. Different kinds of incentives may motivate individuals, especially judges, to perform better. Many studies in the public and private sectors have demonstrated that individuals are pushed by material and non-material motivations, and monetary incentives do not always work and can actually be counterproductive (Gneezy et al., 2011).

Judges are also public service professionals: they are experts embedded in a professional community with ethics and values, they deliver high-knowledge services, they deal with users, and, at the same time, they serve public goals. As professionals working in public organisations, they are subject to different pressures caused by managerial reforms (Noordegraaf & Steijn, 2014, p.12).

However, performance-based budget models, especially the ones using incentives for organisations and their professionals, have to be carefully implemented, taking into consideration the peculiarities of the Judiciary. They have to be fine-tuned to avoid “giving absolute priority to productivity and figures, to the detriment of the quality of legal work” (Langbroek, 2008, p.67), or there is a high risk of resulting in dysfunctional behaviour if they are based upon imperfect performance measures (Paul & Robinson, in Robinson 2007, p.330-363).

For this reason, it is important that performance-based budgeting is grounded on a proper performance management system that takes into account and balances different measures.

The consequences of the budgeting system on the Judiciary are manifold. The change in budgeting approach may be related to the organisational development at the national level (change in the judicial system governance settings, for example, the creation of a Court Administration Agency for the Judiciary (in Finland), at the court level, e.g. the creation of a management board for each court (the Netherlands), and at the single judge level, e.g. changes in the case assignment system, pressure to increase productivity, individualistic or team-oriented approach, commitment to the court. A rational and distribution of resources can help to ensure fundamental values which underpin the Judiciary in democratic societies, such as accessibility, equality, judicial integrity, competence, timeliness. Finally, the budget allocation criteria affect the extent to which resources and courts' performance are balanced. If efficiency and effectiveness are not balanced across the Country's courts, the budgeting system is not serving its purpose.

Although the budgeting process for the Judiciary is so important for its independence, functioning, and efficiency, it has been one of the most neglected subjects in court administration studies.



## Funding the Judiciary: how budgeting systems shape justice

Budgeting, in general, and budgeting models based on performance, in particular, can have an impact on the well-functioning of the judiciaries.

In the first paragraph, it will be explained how budget and budgeting are related to judicial independence and accountability.

The second paragraph will deal with the issue of efficiency, explaining how judicial efficiency is related to performance budgeting, going through performance measurement and management in the Judiciary.

The third paragraph will focus on the management and organisation of courts, while the fourth paragraph will integrate the previous concepts with the issue of quality and judicial values in relation to budget and budgeting.

### 3.3.2. Budgeting, judicial independence and accountability

Budget plays a crucial role in the relationship between judiciaries, courts and judges, and other entities (government, Parliament, judicial council, local institutions, court management and other external pressures).

**Table 6: Budgeting and judicial independence**

Who	From whom	Budgeting's role
Judiciary	The other two branches (executive and legislative power)	The government determines the funding criteria and overviews the budgeting process
Courts	Judicial Council / Independent agencies	In most countries, the Judicial Council establishes the criteria for the allocation of resources to courts
	External pressures (local institutions, professionals etc.)	In some countries, courts resort to external funding to finance their activities
Judges	Other judges (court president) Court management	Court presidents and court management decide the internal resources allocation that impacts the judges' working conditions
	External pressures	Judges who do not receive an adequate salary can be subjected to undue pressures

In representative democracies, a system of “checks and balances” ensures that every power can at the same time limit and be limited by the other two and that the three powers have the same weight. Nevertheless, the budget can be a source of pressure and can influence judicial independence. In most European countries, the judicial budget is in the hand of the other two powers: the Ministry of Justice and the Ministry of Finance are mostly in charge of preparing the budget, while the Parliament is responsible for its possible adaptation and adoption. Therefore, the executive and the legislative power have some “extra weapons” that they can use to influence the Judiciary, for example, by



### 3. Theoretical framework

reducing judicial funding if some disagreement arises (Webb & Whittington, 2004, p.13). This potential weapon can be a threat to judicial independence, as the two powers could deprive the Judiciary of the financial resources that are necessary for the proper functioning of the justice system.

According to the Venice Commission of the Council of Europe, not only “In order to maintain the independence of the court system in the long and short run, it will also be necessary to provide the courts with resources appropriate to enable the courts and judges to live up to the standards laid down in Article 6 of the European Convention on Human Rights and in national constitutions and perform their duties with the integrity and efficiency which are essential to the fostering of public confidence in justice and the rule of law.” (CoE, 2010, p.10). But also, “Courts should not be financed on the basis of discretionary decisions of official bodies but in a stable way on the basis of objective and transparent criteria.” (CoE, 2010, p.11) Furthermore, “Decisions on the allocation of funds to courts must be taken with the strictest respect for the principle of judicial independence, and the Judiciary should have an opportunity to express its views about the proposed budget to Parliament, possibly through the judicial council. Transparency and involvement of the Judiciary in the budgeting process are necessary to ensure judicial independence from the other two bodies; however, not all the countries fulfil these recommendations.” (CoE, 2010, p.11)

Judges should be independent of external and internal pressures. An adequate salary commensurate with the judge’s responsibilities is necessary to shield them from undue influences. “The remuneration of judges must be constitutionally guaranteed in law and not altered to the disadvantage of judges after their appointment.” (ENCJ, 2016, p.5). To guarantee the quality of justice, it is also necessary that judges work in proper conditions, with adequate training, staff support, ICT equipment etc. While judicial salaries are decided at the national level, human and financial resources allocation within the courts is decided at the court’s level by the Court President or the Court Management. This situation can be the source of internal disputes between judges and management, where management could potentially reduce the organisational autonomy of judges and exert pressure on timing or even on the substance of the decision. Courts themselves can be subject to external pressures, especially when they do not receive enough funds from the government and they need the support of private or local institutions to function properly<sup>5</sup>.

In short, the budget plays an important role in determining the independence of judiciaries, courts and judges. At the same time, we must not forget that the Judiciary is not only a power but also a public service and, as such, it must be accountable to citizens and taxpayers for the use of financial resources, which are limited by definition. Therefore, on the one hand, the Judiciary must be funded

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<sup>5</sup> Even if in most judiciaries it would be unacceptable, this situation is quite common in Italy, where courts in the last decade had to resort to fundraising to finance innovation projects, helped by municipalities, local institutions, professional associations and even banks.

## Funding the Judiciary: how budgeting systems shape justice

with all the resources it needs; on the other hand, it must not waste those resources and work efficiently. Transparency in the funds' distribution and related results is fundamental to guarantee judicial accountability (ENCJ, 2016), as transparent allocation of resources can improve the trustworthiness of the Judiciary.

In the Judiciary, accountability is mostly related to the transparency of procedural rules, the publicity of the judicial process and decision, the reasoning of judgements according to the law, and the possibility of appealing the decision of a judge (Malleon, 2020, p.72). However, there are other forms of accountability (“soft accountability” as described by Malleon, or “public responsibility” as described by Langbroek (1994, p.406)) related to openness, transparency and engagement towards the community and the society. “Economic accountability”, meaning the accountability related to the use of public funds, could be considered a kind of soft accountability. Among the factors that have increased the demand for public accountability, Malleon identifies the concerns of the taxpayers as to how the money is spent and whether it is used efficiently. According to Langbroek, public responsibility is instrumental in reaching political responsibility, especially in the aspects concerning the efficient delivery of justice.

Accountability was often perceived in contrast with independence, but in reality, accountability is a necessary condition for independence (Contini & Mohr, 2008; van Dijk & Vos, 2018) as it is necessary to obtain public legitimation, and legitimation enhances judicial independence.

The role of budgeting, in this case, is related to transparency in the allocation and use of economic resources: if judicial funding is related to results, accountability is increased as citizens and taxpayers are aware of the use of their money.

“Performance-based budgeting” models, in particular, link the funding to performance criteria, allocating money proportionally to the results. Nevertheless, if, on the one hand, these models increase transparency and reduce the risk of arbitrary resource allocation and influence from the executive, on the other hand, they risk restricting judicial autonomy by strengthening the control by court managers on judges’ activities and self-organisation. This crucial issue will be explored in the forthcoming chapters.

### 3.3.3. Performance-based budgeting and judicial efficiency

The relationship between performance and funding is particularly important in times of economic downturn. In the 2000s, the economic crisis caused a further increase in the caseload, together with a reduction of the budget available (Van Dijk & Dumbrava, 2013). As in many judicial systems where the performance is not related to the budget, the risk is that budget for courts is cut, and the

### 3. Theoretical framework

budgetary cuts can have a negative impact on delays. In the Netherlands, a performance-based budget based on the forecasted number of resolved cases has allowed courts to keep the budget necessary to perform their duty with an increased caseload and under adverse economic conditions. According to Blank (2020), “the establishment of the Council for the Judiciary and the associated increase in (financial and operational) autonomy for the judiciary seems to have played a highly significant role” (p. 2018) in the stabilisation of the judicial productivity, after a long downward trend. However “these reforms have not been able to stimulate productivity to an upward trend” (p. 2019).

Under normal conditions, a performance-based budget is also meant to increase technical and allocative efficiency. As defined by Farrell (1957), technical efficiency measures the simple relationship between inputs and outputs, while allocative efficiency considers the optimal combination of inputs that produces the optimal combination of outputs. In this case, allocative efficiency encompasses every other form of efficiency, including technical efficiency. In the public sector, some scholars provided a different definition of allocative efficiency: “Allocative efficiency refers to the capacity of government to distribute resources on the basis of the effectiveness of public programs in meeting strategic objectives” (Schick, 1998, p.89) and entails “the reallocation from lower to higher priorities of government and from less to more effective goals” (Robinson, 2007, p.145).

Different forms of performance budgeting have different aims related to efficiency. As already described, according to Robinson (2007, p.1-16), there are several budgeting models depending on a) the strength of the link between performance and funding, b) the type of performance measure used, and c) the aim of the budgeting model. “Program budgeting” and “Zero-based budgeting” models, with a loose link between performance and funding, are aimed at realising an optimal combination of outputs by allocating resources between different programs using formal methodologies for expenditure prioritisation. The “Budget-linked performance targets” model, with a medium link between performance and targets, is characterised by the setting of specific performance targets, and it is aimed at improving technical efficiency (in case of output targets) or effectiveness (in case of outcome targets). In the “bonus funding” and “formula funding” models, the link between performance and funding is tight. The “bonus funding” model entails incentives or sanctions depending on performance, and its explicit aim is to enhance performance through monetary incentives. In the “Formula funding” model, the funding depends on the expected number of outputs multiplied by their price. According to Robinson (2007), this last model is aimed at reaching an optimal level of services at the lowest level of costs.

However, the real impact of the budgeting model efficiency is difficult to determine with precision. First of all, it is impossible to separate performance budgeting from the other factors that can influence efficiency, such as the demand for justice, the organisation of courts and prosecutor offices,

## Funding the Judiciary: how budgeting systems shape justice

the introduction of new technologies or the changes in the number of human resources; secondly, this kind of analysis would be only possible by comparing data collected after the implementation of the new budgeting system with data collected before, however “before” data are often missing or not comparable with more recent data (Brumby & Robinson, 2015; Curristine, 2007). So far, few studies have investigated the impact of performance budgeting on improvements in efficiency and effectiveness, and subjective assessment of impact dominates the literature (Brumby & Robinson, 2015; Hood, 2015).

Instead of focusing on technical efficiency, the focus could be moved to “allocative efficiency”, intended in this case as a proportional allocation of resources between courts and in courts that allows the equal performance of the courts. The principles of equity in resource distribution (proportional to the needs) and equality of access and outcome are taken into special consideration in healthcare and education. There is a wide literature about “equity in healthcare resource allocation decision-making” (Lane et al., 2017), and some performance budgeting models (notably formula-funding) “have traditionally been concerned more with promoting some concept of equity, in seeking to reimburse ‘needs’ rather than ‘results’” (Robinson, 2007, p.279). Needs-based and results-based formula-funding models have also been used in education (Noe, 1986) to move away from an allocation system based only on lobbying power (McKeown, 1983, p.279) to “satisfy the need for a more equitable distribution of resources” (Noe, 1986, p.364) by standardising measures of performance and facilitating comparative analysis of the various services. According to these studies, formula-funding seems to be the best available method developed to achieve a satisfactory relationship between the government and the university in the allocation of funds as it provides a system of equity and adequacy (Noe, 1986, p.376). These two sectors can be compared to the judiciaries because, as described in the previous paragraphs, they all are public organisations where services are dealt with by professionals (Mintzberg, 1978) and loosely coupled organisations (Weick, 1976; Zan, 2011; Verzelloni, 2012). The impact of different budgeting models on equity (proportionality to the needs) in resource distribution and equality in the service delivered to the citizens is one of the main focuses of this research, and it will be explored in the following chapters.

### 3.3.4. Performance-based budgeting and professionals

Performance budgeting is used as a key management tool for achieving better organisational planning, organisational commitment and goal alignment of professionals and other staff (Robinson & Brumby, 2015). To assess the potential impact of NCM and new budgeting models on the performance of judges, it is necessary to consider what drives judges. According to Posner (1993, p.80), judges are like any other agent, rational and self-interested individuals aiming at maximising

### 3. Theoretical framework

their personal utility (“homo oeconomicus”). “Personal utility” does not necessarily regard income. It can also be related to career, visibility, power, success, professional reputation and so on. A recent stream of studies, however, has emphasised the importance of socio-psychological forces that can motivate individuals. Many studies in public and private sectors have demonstrated that individuals are driven by material and non-material motivations, such as social motivations, in particular approval, imitation, group loyalty, adherence to norms, and affective social ties (Fehr & Gächter, 2000; Akerlof, 1983; Baumeister and Leary, 1995; Van Dijk et al., 2001; Van Winden, 2015) and internal motivations (moral beliefs and values) (Deci & Ryan, 1985, 2013; Minkler, 2004). In most judiciaries, judges are appointed for life, and for most of them, it is indeed lifetime employment. They are in it for the long run and make their career there. This strengthens the importance of motivations other than short-term financial gain, making judges a close-knit group with clearly defined norms, strong group loyalty and close social ties. They have strong incentives to fit in and be seen as competent judges by their peers, including the judges at the appeal courts and the supreme court. This results in strong intrinsic motivations, and, as these motivations tend to be homogenous among judges, strong professional values and standards within the group of judges, such as independence, impartiality and high legal quality. As Noordegraaf and Steijn (2014) argue about professionals in general, the more standards they set, the stronger they are, also with respect to autonomy and power.

However, while independence is a paramount value, judges, as long as they have a career perspective, are to some degree dependent on the functionaries that decide or advise on promotions (Schneider, 2005; Robinson, 2007). This results in incentives to perform in a way these functionaries value. Career considerations lead, in essence, to a “rank order tournament”, which has been shown to generate strong incentives to aim at the targets authorities set (Bull et al., 1987; Van Dijk et al., 2001). In the courts, these functionaries are generally either the president of the court or a council of the Judiciary. This dependence may result in judges being susceptible to the views of these functionaries. It may strengthen the hold of professional standards further, but if the functionaries have an NCM orientation, it may also lead to the acceptance of other orientations, such as timeliness, focus on the needs of court users and efficiency. In line with these potentially conflicting values, promotions prove to be a sensitive area as the surveys of the ENCJ show high percentages of judges believing that promotions are not based on merit and experience (62% in Croatia and 58% in Hungary but also for instance 39% in Spain and 27% in Germany). To conclude, judges have strong internal motivations, but they are also subject to external incentives. NCM and some forms of performance budgeting strengthen these external incentives.

What is to be expected from introducing extrinsic career incentives in a profession that has strong intrinsic motivation? In a simplistic version of NPM logic that disregards intrinsic motivation, this will

## Funding the Judiciary: how budgeting systems shape justice

lead to higher productivity. According to Robinson and Brumby (2015, p. 51), the “process of making desired outcomes as explicit as possible and linking output and activities to those outcomes can be a means of improving goal alignment.” In this reasoning, performance budgeting, by making explicit the link between performance and funding, and performance management contribute to the understanding of the goals and, in this way, improve productivity. This, however, does not take into account the effects of the replacement of intrinsic motivation by extrinsic motivation, which can well be counterproductive, especially in the long period: extrinsic incentives may come into conflict with other motivations and lead to undesired effects on behaviours (Gneezy et al., 2011, p.191). These effects can be particularly large in a situation where intrinsic motivation is strong, as in the Judiciary. Efforts by management to introduce extrinsic motivators, thereby wittingly or unwittingly crowding out intrinsic motivation, are likely to meet resistance and may lead to bureaucratisation and not to higher efficiency. The expectation that judges will work harder by implementing control mechanisms on performance follows bureaucratic logic and may well prove to be unrealistic among professionals in general and judges in particular.

If the intended effect is not so much an increase in overall productivity but a reorientation of objectives from a single focus on legal excellence to a broader notion of quality as valued by the court users, including timeliness and giving attention to cases proportional to their relevance (Frissen, 2014), this could be seen as a response to the demands in society and earn some respect among judges. However, it will meet resistance as well. Part of NCM is the introduction of methods of strategy development in the courts to get judges thinking about the evolving needs of the population they serve. Under this new paradigm of court-user orientation, judges are no longer only independent decision-makers, but they are actively part of a public organisation delivering services to the public (Contini & Mohr, 2008, p.27). As already noted, sharing the “mission” and the “vision” of the organisation can enhance the intrinsic motivation of workers. According to this literature, organisational commitment and “goal alignment” are important determinants of individual productivity, but we already saw that judges resist such strategic thinking.

Another theory useful to identify the issues related to courts as professionals organisations is the “principal-agent” theory. Given the fundamental independence of judges, it is not evident who is the principal of these agents. The other state powers (government and parliament) cannot play this role, without sacrificing judicial independence. According to Garoupa and Ginsburg (2015), judges are the “agents” while society is the “principal” (p. 105). The principal suffers from information asymmetry, as they have less information than the agents; therefore, they cannot monitor the actions of the agents to be sure that they don’t maximise their own utility to the detriment of the principal’s utility. The Judicial Council can be seen as an intermediate body between society and judges. Its role is to “limit agency costs and reduce the likelihood that any particular minority will use the court



### 3. Theoretical framework

system to its advantage” (p.106). Judicial Councils manage budgets, appoint judges and evaluate performance; therefore, they can provide incentives to judges to behave as if they were trying to maximise the principal’s utility. However, a study by Voigt and El Bialy (2014) suggests that the existence of judicial councils is negatively correlated with judicial efficiency in a narrow sense (not adjusted for quality).

Another intermediary between principal and agents is court management. Information asymmetry between management and judges does not seem to be an important phenomenon, as courts are relatively small organizations and management often consists of judges who know all ins and outs of the organization. However, judges and management can interact in different ways, depending on the role management chooses. This leads to more or less pressure on judges and work-related stress. Tensions and conflicts may arise to different degrees. In the Swiss study, already quoted, terms are used like two worlds and various logics, but it is also found that the views of judges and managers are not totally incompatible (De Santis, 2005, p.128). The study shows that both groups share at least half of the expectations of what is, in their terms, a good judiciary and that these expectations are compatible with NPM. As to the differences, judges emphasise humane aspects of justice, fairness and impartiality, while management focuses on customer orientation (efficiency, accessibility, timeliness) (De Santis, 2005, p.128).

The level of power and control of court managers varies from country to country. For example, in The Netherlands, “tasks and responsibilities of individual professionals were partly taken over by standard procedures” settled by the court management: “In New Public Management, the autonomy of professionals has been restricted” (Langbroek & Westenberg, 2018, p.2).

Even in courts, a major source of tension between professionals and management is performance measurement.

#### 3.3.5. Performance-based budgeting and its effects on management and organization

If on the one hand, performance measurement can be an incentive for performance, increase transparency and accountability, and improve the organization’s intelligence; on the other hand, performance management can lead to dysfunctional behaviour and decreased professionalism (De Bruijn, 2010). In courts, for example, to increase the number of resolved cases, judges can decide to deal only with simple cases. In Italy, some judges are complaining about the fact that statistics are not taking into account the attempts at conciliation, which is an intensive and qualitative activity which deserves better attention. A performance evaluation system that displaces professional considerations can bring perverse effects. According to De Bruijn (2010, p.150), “the more impact performance management has, the more the information will be perverted”: If the performance

## Funding the Judiciary: how budgeting systems shape justice

figures will result in financial incentive or financial sanction and if the data will be published (and the professional ranked consequently), professionals will be tempted to bend the data.

Agreeing with this explanation, performance-based budgeting and its link between performance and funding seem to be at risk of producing dysfunctional behaviour.

According to Noordegraaf and Steijn (2014), professionals feel pressured, and these pressures are caused by managerial approaches. Some forms of performance-based budgeting are part of a broader “Management for Results” approach and are aimed at stimulating performance through incentives or a tight link between performance targets and resources. If high-powered incentives are linked to imperfect targets or measures, these incentives risk leading to perverse effects, demotivating professionals instead of motivating them (Robinson, 2007, p.332).

In the case studies that will be presented in this study, there are no incentives related to the individual performance of judges and staff, but the court funding is linked to the judges’ performance, and this, especially in The Netherlands, translates into increased pressure on judicial efficiency in the simple sense of judges adjudicating as many cases as possible.

The organisational context, as well as the organisational culture, are strictly related to the budgetary model. The budgetary mechanism, in fact, can influence the organisation of the court, and the organisation of the court can determine, in its turn, the success of the budgetary mechanism. In the Netherlands, for example, strict performance-based budgeting - where funds are directly related to the number of resolved cases through a formula – goes hand in hand with a stringent organisation of work in work processes that are developed by the judges themselves. The risk is that the budgeting model and strict organisation of work can restrict judicial autonomy by strengthening the control exercised by court managers on judges’ activities and self-organisation.

### 3.3.6. Budgeting, judicial quality and values

This paragraph describes the impact of budgeting on judicial quality and values

#### Budgeting and quality

Together with expectations of efficiency, citizens also increasingly expressed the need for high-quality public services, effective, transparent, accessible and focused on citizens’ needs. (Engdaw, 2020). An organisation should not only be able to fulfil its purpose in an efficient and effective manner, but it should also be customer oriented. If the customer is satisfied with the quality of the organisation, this satisfaction could, in turn, lead to public trust and the legitimacy of the government (van de Walle, 2003; Ng, 2007).



### 3. Theoretical framework

In the judiciary, “quality of justice” was often understood exclusively as the quality of judicial decisions. The CEPEJ (“Measuring the Quality of Justice”, 2016) broadened this definition, extending it to the performance of the judicial system and the users’ perception. In particular, they referred to Article 6 of the European Convention on Human Rights to single out what are the “pillars of quality”: fairness, publicity and transparency, comprehensibility, and access to justice (including legal assistance and legal aid). Other elements taken into consideration by the CEPEJ in the evaluation of quality are:

- Quality of service (Organisation, access to information, costs of procedures etc.)
- Quality of judges (Competence, impartiality, clarity etc.)
- Quality of staff (Competence, courtesy etc.)
- Quality of the structure (Premises, organization of the court offices etc.)

In this context, budgeting and quality of justice are strictly related. “It is common sense that limitation of resources can negatively affect the quality of justice [...] This is particularly clear in years of budget cuts” (Contini et al., 2017, p.20).

It requires no explanation of the fact that the level of budget allocated to courts and prosecutor offices will influence the quality of structure and services.

The Consultative Council of European Judges (CCJE) of the Council of Europe (COE) have provided a recommendation in terms of budgeting and quality of justice. In particular, it recognises that “there is an obvious link between, on the one hand, the funding and management of courts and, on the other, the principles of the European Convention on Human Rights: access to justice and the right to fair proceedings are not properly guaranteed if a case cannot be considered within a reasonable time by a court that has appropriate funds and resources at its disposal in order to perform efficiently.<sup>6</sup>”

Adequate funding to courts is necessary to guarantee their proper functioning, including the adequacy of buildings, availability of staff and technology, investments in IT and innovation, training opportunities etc.

The quality of judges and staff is influenced by the level of funding as well. Not only an adequate salary can protect judges from the risk of corruption. According to Zimmer (2006, p.83), low salaries can result in the mediocrity of judges and staff. The risk is that the most competent people will be attracted by more promising careers, while only the less competent judges and staff with fewer perspectives will remain in the courts. Lack of experience and competence can result in a lack of

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<sup>6</sup> CCJE (2001) OP N°2, n°3, <https://rm.coe.int/1680747492>, last access November 2022

## Funding the Judiciary: how budgeting systems shape justice

quality of the decisions, a large number of appeals and, consequently, an increase in the disposition time in the second instance.

In addition to the level of funding, a change in the budgeting model towards an output-based budget could affect judges' behaviour, but in a negative way, by putting pressure on productivity and "compressing key judicial values, such as legal quality, treatment of the parties, and access to justice" (Contini et al., 2017, p.20). Generally speaking, a budgeting system aimed at increasing judges' productivity will lead to an increase in the workload that can result in low quality.

In the Netherlands, in 2012, a group of 800 judges published a "manifesto"<sup>7</sup> in which they complained about the funding system and its impact on the quality of their work. They were criticizing, in particular, the fact that "output norms and budget have become dominant", and they had negative consequences on the quality of justice (Holvast & Doornbos, 2015, p.49). Furthermore, following the financial crisis, it appears that the Ministry of Justice ignored the instruction in the Order in the Council of the Financing of the judiciary to balance the productivity of the courts with quality of performance when establishing the price of time units for the budgeting of the courts. In other words: the quality of the performance was not taken into account, and the courts did not receive anything extra but had to cut back expenses, just like other state agencies. As a result of these complaints, to counterbalance production measures, the Council for the Judiciary integrated quality measures into the calculation of prices per case category<sup>8</sup>. However, it is still not clear what is the impact of a performance-based budget on the quality of decisions. Therefore, this work aims at assessing the relationship between the budgeting model and the quality of judges' work and decisions.

### Budgeting and judicial values

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The Bangalore Principles of Judicial Conduct establish six guidelines for the ethical conduct of judges: independence, impartiality, integrity, propriety, equality, competence and diligence.

The relationship between budgeting and judicial independence and impartiality has been described in the previous paragraphs, but other values are related to funding; for example, a proper amount of budget allocated to judicial training can improve the integrity and the competence of the court staff.

In general, budget and budgeting play an important role in ensuring the compliance of judicial values. As already described, an adequate budget, based upon objective and transparent criteria, makes the judiciary less vulnerable to undue influence, and, at the same time, it can safeguard the integrity and competence of the judges through the proper allocation of resources on judicial salaries and

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<sup>7</sup> 'Manifest' published in Tijdschrift voor de Rechterlijke Macht 2013, afl. 2, p. 40.

<sup>8</sup> Algemene Rekenkamer (General Court of Accounts), Rapport Bekostiging Rechtspraak, gevolgen voor de doelmatigheid, Den Haag, 19 april 2016., p. 27.

### 3. Theoretical framework

training (European Network of Council for the Judiciary (ENCJ) 2016). Adequate funding is necessary to guarantee the functioning of the judiciary because it determines the conditions in which the courts perform their activities (COE, 2010).

Not only the amount of resources the judiciary is provided with is important, but also the criteria of distribution of these resources among courts. This issue is particularly relevant because a balanced allocation of adequate resources can guarantee equality in the treatment of citizens before the law, especially with regard to the timeliness of decisions. In the literature, the term “inequality” connected to the judiciary mainly indicates inequalities in the treatment of citizens in relation to access to justice (Barendrecht et al., 2006; Barendrecht, 2014; Farrow et al., 2014; Forell et al., 2005; Gramatikov, 2007; OECD, 2015; OECD, 2019). Even though there is a lack of empirical research, the interconnection between these two dimensions is widely accepted. Access to justice regards the possibility for the individual to access legal services, including legal aid, access to courts, and alternative dispute resolutions (Barendrecht, 2006; UNDP, 2013). Where these services are not sufficiently implemented, equal access to justice is not guaranteed. Lack of access to justice is, at the same time, the cause and the consequence of economic inequalities. On one side, the costs of litigations, the complexity and the cumbersome nature of legal procedures, and the uncertainty of the decisions (Barendrecht, 2006; Gramatikov, 2007) inhibit disadvantaged people from going to court; on the other side, “unequal access to justice may perpetuate existing inequalities” (OECD, 2019, ch.2) by contributing to or causing adverse effects in other areas of life, such as work, family and healthcare, personal safety and security (Currie, 2009, p.73). Furthermore, the excessive length of proceedings can be an additional obstacle to equal access to justice: rich people can bear the costs of a slow civil trial, while poor people won't; they will be more likely to accept a settlement. In his report “Access to Justice”, Lord Woolf (1995) criticised the excessive length of civil procedures in the UK as a barrier to accessing justice. Court delays can limit access to justice by disadvantaged people, and, as such, they are a source of inequality.

Therefore, a rational and equitable distribution of resources can improve equal performance among courts, while an unbalanced allocation of resources could be associated with disparities among the courts in judicial efficiency and effectiveness and, consequently, inequality of citizens before the law.

## 4. Budgeting models

This chapter describes the budgetary models of the Netherlands, Finland, Italy and France. In the quantitative analysis, presented in the next chapters, the research will be narrowed to three countries only (Finland, Italy and the Netherlands), while in this first qualitative part, the research is extended to France in order to provide more examples of different approaches, to enrich the experiences the questionnaire is based on, and to lay a better foundation for the quantitative analyses of the influence of budgeting on judicial performances and values.

The chapter is mostly descriptive and provides an overall picture of the budgetary models and budgetary processes for the judiciaries. In particular, the budget cycle, the criteria for budget allocation and the management of the courts' budget will be described.

Italy adopts a program budgeting model, utilizing efficiency and effectiveness indicators, with no direct link between performance information and funding allocation. France also employs a program budgeting approach, incorporating efficiency and effectiveness indicators, but with a loose link to funding and no direct consequences for not achieving targets. Finland follows a budget-linked performance targets model, establishing efficiency and effectiveness indicators with a medium link between performance information and funding, leading to discussions and potential reallocation of resources. The Netherlands utilizes a purchaser-provider model, relying on a direct link between performance information ( $P \times Q$ ) and funding, where courts refund the budget from the courts to the council if targets are not met.

The chapter also explores the budget cycle, consisting of four phases: formulation, approval, execution, and audit. The governance structure influences the budgeting process, with Finland, France, and Italy employing a ministerial model, while the Netherlands drafts the budget through the Judicial Council. Each country has its unique approach to budget formulation, approval, and execution, involving different stakeholders and auditing bodies.

In summary, this chapter delves into the budgetary models and processes of the judiciaries in Finland, France, Italy, and the Netherlands. Understanding the different approaches, performance information usage, and budget allocation criteria is essential for analysing the influence of budgeting on judicial performances and values in the subsequent quantitative analyses.

### 4.1. The budgetary models in the judiciaries of Finland, France, Italy and The Netherlands

Budgetary reforms in the public sector in Finland, France, Italy and The Netherlands started at the end of the '90s and have involved the judiciary since their beginning. Although all the new funding systems are related to the performance information, the overall approach, the indicators used, and the link between performance information and funding allocation are quite different in the three countries. Furthermore, if the performance is not in line with the targets, courts in different countries suffer different consequences.

The table below summarises these three different approaches.

**Table 7: Budgeting models in Italy, France, Finland and the Netherlands**

	<b>Budgeting model</b>	<b>Performance information</b>	<b>Link between Performance information and funding</b>	<b>Consequences if targets are not reached</b>
<b>Italy</b>	Program budget	Efficiency and effectiveness indicators	No link	No consequence
<b>France</b>	Program budget	Efficiency and effectiveness indicators	Loose link	No direct consequences
<b>Finland</b>	Budget-linked performance targets	Efficiency and effectiveness indicators	Medium link	Discussion and reallocation of resources
<b>Netherlands</b>	Purchaser-provided model	P x Q	Direct link	Budget refunding from the courts to the council

France has been using a “Program-budgeting” approach since 2006. It introduced a programmatic budget law (Loi organique aux lois de finances – hereinafter LOLF) based on Missions, Programs, and Sub-programs, with the goal of increasing the autonomy of the Ministerial departments and program managers appointed for each program. They have the flexibility to allocate and re-allocate resources within programs, to achieve performance targets. Targets are related to three different standpoints: a) the citizens, interested in social and economic effectiveness; b) the users, concerned with the quality of service; c) the taxpayers, concerned with efficiency. The Justice Mission is divided into five Programs. Each Program is under the responsibility of a program manager, and it is divided

## Funding the Judiciary: how budgeting systems shape justice

into operational budgets. For the Justice Mission, Presidents of the courts of appeal are responsible for the operational budgets, but the program manager controls the fungibility of funds (Kirat, 2010, p.6). The budget allocation to the different ministries does not directly depend on performance. Performance information is just used to inform decision-makers, and there are no direct consequences if performance targets are not reached.

In Italy, a formal programme-budgeting model has been in use since 2009. Inspired by the French budgeting model, the state budget is classified into missions, programmes and actions. Targets are explained in the “Annual Performance Plan”, annexed to the Budget Law, but results are not mentioned in the financial statement. “Programme budgeting” seems to be a mere formality, while resource distribution among courts mostly follows an incremental approach. In ordinary courts, productivity targets are not tied in any way to the number of resources allocated, and there are no direct consequences if goals are not reached. Indicators of performance are calculated and monitored within each court, but they are not used by the Ministry for the allocation of resources among courts. If a court performs poorly, there are no related consequences in terms of budgeting.

Finland started from a “management by results” overall approach and then moved to a “result-oriented budget process” with a model that can be associated with the “Budget-linked performance targets” model since it sets the targets related to the budget amount provided, with a loose link between performance information and funding. Every year the Ministry of Finance sets the spending limit for public expenses for the next four years. Within this framework, the Ministry of Justice negotiates with each court the number of resources allocated and the targets that can be achieved with these resources. If the targets are not reached, it follows a discussion that can lead to a renegotiation of targets or to a reallocation of temporary resources. It frequently happens that the court that does not reach the targets obtains more resources. The idea behind this thinking is the fact that citizens are equal, and they should not suffer because of less-performing courts.

The Netherlands uses different budgeting models depending on the public sector. The funding mechanism used in The Netherlands’ judiciary has the characteristics of the “Purchaser-provider model”: the budget is based on the expected output, but it is subsequently modified on the basis of the actual output. Budget amounts and courts’ funding allocation are based on a “Price x Quantity” formula, where quantity is the expected number of resolved cases for the next year, and the price is set by the Judicial Council, taking into consideration the costs to process different categories of cases, after a negotiation with the Ministry of Justice. When courts do not comply with the planned output, they have to refund the 70% of the agreed price of the unsolved cases in an “equalization account” managed by the Council for the Judiciary. Courts that produce more than forecasted receive 70% of the agreed price on the surplus of cases. However, the national budget for the

judiciary is fixed in the budget law. It will not grow when production of the courts is larger than planned production in terms of  $P \times Q$ . So, the courts 'compete' about the size of their proportion.

While Finland, France and Italy enjoy a “ministerial model” (Wittrup 2010), in the Netherlands, the budget is drafted by the Judicial Council.

### 4.1.1. The budget cycle

The budget cycle can be divided into four phases: 1) formulation, 2) approval, 3) execution, 4) audit.

The budget formulation is the phase in which composition and budget amount are discussed and drafted based on pre-established criteria. Once the budget is drafted, it needs to be formally proposed to and approved by, usually, the Parliament. The budget execution comprises the budget allocation and the day-to-day management of the budget. At the end of the budget cycle, the proper use of financial resources must be evaluated, normally by an auditing agency.

As we will see, the budgeting process in the judiciary is affected by the governance structure. The governance models adopted in France, Finland and Italy are still ministerial, while in the Netherlands there has been a shift of several functions from the Ministry of Justice to the Judicial Council, and the budget is one of them<sup>9</sup> (Wittrup 2010). In the Netherlands it should be noted, however, that the total budget for the judiciary is part of the budget of the Ministry of Justice, as presented to parliament in the annual budget bill.

In France, the preparation of the budget for the judiciary, as well as for all the other public sectors, falls under the exclusive competence of the government. In this case, one of the key phases of the budget cycle is the discussion and the determination of objectives, indicators, and targets. At the beginning of the year, the Ministry of Justice discusses with the Ministry of Finance the budget amount allocated for next year and the actions to be undertaken. At the same time, the Budget Directorate staff of each Ministry gets together to determine their financial needs. After these conferences, the Prime Minister can fix the maximum appropriation amount for each Ministry and for each Mission. In parallel, Performance Conferences are organized with the aim of establishing and evaluating the objectives and the related indicators of performance for each Mission. The result of these conferences is the “Annual Performance Program”, which is annexed to the Budget Law. Then, the budget appropriations are broken down by Programs. In September, the budget is submitted to the Parliament, to be approved in October.<sup>10</sup> The performance information and the objectives for the

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<sup>9</sup> Wittrup (2010) distinguishes two models: the traditional “Ministry of Justice model”, where the budget is managed and allocated by the MoJ, and the more recent “Council model”, where the budget is managed and allocated to a more or less independent body, that can be either the Judicial Council or an agency for Court Administration.

<sup>10</sup> <http://www.vie-publique.fr/decouverte-institutions/finances-publiques/ressources-depenses-etat/budget/quelles-sont-etapes-elaboration-adoption-loi-finances.html> last access December 2022



## Funding the Judiciary: how budgeting systems shape justice

three coming years are not used to determine the budget allocation between Programs; targets are set after the allocation of budget to Programs. “The challenge is to assure Parliament that government units will seek the best possible use of the funds granted to them for a given policy” (Lannaud, 2007, p.206).

Once the budget has been approved by Parliament, it is allocated to the Ministry of Justice, which is responsible for the various programs managed by program managers appointed by the Minister. The program for justice is “Program 166”, and the program manager of this Program is the director of judiciary services. Funds are allocated to courts by the annual performance program and performance indicators. Since 2004, the Presidents of the court of appeal have been responsible for implementing the operational budget, and they authorize expenditures.

In France, four organizational units are in charge of budget auditing: 1) the inspection unit of the Ministry, 2) the Inter-Ministerial Program Audit Committee, 3) the Audit Office, 4) the Parliament. They control the accuracy of the results, the consistency of objectives and indicators, the reliability of data, and the pertinence of action plans (Lannaud, 2007, p.206).

In Finland, the Ministry of Justice, based on the State budget framework, decides guidelines and principles for budget allocation. The Department of Judicial Administration within the Ministry of Justice is in charge of negotiating “face to face” with each Court President the budget needs and setting targets for the next year. The negotiation between the Ministry of Justice and the courts takes place in late autumn. The discussion starts with the evaluation of the results of the previous year, and then it moves to the forecasting of incoming and resolved cases for the following year, together with a proposal of the budget and resources needed. Within the budget limitations imposed by the framework, each court sets the number of cases it can solve with the resources allocated. Since 80% of the court budget is related to salaries, the main focus of the negotiation is the number of judges and staff assigned to the court<sup>11</sup>. During this discussion, additional judges or temporary staff, where appropriate, are negotiated. Before individual negotiations, a kick-off meeting with all the courts is arranged, with the aim of increasing transparency and providing a general overview of the situation of the judicial sector. At the end of the discussion, the funding appropriation of the court and the targets are decided. In practice, the budget allocated to each court does not depend on the number of decided cases, but the number of decided cases and the other targets depend on the amount of budget allocated to each court. Efficiency targets regard productivity, economic efficiency (cost per weighted case) and timeliness. Court management can also decide to set additional quality standards, such as timeliness and transparency of judicial procedures, consistency, and readiness of judgments, etc. The accomplishment of the targets is settled in the annual reports, which are used

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<sup>11</sup> Interview with Kari Kiesiläinen (Ministry of Justice in Finland) – 27 august 2018



## 4. Budgeting models

as a tool in the negotiation process. The results of this discussion and the performance information are taken into account for the drafting of the next cycle evaluation<sup>12</sup>. The budget framework is adopted by Government in March, while the budget is approved by the Parliament in December. Additional money can be allocated during the year for specific needs. In Finland, the authority in charge of auditing the Ministry of justice budget is the State Audit Office, an independent public body.

In Italy, “the Minister of Justice has responsibility for the organisation and functioning of those services involved with justice” (Art.110 Cost.), including budgeting and resource allocation. The Ministry of Justice and the Ministry of Finance are responsible for budget preparation. The budget proposal drafted by the Ministry of Justice is discussed with the Cabinet and then submitted to the Parliament, that (after several weeks of discussion) approves it together with the State budget. The budget for the judiciary covers ordinary courts, prosecutor offices, juvenile, legal aid and penitentiary department, while Italian administrative justice is given full budgetary autonomy. The High Council for the Judiciary of the Administrative Justice is in charge of the preparation, adoption and approval of the total administrative court budget and of the allocation of budget among administrative courts.

As regards ordinary courts, the Ministry of Justice is in charge of the management and allocation of budget among courts, while the Court of Audit, together with the Ministry of Finance, is responsible for the evaluation of the use of the budget at the national level (CEPEJ, 2020). Even if the Ministry of Justice is the key player in resource allocation to courts, the Judicial Council is involved in the allocation of judges to judicial offices by expressing a formal opinion on staffing needs and assignment criteria. Court presidents and court managers also have a role in requesting and justifying the need for additional human resources.

As regards facilities, before 2015, local municipalities were in charge of the payment of the rent, utilities, maintenance of buildings and security. Since 2016, the Ministry and judicial offices (through specific “Maintenance Commissions” created in every department) are responsible for those services.

In The Netherlands, there are two separate and overlapping flows to budget formulation, approval, and execution. The first flow deals with the Ministry of Justice and the Council; the second one deals with the Council and the courts. As far as the first flow is concerned, in January, the Council submits to the Ministry a budget proposal based on the forecasted number of resolved cases and their prices. The number of cases resolved is subject to annual discussion between the Council and the Ministry, while the prices for each category of cases are negotiated every three years, starting from the prices determined in the previous years. In September, the Ministry submits the proposal to the Parliament.

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<sup>12</sup> Interview with Jyri Inha (Ministry of Finance in Finland) – 27 august 2018

## Funding the Judiciary: how budgeting systems shape justice

Every change from the Council's proposal must be justified by the Ministry of justice. In October and in November, the Parliament discusses the proposal that can be amended.

The budget preparation for allocating budget funds to the courts follows a different timing. In May, courts are asked to fill in a form on 1 October with the performance of the previous year and a forecast for next year, about the caseload (incoming and resolved cases), the forecasted "revenue" (Price x Quantity) and forecasted expenses. Based on these data, in November, the Council prepares its budget plan to allocate funds to the courts and other support services (ICT, training, etc.). In December, the Council and every court sign contracts about the forecasted number of cases to be resolved and the corresponding budget.

The use of resources in the courts is subjected to audit by a private external auditor every year. The courts must account for the resources' use to the Council but not to the Ministry of justice. The Minister is responsible before the Parliament only for the general good functioning of the judicial system.

### 4.1.2. The use of performance information and the criteria for budget allocation

In a performance-based budget, the specification of objectives, the setting of performance targets, and the measurement of performance are of paramount importance because they can directly affect resources allocation, courts' organization, and judges' behaviour.

In Italy, justice is classified as "Mission 6", and it is divided into eight programmes: prison services, civil and criminal justice, juvenile justice, tax courts, administrative management, administrative justice and the judicial council. During the period 2019-2020, general objectives have been established as follows: a) To reduce the length of civil procedures through efficient caseload management; b) To enhance the fight against corruption, notably reforming the law relating to the "limitation period";

The civil and criminal justice programme ("programme 006.002") is divided into two actions:

- courts activities;
- efficiency and innovation of courts (referring to the Office of the Prosecutor and Justice of the Peace);

Relating to the first action, the indicators are:

- the average length of proceedings (the target is: less than 375 days);
- the age of pending cases (the target is: less than 26% of proceedings should have been pending for over three years);

## 4. Budgeting models

However, resource allocation does not automatically follow the target setting. Judges and staff are organized in accordance with “staffing plans” decided by the Ministry of Justice, and they are allocated to courts on the basis of historical criteria, originally related to the size of catchment areas and partly to the number of incoming cases in prosecutors’ offices, maintaining a fixed ratio between the number of prosecutors and the number of judges in the same district. Some amendments are made to staffing plans in successive years, but in general, allocation plans basically remain the same – the result being that some courts are overstaffed while others are understaffed. Moreover, staffing plans are fixed; consequently, they are not easily adjusted to accommodate changes. The distribution of human resources is not based on transparent criteria. Even if statistics and performance indicators were taken into consideration in the previous reorganization plan, the number of judges allocated does not automatically follow suit; therefore, decision-making seems primarily discretionary. A court’s expenses are not registered on a balance sheet, and neither the Ministry nor the Judicial Council calculates how much a single court costs.

In France, the budget of the judiciary is included in the “Mission Justice”, which is divided into five programs. In 2018, the Program had three objectives and twelve indicators, as the following table shows.

**Table 8: Programs for the “Mission Justice” in France in 2018**

<b>Objective 1</b>	<b>Improving quality and efficiency</b>
Indicator 1	Average processing time for each type of court
Indicator 2	Percentage of courts exceeding 15% of the targeted average processing time
Indicator 3	Average processing time in criminal matters
Indicator 4	Resolved civil cases by a judge
Indicator 5	Resolved criminal cases by a judge
Indicator 6	Resolved civil and criminal cases by a staff employee
Indicator 7	Court of appeal reversal rate
<b>Objective 2</b>	<b>Improving the efficiency of criminal justice response, the enforcement, and arrangements of criminal penalty</b>
Indicator 1	Percentage of criminal cases subject to an alternative to prosecution
Indicator 2	The average time for recording a judgment on the National Criminal Record
Indicator 3	Enforcement rate of suspended or effective prison sentences

## Funding the Judiciary: how budgeting systems shape justice

<b>Objective 3</b>	<b>Modernizing the ordinary justice management</b>
Indicator 1	Average cost per criminal case
Indicator 2	Number of electronic filings to be dealt with by the registry and number of electronic filings from the police

The indicators try to measure efficiency (productivity and expenses), effectiveness (speed of justice), and quality (reversal rates, enforcement, and alternative to prosecution). These indicators are integrated into the budget, and the annual performance plan is annexed to the Budget Law. This plan includes actions, costs, objectives, and results obtained and expected. However, these indicators are not directly linked to the number of financial and human resources granted to each court. Indicators are mostly used to evaluate if resources are efficiently allocated to programs and if actions are coherent with the objectives. “This information may, when necessary and along with other factors, lead members of parliament to propose amendments aimed at reallocating appropriations between programs grouped under the same mission” (Lannaud, 2007, p.207).

Presidents of the appeal courts allocate the operational budgets among the first-instance courts within the court of appeal’s jurisdiction. This allocation is made after consultation with presidents of first-instance courts in a so-called “budget conference”. However, it is still not clear how performance indicators affect the results of this consultation since “the allocation of funds to courts remains broadly speaking disconnected to the performance achieved in courts management” (Kirat, 2010, p.2).

In Finland, the principal instrument for performance management is the annual central government budget, which includes resources and agreed targets and indicators to analyse the achievement of the targets. The Ministry of Justice, with the collaboration of the courts, establishes indicators to assess the operational performance of the courts (Aarnio, 2003).

However, “Even though these indicators were developed to allocate resources to particular court offices, their use for this purpose does not follow automatically. The indicators instead form a source of knowledge on which to base discussion around the negotiation of the budget of each court. They are also used during annual meetings to help the Ministry of Justice and the heads of each court office to define the objectives to be met” (Contini & Mohr, 2008, p.34).

The primary criteria in resource allocation are the estimation of the weighted caseload (using weighted scores) for the following year, also taking into consideration the available resources, which are the basis for the budget negotiation process between the Ministry of Justice and the Presidents of the courts.

Other indicators used in the budgetary negotiations are:

- Number of incoming cases
- Length of proceedings
- Number of postponed cases
- Number of pending cases
- Number of decisions
- Caseload of judges and courts
- The budgetary means of a court and the spending of the budget
- Quality indicators

The Finnish budget has a loose link between court performance and the allocation of resources. Nevertheless, performance targets are set in an open discussion between the Ministry and the Presidents of the courts through regular meetings that enhance mutual trust and the sharing of common goals.

All these indicators are calculated on the basis of a weighted caseload system: differences in the case structure are taken into account by grouping case categories into different difficulty categories, each of which has a fixed weighting coefficient. The coefficient was calculated by a working time monitoring conducted in 2009. Not only working time, but other criteria, such as the difficulty level, the number and the length of hearings necessary, or the number of judges composing the panel who takes the decision, were taken into account in calculating weight coefficients.

The Dutch budget allocation criteria for courts are more straightforward. The allocation is based on the formula “P x Q” (prices of cases multiplied by the number of cases resolved – the calculation is done per different case categories).

The budget allocation from the Ministry of Justice to the Judicial Council is based on 11 case categories, which consolidate 70 case categories that are then used to allocate funds from the judicial council to the various courts.

It is also worth noting that the budget allocated from the Ministry of justice to the Council with the price for quantity mechanism is 95% of the total budget. The 5% left is allocated by the Ministry of justice to the courts for mega cases or for other particular circumstances. Then, only 75% of the budget available to the Judicial Council is allocated to the courts through the price for quantity calculation; 25% is managed directly by the Council for information and communication technology projects and for building rents.

## Funding the Judiciary: how budgeting systems shape justice

The Ministry of Justice decides the prices for case categories every three years, and quantities are negotiated with the Council every year on the forecasted number of resolved cases. The Council sets both prices and quantities every year mainly by forecasted caseload and courts' outputs. These prices are then used to allocate funding to the courts.

In the last years, some "quality measures" have been integrated into the calculation of prices per case category. For example, the number of cases reviewed by another judge, or the number of cases that are decided by a panel of judges, can increase the price per case negotiated with the Ministry of Justice. However, the eventually increased prices for a better "quality" in deciding cases leave each court the discretion to have the case reviewed by a second judge or decided by a panel of judges. In this way, each court management board has the flexibility to play with the court's costs and its budget.

Each court receives the same amount of money for a given case category. Courts that manage to keep their real costs low for the case category can thus retain a surplus. In this way, there is an incentive for courts to reduce costs (De Rechtspraak, 2014). Courts that produce more than forecasted receive 70% of the agreed price on the surplus of cases. Courts that produce less than expected must return 70% of the agreed price of the unsolved cases in an "equalization account" managed by the Council for the Judiciary. However, it must be considered that the overall budget for the judiciary is prepared by the Ministry of Finance and the Judicial Council, and the amount set will not change if there is an increase or a decrease in production during the year.

Generally speaking, in Europe, only Finland, Latvia, Republic of Moldova, the Netherlands and UK – England and Wales are using the number of resolved cases as one of the main criteria for allocating resources to courts, meaning that they are implementing some forms of performance-based budgeting (CEPEJ, 2022, p.29)

### 4.1.3. Court management

One of the main features of the budgetary reform in the Netherlands is the autonomy of the courts, which are self-administering organizations under the supervision of the Council.

Each court has its management board, which is in charge of the general management. The board is composed of the president of the court, the director of operations (usually a person with a managerial background), and another judge of the court appointed by the Council (Consultative Council of European Judges, 2016). The management board is in charge of the allocation of resources within

## 4. Budgeting models

the court. No amount is earmarked, which means that the board has a large discretion about how to spend the money and can obtain additional resources if the court solves more cases than planned.

As salaries represent around 75% of the total court expenses and the revenue is calculated on resolved cases, the leverages that court management can use to increase the court's budget and/or decrease the costs are: a) stimulating judges' production to increase the number of cases resolved, b) moving judges within the court based on the caseload, c) hiring staff from temporary recruitment agencies to increase productivity, d) not replacing retired judges to decrease the cost per case, e) moving judges, only with their consent, to other courts and adding the judges' salary costs to these latter courts, f) moving cases from an overwhelmed court to another and receive financial compensation for this.

Finnish courts have an executive board, too, composed of the heads of departments and representatives of staff. Its function is purely consultative, supporting the president in its decisions. Unlike in the Netherlands, the budgetary autonomy of the Finnish courts is limited since only 10% of resources are directly managed by the court – these resources are mostly used for office supplies and judicial training. If they need extra resources to finance some innovation projects or to cope with unexpected necessities (e.g. a sudden increase in the number of incoming cases), they can ask the Ministry of Justice directly that, after discussion, can provide the resources needed. If they save money at the end of the year, they can keep it for the next year.

In France, according to Kirat (2010), the situation is quite more complicated. If theoretically, one of the purposes of the LOLF was to empower the court managers by giving them autonomy, in practice, court presidents have a very small leeway in the administration of the resources. Each program is divided into operative budgets under the responsibility of the courts of appeal chiefs. The chiefs of the courts of appeal, after negotiation, allocate the resources as a lump sum to the district courts. These sums are related to finance legal expenses such as telephone tapping or forensic evidence. If the court saves money, this money is not returned to the court. Furthermore, the transfer of responsibility to the heads of the courts was not supported by an adequate number of additional staff resources trained for managerial functions.

In Italy, there is a “dual leadership” where the managerial role is split between the president of the court and the court manager. Court presidents are formally the heads of the courts, and they are responsible for the organization of the judges' activities, while court managers are in charge of the administrative aspects related to financial and staff resources management. However, since courts are not budgetary autonomous, the role of court presidents and managers in resource management is quite limited. Since the management of human resources, rents and facilities, furniture, building maintenance, ICT, and technologies is centralised, court managers are only dealing with office



## Funding the Judiciary: how budgeting systems shape justice

supplies. Regarding “judicial expenses” (wiretapping, custody of seized properties, translation and interpretation, reimburses for experts and witnesses etc.), they are covered by the Ministry of Justice at the request of the courts.

### 4.2. Conclusions and discussion

Some positive impact on the functioning of justice is already emerging at the first stage of analysis.

One of the most immediate and visible effects of the French LOLF was the reduction of costs related to outsourced technical services, such as phone tapping, translation and interpretation, towing services, etc. (Marshall, 2008, p.126). This result has been reached by including these expenses in the court budget under the responsibility of the courts (formerly, they were managed at the central level). This sense of ownership and the operational management by the court has allowed decreasing the costs without compromising the quality of service.

In Finland, resource and judges’ accountability have increased. The budgeting system has enabled the Ministry to “coordinate the principles of allocation and ensure equality and objectives rules” (Pekkanen et al. in Contini et al. 2017, p.44). Through the weighting caseload scores, apparently, there is a more balanced resource distribution among courts, with an increase in allocative efficiency. A further result is the increased transparency of the courts before the citizens<sup>13</sup>.

In The Netherlands, the performance-based budget has made the resource allocation process more transparent and based on clear and shared criteria, which contribute to improving allocative efficiency.<sup>14</sup> According to the Court of Audit: “Since the introduction of performance-based funding, the cost of a court case stabilized after having increased for a long period of time (1983-2002), and the cost differences between courts and cases have declined. It is reasonable to assume that this is due in part to the introduction of performance-based funding”.<sup>15</sup>

However, in all three countries, although to different degrees, judges are blaming the performance budgeting system to be the cause of too much pressure on efficiency, to the detriment of the quality of the decision.

In France, the use of performance indicators was criticized by judges because indicators “do not reflect the reality of the judicial activities within the courts” (Kirat, 2010, p.5), while some indicators, like the appeal reversal rate, do not seem to be a good proxy of judicial quality. Judges also expressed concern about the funding mechanism: “the risk is that courts which may face some

<sup>13</sup> Interview with Tuomas Nurmi (President of the Helsinki district court) – 28 August 2017

<sup>14</sup> Interview with Jos Puts (Council for the Judiciary in the Netherlands) – 11 April 2018

<sup>15</sup> <https://english.rekenkamer.nl/publications/reports/2016/04/21/funding-the-judiciary-system-consequences-for-efficiency> last access November 2022



## 4. Budgeting models

difficulties, because of a very high workload of judges or numerous vacancies for judges, will receive fewer funds because of their bad results which may weaken them even more and make them less attractive for new judges to come.” (ENCJ, 2016, p.116 Annex II)

Some Finnish judges have considered the imposition of result targets as a threat to their independence (Aarnio, 2003), and they retain that the pressure on efficiency would shift their attention to the number of cases rather than on their quality. This pressure can lead to the dysfunctional effect: “due to productivity pressures, there can be situations where the present outflow is maximized by overly solving simpler cases.” (Pekkanen et al. in Contini et al., 2017, p.45).

Pressures on productivity and efficiency are also perceived by Dutch judges, who are complaining about a higher caseload caused by budgetary constraints, a strict schedule of hearings that reduce the time allocated to case definition and, therefore, reduced attention to the quality of judgment (Langbroek & Westenberg, 2018, p.192). Other critics regard the possibility that too much pressure on judges’ productivity can undermine their independence.

For these reasons, it is important that performance-based budgeting is grounded on a proper performance management system, which takes into account and balances different values and indicators of quantitative and qualitative performance.

The change in budgeting approach can also be affected, but it can also affect, the organizational governance of the judiciary. For example, in Finland, a Court Administration Agency has been established at the national level, and in the Netherlands, the new budget model contributed to creating more autonomous courts managed by a local management board. Changes in the allocation of resources can also lead to changes in the case assignment systems or in setting case priorities, which are two typical points of attention for judicial independence.

In three case studies (France, Finland and the Netherlands) here considered, the new budgeting processes have affected the court governance and functioning, but it is not clear yet if and how it may have affected judicial independence and judge’s impartiality. Some more hints on this issue can be drawn from the Netherlands, which has developed a budget model that offers the tightest link between performance measures and funding allocation. In the Netherlands, it may be safely said that the judiciary, as a whole, and the courts are more independent from other branches of Government, in particular, the executive. The Judicial Council, although in consultation with the Ministry of Justice, plays a fundamental role in budget appropriation and resource allocation to courts, which are based on clear and evidenced-based criteria using a Purchaser-provided budget model. In this way, the judiciary has a fact-based argument and clear performance indicators about what it may deliver based on the availability of resources. This cannot be said for the other two countries (France and Finland) included in this study because the other two budget models applied

## Funding the Judiciary: how budgeting systems shape justice

do not have a tight connection between performance and funding. Therefore, it is even more difficult to understand if the budget process has affected judicial independence.

What stands out at this early stage is the two-fold impact of performance budgeting on judicial independence: If, on the one hand, a budgeting model based upon transparent criteria can reduce the discretion in distributing funds and guarantee external judicial independence, a budgeting model too much focused on production can divert attention from the quality and undermine the judges' internal independence.

The issue at stake is the relationship between judges and court management. Judges are public professionals embedded in a working environment: As public professionals, they need to be accountable. The role of court management is to ensure accountability and efficiency without interfering with judicial autonomy.

The relationship between management and professionals in courts is quite different from the other professional bureaucracies: Judges must safeguard their independence, and court managers are often professionals with few managerial skills and little leeway to intervene in professional activities, which are regulated by norms. Notwithstanding this, in some countries, such as The Netherlands, managers are accused of interfering with judicial autonomy by excessively standardizing working processes. One of the main sources of tension between managers and professionals comes from performance measurement, especially if it is strictly related to funding.

In The Netherlands, where a strict performance-based budget model is in place, a lack of autonomy of judges in organizing their work is perceived, together with pressure on efficiency and productivity and a lack of attention to quality. The economic perspective is dominant (Langbroek & Westenberg, 2018, p.109), and the attention is focused only on outputs. This may lead managers and professionals away from outcomes and basic values. Furthermore, a lack of communication between judges and court management can disturb the relationship between the two actors. To cope with these issues, the Judicial Council is introducing some quality measures and targets and developing initiatives to ensure the improvement of quality. The judges themselves have developed professional quality standards for each and every different type of procedure, also to back up their claim for extra funds.

In Finland, where a less strict performance budgeting is in place, judges seem to feel less pressured, and they can conserve a large scope of autonomy in managing their working time and their priorities. The open dialogue between judges and management, and between management and the Ministry of Justice, seems to be a key element to ensure a convergence of vision and objectives. Not only outputs but also inputs, together with effectiveness and quality indicators, are considered, and this makes the budgetary system more flexible and responsive to the citizens' needs. A reform process,

## 4. Budgeting models

creating a Court Administration Agency that will deal with budgetary issues, is ongoing so that the effects can be appreciated only in the next months. To solve the tension between management and professionals, a balance needs to be found.

In the following two paragraphs, the impact of budgetary models on resource distribution and judges' behaviour will be described.

## 5. Allocation of resources and performance variability

The previous chapter reported interviews that suggested that a performance budgeting approach has improved transparency and efficiency in resource allocation. The hypothesis presented here is that a transparent and objective resource allocation system derived from a performance-based budgeting approach can enhance equity in resource distribution across courts and ensure equality in access to courts for litigants. Overall, this chapter aims to contribute to understanding the impact of performance budgeting on resource allocation and court performance, shedding light on the potential for enhancing equity and efficiency within the judiciary.

Over the last 50 years, much research has examined the impact of performance measures on resource allocation (Brumby & Robinson, 2005; Lu et al., 2015; Mauro, 2017), while few studies have investigated the impact of performance budgeting on improvements in efficiency and effectiveness (Brumby & Robinson, 2005; Curristine, 2007). The problem with this kind of analysis stems from the impossibility of separating performance budgeting from other factors influencing efficiency, together with difficulty in collecting “before and after” data, since “before” data are often missing. Subjective assessment of impact, therefore, dominates the literature (Brumby & Robinson, 2005; Hood, 2015).

The present work adopts a different approach, observing the effects of different budgeting models on resource distribution and variation in efficiency, productivity and timeliness among courts. This issue is particularly relevant in the judiciary, where the system’s priority must be the equitable allocation of adequate resources (proportional to courts’ needs) to guarantee equality in the treatment of citizens before the law, especially with regard to the timeliness of decisions.

This part of the chapter tries to answer the following research questions:

- Does the PF-based budgeting change and balance the allocation of resources?
- Does PF-based budgeting contribute to an equal performance of courts and judges?

As already mentioned, based on the recommendations of the Venice Commission, a resource allocation system which is based upon transparent and objective criteria, the setting of which involves the Judiciary, contributes to enhancing judicial independence.

The hypothesis here is that a transparent and objective resource allocation system, which derives from a performance-based budgeting system, can also improve equity (proportionality) of resource distribution among courts and equality in access to courts and courts efficiency at a national level.

## 5. Allocation of resources and performance variability

To verify this hypothesis, resources and performance indicators of first-instance courts in the three countries (Finland, Italy and the Netherlands) are calculated and compared.

As previously described, the Italian budgeting model bases the funding on the historical number of incoming cases with an allocation mechanism that is not flexible and is based on “staffing plans” the Finnish budgeting model considers both the number of forecasted incoming cases and the number of resolved cases per judge and staff (input and output) and is based on dialogue and yearly discussions between Ministry of Justice and courts, while the Dutch budgeting model calculates the budget on the number of resolved cases per court (output).

Which one of these models best balances the performance of courts and judges? In which country is there less variability of efficiency and effectiveness among courts? In other words, which budgeting model better guarantees equity in resource distribution and equality in timeliness and access for the citizen?

### 5.1. Coefficient of Variation

The variability of efficiency and effectiveness among courts has been measured using the Coefficient of Variation.

The Coefficient of Variation (CV) is often used as a measure of inequality. It describes the relative variation of a sample; it is usually expressed as a percentage, and it is not affected by the unit of measure used. It is the ratio between the standard deviation and the mean (of a population or its sample).

$$CV = \frac{\textit{Standard Deviation}}{\textit{Mean}}$$

Since it is expressed as a percentage, its lowest value is 0% – meaning that in that particular sample, there is no variation; there is no upper limit (because the standard deviation could exceed the mean), meaning that the value can be over 100%.

As explained by Paul Allison (1978), this indicator is preferable to other indicators (such as the sample variance or the sample standard deviation) for the following reasons:

- a) It is not affected by the unit of measurement (the unit of measurement is cancelled by dividing two numbers expressed as identical units), so it can be used to compare different data with different units of measurement;
- b) It is scale-invariant (as the numerator and the denominator are dimensionally equivalent), meaning that it is not subject to a proportionate increase or decrease in the scores awarded. Therefore it can be used to compare different quantities measured in different scales.

## Funding the Judiciary: how budgeting systems shape justice

Although comparing the standard deviation of two different data sets is meaningless, the CV can serve this purpose. On the one hand, CV is easy to calculate and understand. However, on the other hand, the fact that it does not have an upper bound may pose some problems in interpreting the results since there is not an “acceptable value” (that must be set by the researcher). Therefore, it can be very useful to compare data from different countries.

The CV has been widely used to compare income and social inequality across nations in economics and sociological studies and to compare variation across work groups by organizational researchers (Bedeian & Mossholder, 2000). This measure has often been used in fiscal management studies as a measure of fiscal equalization (OECD, 2007b).

### 5.2. Results

In this study, the CV is used to compare equity in resource allocation and equality in courts' performance across three countries. Performance indicators of the Finnish, Italian and Dutch first-instance courts will be described and analysed. The names of the courts have been anonymized. The three countries in question are very different as regards the number of courts, their size, their competence, the number of judges and staff and the volume of cases. The following table has been drafted based on CEPEJ data from 2016, and it highlights some of the overall data relating to the Finnish, Italian and Dutch courts in absolute values and standardized values.

**Table 9: First instance courts - comparing Finland, Italy and the Netherlands by means of CEPEJ data 2016**

	<b>Finland</b>	<b>Italy</b>	<b>Netherlands</b>
Courts' budget (all courts)	€ 285.425.000	€ 2.971.094.830	€ 1.046.578.000
	€ 51,86 per inhabitant	€ 49,04 per inhabitant	€ 61,27 per inhabitant
Number of general first-instance courts	27	140	11
	0,49 per 100k inhabitants	0,23 per 100k inhabitants	0,06 per 100k inhabitants
Competence of first-instance courts	District courts do not deal with administrative, insurance and important commercial cases, which are dealt with by specific courts	District courts do not deal with administrative and tax cases, which are dealt with by specific courts	District courts also deal with administrative and tax cases
Professional Judges (first instance)	834	4.878	1.788
	15,1 per 100k inhabitants	8,0 per 100k inhabitants	10,5 per 100k inhabitants
Non-judge staff	2,170	21,182	7,317
	39,4 per 100k inhabitants	35,0 per 100k inhabitants	42,8 per 100k inhabitants
Incoming civil and commercial cases (first instance –litigious)	8.587	1.534.837	161.171
	0,16 per 100k inhabitants	2,57 per 100k inhabitants	0,94 per 100k inhabitants
Pending civil and commercial cases (first instance –litigious)	9.530	2.687.388	Not available
	0,17 per 100k inhabitants	4,44 per 100k inhabitants	Not available

## 5. Allocation of resources and performance variability

Disposition time of civil and commercial cases (first instance –litigious cases)	252 days	514 days	121 days
Incoming criminal cases (first instance)	51.645	1.445.115	269.677
	0,94 per 100k inhabitants	2,39 per 100k inhabitants	1,58 per 100k inhabitants
Pending criminal cases (first instance)	16.024	1.423.431	121.300
	0,29 per 100k inhabitants	2,35 per 100k inhabitants	0,71 per 100k inhabitants
Disposition time criminal cases (first instance)	118 days	310 days	128 days

Of the three countries, the Netherlands has the highest court budget per inhabitant, followed by Finland. The Netherlands is also the country with the most non-judge staff per 100.000 inhabitants and the lowest number of first-instance courts per 100.000 inhabitants.

Finland is the country with the highest number of first-instance courts per 100.000 inhabitants and the highest number of judges per 100.000 inhabitants, while Italy stands out for having the highest disposition time (more than double the other two countries) and the highest volume of incoming and pending cases per 100.000 inhabitants; at the same time, it is the country with the lowest court budget per inhabitant and the fewest judges and non-judge staff per 100.000 inhabitants.

Based on national data, the following tables show the mean values of five indicators for an average three-year period (2015–2017). Data from each court are available in Annex I.

- The first two indicators concern resource allocation. The “cost per caseload” indicates how much funding is allocated to each case to be resolved (incoming and pending cases), and the “caseload per judge” shows the total caseload (incoming and pending cases at the beginning of the year) assigned to each judge.
- The last three indicators are measures of efficiency, intended as the ratio between input and output. The “cost per resolved case” calculates how much it costs to solve a single case; the “resolved cases per judge” and the “resolved cases per staff unit” are a measure of judges’ and non-judge staff’s productivity (how many cases per year they resolve).

## Funding the Judiciary: how budgeting systems shape justice

Table 10: Finland - courts' performance indicators (2015-17 average) – full data in Annex I

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
Maximum	€ 380	1.600	€ 505	1.216	361
Minimum	€ 174	615	€ 218	461	165
Mean	€ 217	1.294	€ 279	1.011	295
St. dev.	€ 39	189	€ 56	165	42
CV	18%	15%	20%	16%	14%

In Finland, each unsolved case (incoming and initial pending cases) is given funding of € 217 on average, while each resolved case costs € 279 per year on average, with a maximum of € 505 in “FN01<sup>16</sup>” court and a minimum of € 218 in “FN8” court. Each judge deals with around 1.294 cases (new and pending cases) per year on average. The maximum caseload per judge is 1.600 cases in “FN23” court; the minimum is 615 in “FN01” court. Each judge resolves 1.011 cases per year on average; the maximum is 1.216 resolved cases per year (FN23), and the minimum is 461 in “FN01” court. Each staff unit supports the resolution of 295 cases on average. If we consider 20% of CV as acceptable<sup>17</sup>, in Finland, there is low variability in the distribution of resources and performance.

Table 11: Italy - courts' performance indicators (2015-17 average) – full data in Annex I

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
Maximum	€ 465	4.272	€ 1.090	1.389	515
Minimum	€ 107	753	€ 249	321	94
Mean	€ 198	1.862	€ 409	887	277
St. dev.	€ 52	500	€ 110	181	77
CV	26%	27%	27%	20%	28%

In Italy, each unsolved case is funded with € 198 on average, while each resolved case costs € 409 per year on average, with a maximum of € 1.090 in “IT023” court and a minimum of € 249 in “IT020” court. Each judge deals with around 1.862 cases (new and pending cases) per year on average. The maximum caseload per judge is 4.272 cases in “IT116” court; the minimum is 753 in “IT023” court. Each judge solves 887 cases per year on average; the maximum is 1.389 resolved cases per year (IT020), and the minimum is 321 (IT023). Each staff unit supports the solving of 277 cases on average. In Italy, there is high variability in the cost per case and in the number of resolved cases per non-judge staff, meaning that resources are unevenly distributed, and their performance (especially as regards non-judge staff) is uneven.

<sup>16</sup> Each court has been anonymized and its name has been replaced with an identifier

<sup>17</sup> Since the CV has no upper limit, there is not a universally accepted level of variability, but it must be set by the researcher. However, in the social sciences, values under 20% are commonly considered acceptable. In OECD (2007b), values under 20% are indicated as “low variability”.



## 5. Allocation of resources and performance variability

**Table 12: The Netherlands – courts’ performance indicators (2015-17 average) – full data in Annex I**

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
Maximum	€ 342	1.569	€ 446	1.240	442
Minimum	€ 262	1.146	€ 312	882	328
Mean	€ 288	1.383	€ 363	1.100	380
St. dev.	€ 24	120	€ 37	101	36
CV	8%	9%	10%	9%	10%

In the Netherlands, each unsolved case is given funding of € 288 on average, while each resolved case costs € 363 per year on average, with a maximum of € 446 in “NL01” court and a minimum of € 312 in “NL03” court. Each judge deals with around 1.383 cases (new and pending cases) per year on average. The maximum caseload per judge is 1.569 cases in “NL04” court; the minimum is 1,146 in “NL01” court. Each judge solves 1,100. cases per year on average; the maximum is 1.240 resolved cases per year (NL04); the minimum is 882 (NL01). Each staff unit supports the solving of 380 cases on average. The CV is very low, meaning that resources are rationally distributed, and court performance is balanced across the country.

The following tables present the “Calculated Disposition Time” as an estimate of the length of proceedings by case categories. Each country classifies its cases into different categories<sup>18</sup>.

**Table 13: Finland – Calculated Disposition Time by category – (2015-17 average)– full data in Annex I**

	Criminal cases	Other criminal cases	Coercive measures	Extensive civil cases	Summary cases	Divorce cases	Non-contentious civil cases	Restructurings of debts	Bankruptcy cases
Max	212	84	952	459	214	247	231	282	1016
Min	59	18	38	159	37	217	46	94	53
Mean	115	49	210	263	83	231	82	188	296
St. dev	37	16	205	75	36	9	33	50	236
CV	33%	33%	98%	28%	44%	4%	41%	26%	80%

In Finland, the longest proceedings are bankruptcy cases (296 days on average), extensive civil cases (263 days) and divorce cases (247 days), while the shortest is non-contentious civil cases (82 days), summary cases (83 days) and other criminal cases (49 days). The “Calculated disposition time” indicator is sensitive to the number of pending cases: the variability among courts in terms of the average lengths of proceedings of the same category depends on the varying number of pending cases.

There is great variability in the length of some categories of proceedings in courts (coercive

<sup>18</sup> The “disposition time” calculated using national data differs from the “disposition time” calculated by the CEPEJ, because the CEPEJ aggregates case categories by including different sub-categories.

## Funding the Judiciary: how budgeting systems shape justice

measures, bankruptcy and enforcement matters), while others have a lower variability (divorce cases, non-contentious civil cases, criminal cases).

**Table 14: Italy – Calculated Disposition Time by category – (2015-17 average) – full data in Annex I**

	Criminal cases	Civil cases	Enforcement	Bankruptcy	Labour cases	Summary cases	Other cases
Maximum	1.506	2.211	235	2.020	1.240	235	1.967
Minimum	119	250	23	356	242	23	136
Mean	415	702	75	830	536	75	732
St. dev.	267	325	43	263	175	43	283
CV	64%	46%	57%	32%	33%	57%	39%

In Italy, the longest proceedings are bankruptcy cases (830 days on average, maximum 2.020 days in “IT061” court, minimum 356 days in “IT074” court), civil cases (702 days) and other cases (723 days), while the shortest are summary cases (75 days).

The length of proceedings of some categories varies extensively in the courts (criminal cases, labour cases), while others have a lower variability (bankruptcy).

**Table 15: The Netherlands - Calculated Disposition Time by category – (2015-17 average)– full data in Annex I**

	Commercial cases	Family cases	Other civil cases	Administrative cases	Immigration cases	Tax cases	Criminal cases
Maximum	517	71	50	216	97	618	223
Minimum	349	50	21	127	58	104	129
Mean	429	67	31	169	79	296	169
St. dev.	64	19	8	26	12	171	31
CV	15%	28%	27%	15%	15%	58%	18%

In the Netherlands, the most prolonged proceedings are commercial cases (429 days on average) and tax cases (296 days), while the shortest are family cases (67 days).

All categories have low variability, except tax cases (Calculated disposition time varies from a maximum of 618 days in “NL05” court to a minimum of 104 days in “NL10” court).

In Italy, there is high variability in the cost per case and in the number of resolved cases per non-judge staff unit, meaning that resources are unevenly distributed, and their performance is uneven. In the Netherlands, the CV is very low, meaning that resources are rationally distributed, and court performance is balanced across the country. The following tables present the “calculated disposition time” as an estimate of the length of proceedings by case categories. Each country classifies its cases into different categories. “Calculated disposition time” is sensitive to the number of pending cases: variability among courts, in terms of the average length of proceedings within the same category, depends on the varying number of pending cases. In Italy, the length of proceedings of

## 5. Allocation of resources and performance variability

some categories varies extensively in the courts (e.g. criminal cases and labour cases), while others have less variability (bankruptcy). In the Netherlands, all categories have low variability except tax cases.

The coefficient of variation (CV) can be used to compare data from different countries since it is not subject to scale and unit.

The CV of the two distribution indicators gives a measure of the disparities in resource allocation and case distribution among courts, while the CV of the three efficiency indicators gives a measure of disparities in the productivity and efficiency of the courts. Finally, the effectiveness indicator gives a measure of the disparities in courts' timeliness. The following table compares the CV of all the indicators for the three countries. In Finland and the Netherlands, the efficiency indicators have also been calculated, considering the weighted caseload. Since the weighting principles in the two countries are not the same, performance indicators cannot be compared, but the CV can. Therefore, the table also shows the CV of the weighted cost per case, case per judge and per staff unit for Finland and the Netherlands.

**Table 16: Coefficient of Variation of the distribution, efficiency and effectiveness indicators - Finland, Italy and the Netherlands – (2015-17 average)**

Coefficient of Variation (CV) of:	Finland	Italy	Netherlands
Cost per caseload	18%	26%	8%
Caseload per judge	15%	27%	9%
Cost per resolved case	20%	27%	10%
Weighted cost per resolved case	17%	N/A	6%
Resolved cases per judge	16%	20%	9%
Weighted resolved cases per judge	16%	N/A	7%
Resolved cases per non-judge staff	14%	28%	10%
Weighted resolved cases per non-judge staff	13%	N/A	8%
Civil calculated disposition time	28%	46%	14%
Criminal calculated disposition time	33%	64%	18%

The lowest variability can be seen in the Netherlands (10% variability in resources' distribution, 6-10% variability in the courts' efficiency, 16-17% variability in timeliness), a medium to low variability in Finland (15-18% in resources' distribution, 13-20% in courts' efficiency and 28-33% in timeliness) and the highest variability in Italy (26-27% in resources' distribution, 20-28% in courts' efficiency and 46-64% in timeliness).

High variability in "cost per caseload" means that resources are not distributed in proportion to the number of incoming and pending cases and that they are allocated regardless of the courts' workload. High variability in "caseload per judge" means that workloads are not balanced among judges and staff in different courts. In these cases, we can say that the resource allocation is

inequitable. High variability in “cost per resolved case” and “resolved cases per judge and staff unit” means that courts, judges and staff of the same country have different (unequal) levels of efficiency and productivity. High variability in “calculated disposition time” means that the length of proceedings is different among courts in the same country. From a citizen’s point of view, this entails geographical inequalities in the timeliness of decisions and access to justice.

### 5.3. Conclusions and Discussion

From these results, we can conclude that there seems to be a relationship between variations in resource allocation and variations in efficiency and timeliness. This means that where resources are unfairly distributed among courts, efficiency is unbalanced, and the length of proceedings is unequal among courts. This results in inequality in terms of the services provided to citizens.

Two initial conclusions can be identified from these results:

- There seems to be a relationship between the variation of resource allocation and the variation in efficiency and timeliness: this means that where the resources are unfairly (meaning not according to the court’s needs) distributed among the courts, the efficiency is unbalanced and the length of proceedings is unequal among the courts. This results in inequality in terms of the services provided to the citizens.
- The weighted indicators are less variable than the simple indicators; this means that the weighted caseload system in use in Finland and the Netherlands functions in order to obtain a more equitable caseload allocation and equal performance distribution.

As the length of proceedings depends on the number of resolved and pending cases, it is strictly related to judicial caseload and productivity<sup>19</sup>. Generally speaking, many factors can influence judicial productivity: ICT development, court organization, judges’ behaviour and skills, working conditions (workload, resources) etc. Budgeting, in general, and performance budgeting, in particular, can influence many of these factors. A performance budgeting model related to a proper performance management system reflects a managerial and organizational culture; an adequate budget can improve working conditions through proper judges’ assistance, ICT tools, training etc.; judges’ behaviour can be affected by the budgeting model as it puts emphasis and pressure on efficiency. The latter point can also bring negative effects, with too much pressure on efficiency having a distorted effect on judges’ behaviour and compromising the quality of their work. All these aspects will be taken into consideration in the following part of the research (Chapter 4.3).

Judges’ productivity can also be negatively affected by individual caseloads as many pending cases require continuous activities (hearings, communications and case management), which distract

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<sup>19</sup> Since disposition time indicator is calculated as the ratio between pending cases and resolved cases, to a high caseload corresponds high disposition time, to high productivity corresponds lower disposition time.

## 5. Allocation of resources and performance variability

judges from focusing on decisions; at the same time, a low number of pending cases can lead judges to feel less pressured and to solve fewer cases. Resource allocation plays an important role in determining judges' caseloads and balancing these among courts. In a context where territorial disparities are significant, unfair resource distribution can exacerbate geographical inequalities. This is particularly evident in Italy, where the differences in courts' performance are well known (Carmignani & Giacomelli, 2009). The causes are historical and manifold, and they cannot be traced back to the resources' distribution only. However, an allocation system that is not flexible and relies on historical data cannot help in any way to reduce the differences and guarantee an adequate service to all citizens.

## 6. Pressure on judges

As underlined at the end of Chapter 4., the performance budget seems to be related to an improvement in overall efficiency (allocation of resources and costs reduction), but, at the same time, it is seen by some judges as a threat to judicial autonomy, independence and quality.

In particular, some forms of performance budgeting are blamed for putting too much pressure on efficiency, causing a detriment of quality, enhancing the role of managers and reducing the autonomy of judges, imposing a strict organisation that can undermine judicial independence.

All these elements are mainly subjective and related to judges' perceptions. To observe the effects of performance budgeting on judges' perception, preliminary interviews and a survey have been conducted.

The first part of this chapter is based on literature analysis and the first interviews with contact persons in Finland, Italy and the Netherlands. The second part is based on a survey conducted carried out among the judges of the three countries.

In this first part, the results of the first interviews are reported.

### 6.1. The effects of performance budgeting on judges' autonomy

In both Finland and The Netherlands, performance-based budgeting has had some positive impacts on the functioning of justice. It has led to a more rational and fair distribution of resources among courts, increased judges' accountability, and improved transparency in resource allocation. In Finland, the budgeting system has resulted in a more balanced distribution of resources among courts, while in The Netherlands, it has contributed to stabilizing the cost of court cases and reducing cost differences between courts.

However, the research has also identified challenges related to judicial independence. On one hand, a transparent budgeting model can reduce discretion in resource allocation and enhance external judicial independence. On the other hand, a budgeting model heavily focused on production and efficiency may divert attention from quality and undermine judges' internal independence.

The relationship between judges and court management is crucial in this context. Judges, as public professionals, need to be accountable, while court management's role is to ensure accountability and efficiency without interfering with judicial autonomy. However, tensions can arise, especially if the performance measurement is closely linked to funding decisions.

As shown in the following paragraphs, in The Netherlands, where a strict performance-based budget model is in place, judges have reported feeling less autonomy in organizing their work and experiencing pressure on efficiency and productivity at the expense of quality. In contrast, Finland's less strict performance budgeting approach allows judges to retain more autonomy in managing their working time and priorities. The open dialogue between judges, management, and the Ministry of Justice appears to be a critical element in aligning vision and objectives and considering not only outputs but also inputs, effectiveness, and quality indicators.

### 6.1.1. Finland

After the introduction of the “management by results” system in Finland, including the performance budgeting model, some judges expressed their disagreement accusing this system of being a threat to their independence and to focus attention only on efficiency, to the detriment of the quality of the decision. The supreme overseer of legality in Finland, the Chancellor of Justice, in his response to such criticism, stated the following:

“The judiciary through its management by results system may not interfere with the objective and subjective independence of the courts in their decision-making and other application of the law, which is the real essence of the independent judicial power safeguarded in the constitution. The fact that general information about handling times, the number of cases to be resolved or similar data is written in the documents of individual courts dealing with management by results does not in itself lessen or endanger the independence of the court in reaching a decision in individual court cases. Even at the level of individual courts it is after all a question of documents expressing targets and measures to be undertaken at a still rather general level.”<sup>20</sup>

“Both the Ministry of Justice and the courts have found the experiences gained from the management by results system to be fairly positive. The system has influenced the planning of work in the courts, and for it to function properly the courts and especially the head judge and administrative staff must closely follow the volume of cases and identify potential problem areas. The system has also increased the knowledge the Ministry of Justice has about court operations and the degree to which legislative reforms have been implemented.”<sup>21</sup>

During my interviews in Helsinki, I did not find any criticism against this system. The budgeting system seems to be rather flexible, based on dialogue between the courts and the Ministry, with the possibility to ask for extra funds at any time of the year (when needed), and there are no negative

<sup>20</sup> See <https://rm.coe.int/ministry-of-justice-department-of-judicial-administration-the-finnish-/168078f3d2>. (last access November 2022)

<sup>21</sup> Ibidem.

## Funding the Judiciary: how budgeting systems shape justice

consequences if performance targets are not achieved. If the targets are not reached, it follows a discussion between the Court and the Ministry that can lead to a renegotiation of targets or a reallocation of temporary resources. It frequently happens that the court that does not reach the targets obtains more resources<sup>22</sup>. “The idea behind this thinking is the fact that the citizens are equal and they should not suffer because of less-performing courts. Therefore, we need to support them.”<sup>23</sup> For these reasons, court management does not seem to put pressure on judges for efficiency.

In the Helsinki District Court, the pressure comes from the workload and the backlog. Since the Finnish judicial budget has been cut over the years, and the number of incoming cases has remained the same or, in some cases, increased, the court is trying to be efficient by resolving the same number of cases with less money. To do that, court management is not pushing judges to decide more cases. “Judges have different skills and experience; someone is slower, and someone is quicker, but they all do their best.”<sup>24</sup> If a judge is disposing of a few cases, the court manager will discuss with her/him to know the reasons and find a joint solution. The assessment of judges is of an informal nature and based on so-called “development discussions or conversations” (Consultative Council of European Judges of the Council of Europe (CCEJ) 2016). Instead, court management is trying to make the procedures and praxis more efficient by standardizing the working methods of court clerks and other administrative staff. Obviously, a different organization of the work of clerks can impact the working methods of judges too, but this does not seem to interfere with judicial independence.

The non-judicial staff’s working procedures’ optimization is underway in the Market Court<sup>25</sup> as well. In the Market Court, there is no backlog, and the court management does not need to push on productivity because judges are already producing their best, motivated by their careers.

At the Supreme Court<sup>26</sup>, information about judges’ productivity is shared among judges, but this information is used to plan the activities, not to compare performance, so judges do not feel pressured.

A research paper presented at the 2018 EGPA conference by Tinaa Puolakka and Petra Pekkanen<sup>27</sup> deeply analyses the interaction between management and judges at the Insurance Court in Finland and how the management can manage the judges’ work without interfering with their autonomy. Judges perceive their autonomy as a source of motivation; they are autonomous in managing their case inventory, in managing priorities (which cases they want to prioritize), and in managing their working time. At the same time, intermediate managers are coordinating workflows, assigning cases

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<sup>22</sup> Interviews with Ministry of Finance and Ministry of Justice in Finland—27 August 2018.

<sup>23</sup> Interview with Ministry of Justice of Finland—27 August 2018.

<sup>24</sup> Interview with President of the Helsinki district court—28 August 2018.

<sup>25</sup> Interview with Court President and Permanent Secretary—Market Court of Finland—29 August 2018.

<sup>26</sup> Interview with Supreme Court - Judges of Supreme Court of Finland—30 August 2018.

<sup>27</sup> “Interplay between Judges and Managers in Managing Court Operations and Workflow”—presented in Lausanne at the EGPA Conference, 5–8 September 2018.



to departments and judges with balanced weights, influencing judges' self-management and intervening only in rare cases. A first-in, first-out method is suggested, but judges can decide to manage their files otherwise. The weekly targets setting and the sharing of single judges' performance data among judges are the main methods used to influence judicial performance. Only in extreme situations of poor performance do managers intervene, discussing with the judge and redistributing cases among judges.

### 6.1.2. The Netherlands

In The Netherlands, where the budget model that offers the tightest link between performance measures and funding allocation was developed, it may be safely said that the judiciary as a whole and the courts are more independent than the other countries from other branches of Government, in particular, from the executive. The Judicial Council, although in consultation with the Ministry of Justice, plays a fundamental role in budget appropriation and resource allocation to courts, which are based on clear and evidenced-based criteria using a purchaser-provider budget model. In this way, the judiciary has a factually based argument and clear performance indicators about what it may deliver based on the availability of resources. Even if external independence (independence of the judiciary from the executive) is safeguarded, the same cannot be safely said for internal independence (independence of the judge from the court management)<sup>28</sup>.

Pressures on productivity and efficiency are strongly perceived by Dutch judges, who are complaining about a higher caseload caused by budgetary constraints, a strict schedule of hearings that reduce the time allocated to cases disposition and, therefore, reduce attention to the quality of judgment (Langbroek et al. in Contini et al. 2017, p.297).

In 2012, as already mentioned, a group of 800 Dutch judges published a "manifesto" in which, among other issues related to the judicial map reform and courts restructuring, they complained about the financing system and its impact on their work. The main critique was about the work pressure and the stress over production and targets, with a lack of attention to the quality of the work and the judicial decision. These complaints were confirmed in 2016 (Langbroek & Westenberg, 2018). According to the program manager at the Council for the Judiciary, interviewed by Langbroek & Westenberg (p.156), "the financing system introduced strong work ethics in terms of production, which became ingrained in judicial mentality." According to the interviews, Dutch judges are not autonomous in managing their case inventory and their workload: The intermediate managers (team leaders) decide about the workload, and judges "just work on the files in the order they receive them (p.156)". Judges do not have enough influence on the organization of their work. The working process is assessed and can be optimized by the court management (Consultative Council of European Judges of the Council of Europe (CCEJ) 2016).

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<sup>28</sup> Regarding the difference between internal and external independence, see the Venice Commission [https://www.venice.coe.int/webforms/documents/?pdf=CDL\(2012\)035-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL(2012)035-e). – last access November 2022

## Funding the Judiciary: how budgeting systems shape justice

Furthermore, “according to the Council for the Judiciary, the source of dissatisfaction among judges is not the financing system, but the way it has been applied by the management boards of the courts,” putting too much emphasis on budget (Langbroek & Westenberg, 2018, p.157). In The Netherlands, judges are strongly influenced by the financing system and by the court management, and some changes in the budgeting policy (as proposed by the Ministry of Justice) to “restore the balance between money-driven policies and management on the one hand, and judges as professional on the other” will be needed (Langbroek & Westenberg, 2018, p.157). One solution has been the integration of quality measures in the “price per minute” to counterbalance production measures. Given the budget, the courts' board can decide to diverge from the financial standard and apply a quality standard. Applying the quality standard may cost more court time than according to the financial standard. Therefore, applying quality standards requires a higher price per minute, and the courts can use that to negotiate a higher budget within the  $P \times Q$  parameters. For example, if cases are reviewed by another judge or are decided by a panel of judges, their prices will increase.<sup>29</sup>

Other issues raised by Langbroek are the confusion of roles between judges and managers, the lack of managerial skills, the inability of the judicial members of the board of managers to counteract the financial pressures by the Council, and the failed communication between judges and managers, where managers impose their decision on the organization “from above” without discussing them with judges first.

In the two countries, although to different degrees, judges are blaming the performance budgeting system and the managerialisation of justice to be the cause of too much pressure on efficiency, to the detriment of the quality of the decision.

### 6.1.3. Italy

In Italy, a performance-based budget is not in use. However, even if courts' funding is not directly related to courts' and judges' performance, the phenomenon of “managerialization of justice” is still present.

Before 2000, the autonomy of the single judge was extended to the organisation of their work, the court president and the presidents of divisions were considered as “*primus inter pares*” with coordination functions, while hierarchical rules and practices limited the chiefs' powers. Between 2000 and 2016, there has been a “change in the paradigm” (Vecchi, 2019, p.39) driven by the Judicial Council, resulting in a different approach to performance measurement and management. In particular, court presidents were asked to develop strategies and plans to improve court performance and to establish targets at the division and judge's levels.

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<sup>29</sup> Interview with Financial Director of Council for the Judiciary in The Netherlands—11 April 2018.

## 6. Pressure on judges

As regards the figure of the chief of the court, their managerial role in improving performance and reducing delays through target setting is recognised, even if every decision regarding the caseload and the organization of the work of the judges needs to be discussed with the judges first. Performance targets are not imposed by the above, but they are discussed and agreed upon among the judges.

Judges are free to organise their time, their role and their hearings as they wish. In some courts, the court's president and the presidents of the division have a role in standardising practices among judges to improve organizational efficiency. In other courts, every judge is free to establish their own practices, although the organisation can be chaotic. Verzelloni (2012) studied the different practices of 16 judges in 4 different courts and found that every Italian judge "builds his/her personal organization of work on a daily basis" (p. 7), especially as regards organization and timing of hearings and adjournments, but also how to prioritise cases in their role.

Since that article was written, the approach has changed towards increased attention to good organizational practices that can improve productivity.

Nowadays, as in Finland and the Netherlands, even without a performance budgeting system, Italian judges are complaining about the high emphasis on efficiency. At the High School of Magistrates, during the different editions of the course for candidates for the role of president of the court and chief prosecutor, many magistrates were complaining about the excessive use of quantitative and productivity measures to evaluate courts and prosecutor offices' efficiency<sup>30</sup>. "We are not a factory" or similar sentences were the main form of complaint. In general, too much pressure on the efficiency and speed of decisions and scarce attention to the quality of decisions and to different good practices (such as judicial conciliation) were the central issues raised by judges. The issue of backlog and delays was mostly considered as an inheritance of the past, caused by a lack of resources and bad organisation.

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<sup>30</sup> I've been working as a teacher at the Italian High School for Magistrates from 2014 to 2020 at the course of "monitoring and evaluation" for the magistrates who were candidate for the roles of court president and chiefs of prosecutor offices

### 6.2. The effects of managerialisation of justice on judges' autonomy and job-related pressure

The last part of this research is focused on the relationship between performance budgeting and court management, with particular reference to the interaction between management and professionals, the organization of work, the setting of performance targets, the autonomy of judges and the perceived job – related pressure.

The purpose is to analyse the judges' opinions in order to verify what is reported in the literature analysis part of this work, according to which performance – based budgeting would be related to stricter work organization and reduced autonomy counterbalanced by stronger court management, together with more pressure on efficiency.

The first step is to see if there are significant differences in work organisation among countries with different budgeting approaches, and the second step is to see how these possible differences impact judges' perceived work-related pressure. The first step is particularly relevant because, even if the implementation of performance – budgeting models is part of the “managerialisation of justice phenomenon, there can be a process of managerialisation even without the use of performance – budgeting.

To examine the interaction of professionals and management and the work-organisation under different budgeting systems and different conditions of “managerialism” from the perspective of the judges, between June and December 2020, a survey was held among all first-instance judges of the first-instance courts in Finland, Italy and the Netherlands. In these countries, three different management and budgeting models are in place. The purpose of the survey was to investigate the level of pressure on judges and their work-related stress and the sources of pressure. In particular, workload, performance targets (regarding production, timeliness and efficiency), organizational autonomy, motivation and other elements that can positively or negatively affect work well-being were investigated.

The following questions were specifically addressed:

1. Are judges working under pressure in the three judiciaries? Does this pressure affect the quality of their work?
2. What is the focus of the management of the courts? Is it providing incentives to judges and other employees to reach performance targets? Does this reduce the professional autonomy of judges in their perception? And/or is the focus of management on organizing the court in such a way that targets can be reached, thereby potentially decreasing the organizational autonomy of judges?

3. What is the impact of management on the workload of judges and on the pressures and stress that they experience?
4. What is the relationship between different budgeting methods and the managerialisation of courts? Does a strict performance-based budgeting system lead to a high or low workload, and does it lead to stress? Are judges more aware of goals, costs and levels of efficiency? Are they more concerned about productivity?
5. Are professional standards of judges discernible, and how do these standards, if any, interact with performance targets and efficiency in general? Do judges see performance targets set by management as binding?
6. Is the extrinsic and intrinsic motivation of judges related to the stress they experience, and what is the role of management in regulating stress?

### 6.2.1. Defining “pressure on judges”

The judges’ caseload has some resemblance with a gas: in the same way, as a gas occupies all the space available, the caseload occupies all the available time of a judge.<sup>31</sup> If the caseload is high, judges work under pressure to resolve as many as possible of the incoming cases. If the caseload is low, judges dedicate more time to study the cases and motivating the decisions, working under pressure as well. The implication is that spare time will not occur: judges are always busy working on their cases. It is not a 9 to 5 job, and working and studying after office hours is normal.

Practical inspiration for the survey is the well-known Job Demands – Resources model (JD-R), used to assess work-related stress (Demerouti et al., 2001). Job demand refers to psychological, social and organizational aspects of the job that require psychological effort and are associated with costs (e.g. work pressure, work-related stress etc.). On the opposite, job resources (job autonomy, social support) can mitigate work-related stress (Bakker & Demerouti, 2007). This model has also inspired a large survey that was conducted in 2013 in the Netherlands to assess the nature and development of judicial work among Dutch judges after the “managerialisation” of the courts and, in particular, the transition from input-based budgeting to output-based budgeting (Fruytier, 2013; Visser, 2019). The results of that survey showed a general dissatisfaction with working conditions. In particular, judges complained about “increasing workload and decreasing quality, which was significantly related to job demands such as time pressure and production pressure and not sufficiently buffered by job resources”, together with a “creeping violation of their constitutional independence” (Visser, 2019, p. 49). While very relevant, this study misses a counterfactual, showing how an input-based budgeting system would have functioned under the then-prevailing circumstances.

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<sup>31</sup> Based on conversations with Italian and Dutch judges.

## Funding the Judiciary: how budgeting systems shape justice

In the present survey, we investigate work-related stress and pressure perceived by judges as a result of this managerialisation by comparing three countries with different approaches to managing and funding the judiciary.

### 6.2.2. Variables

The main determinants of stress investigated here are:

- Physical pressure, in the sense of the workload
- Psychological pressure exerted by management, colleagues and others
- Stress reducers, such as motivation and autonomy

Physical pressure experienced by judges consists of elements that increase the amount of time that judges need to dedicate to work. These elements are caseload, number of hearings, performance targets and timeframes. External factors play a major role (number of incoming cases), but other elements are determined by court management (number of hearings, timeframes) or at the national level (performance targets linked to budgets).

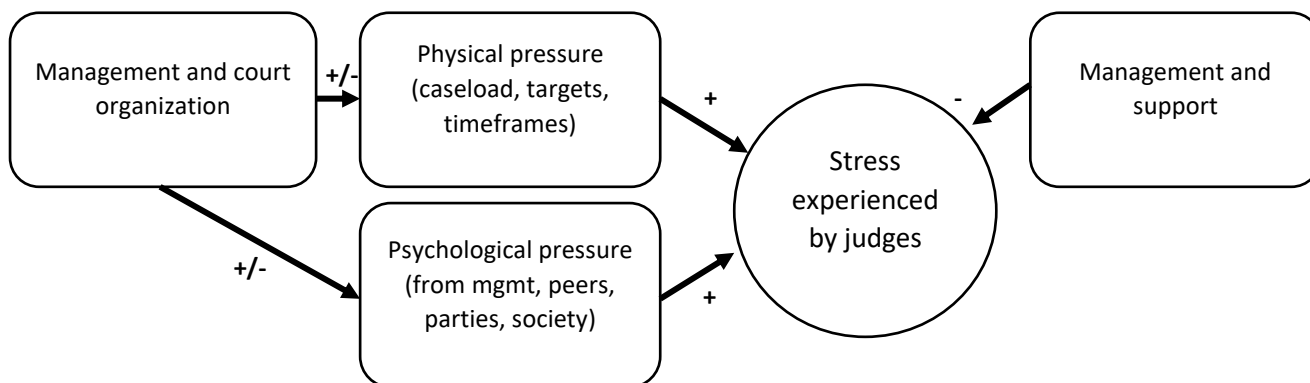
Psychological pressure is exerted by court management that may more or less strictly enforce performance targets, from other judges (peer pressure), from the Council of the judiciary or the Ministry of Justice, from parties and lawyers, and from public opinion.

Both types of pressure directly affect stress, which also depends on the quality of working conditions (office space, ICT-tools and support staff) and tensions stemming from difficulties combining work and life.

All these elements contribute to work-related stress. Other elements can help judges to cope with stress: intrinsic motivation, professional standards that help to set priorities, organizational autonomy, and other stress reducers such as dialogue and support from management, colleagues and administrative staff.

## 6. Pressure on judges

These concepts can be represented in the following way:



Management, organization and budgeting can influence in a negative or positive way the pressure on judges and thus their experience of overload and stress, while management can also alleviate stress, for instance, by means of dialogue and care.

Here is a list of the main questions and statements related to the above aspects. The answer categories to the questions and statements were, where possible, in the form of the Likert scale. The results are presented in Annex II.

**Table 17: List of questions – results in Annex II**

Variables	Questions
Physical pressure	2.2. How many cases did you solve last year (approximately)? 2.3. How many pending cases do you have as of today (approximately)? 2.4. How many hours per week do you work on average? 2.5. How many hours per week do you spend on hearings? 3.1 Are there individual performance targets for you as a judge? Who did establish them? 4.1 Is the length of proceedings monitored? By whom? 4.2 In addition to the priorities set by the law, are there other standards/timeframes/targets for the length of judicial proceedings?
Psychological pressure and stress	2.6.1 1. I don't have enough time to study the cases properly 2.6.2 I am always well-prepared for hearings 2.6.3 I often feel forced to excessively simplify the reasoning of my written judgments in order to dispose of enough proceedings 5. There are significant consequences for judges if the targets for the length of proceedings are not met 5.1.3 I think that the focus on efficiency is compromising the quality of my decisions 4.5.6 The standardization of procedures affects my autonomy 4.5.7. The control /pressure by the court/section president affects my independence in a negative way

Variables	Questions
	<p>3.3.                      -7. Judges’ failure to meet targets has significant consequences for the court                      -8. Judges’ failure to meet targets has significant consequences for the judge                      -9. Performance targets are too ambitious                      -10 Section/court presidents check that all judges meet performance targets                      -11 My colleagues monitor that everyone fulfils the performance targets</p>
	<p>4.4                      -3. It is difficult to meet the targets for the timeframes of judicial proceedings set by the court                      -4. The court/section president takes action if the length of the proceeding is about to exceed the target                      -5. There are significant consequences for judges if the targets for the length of proceedings are not met                      4.5.4 There are standard instructions/practices/rules to schedule hearings                      5.1.2 I think there's too much emphasis/pressure on efficiency</p>
	<p>2.8 On a scale from 1 to 5 (where 5 is the maximum level), how do you rate the sustainability of your workload - considering an average of the last two years                      6.1 On a scale from 1 to 5 (where 5 is the maximum level), how do you rate your work-related stress?                      6.2.4 - To what extent do you think the following elements put pressure on you, leading to work-related stress? Pressure from the president (section or court) on the organization of my work                      6.2.5 To what extent do you think the following elements put pressure on you, leading to work-related stress? – pressure from colleagues                      6.2.6 To what extent do you think the following elements put pressure on you, leading to work-related stress? - Pressure from the public opinion                      6.2.7 Pressure from the Council for the Judiciary                      6.2.8 Pressure from the Ministry                      6.2.9 Pressure from parties and/or lawyers                      6.2.10 Lack of adequate working space                      6.2.11 Lack of adequate ICT tools (hardware, software)                      6.2.12 Lack of adequate administrative support (clerks, judicial assistants etc.)                      6.2.13. Difficulty of work-life balance</p>
Stress reducers	<p>4.5                      -1. I am autonomous in deciding which cases to deal with first                      -2. I am autonomous in scheduling my hearings                      - 3. I am autonomous in deciding how to organize my work</p> <p>3.3.12. Judge's opinion is taken into account in setting the performance targets                      3.3.13 Dialogue between president and judge is the main way to address individual performance issues</p> <p>4.4.1 I give the needed attention to each case, even if this may increase the time of disposition                      5.1.5. I give the needed attention to each case, even if this may decrease the court’s efficiency</p> <p>4.6. On a scale from 1 to 5 (where 5 is the maximum level), how do you rate your autonomy in organizing your work?</p>



Variables	Questions
	Which factors help you to relieve your work-related stress? 6.3.1. Support from administrative staff 6.3.2. Support from colleagues 6.3.3. Support from the president 6.3.4. Strong motivation 6.3.5. Perception of my role as a judge in the community 6.3.6. Autonomy / freedom in managing my time and priorities 6.3.7. Level of salary

### 6.2.3. Results

#### General outcomes

The answers show differences as well as similarities between the three countries. The results of the survey show large differences among the three judiciaries in terms of work organization, setting of individual performance targets, judges' autonomy, dialogue between managers and professionals and focus on quality. However, the answers also show similarities, especially regarding work-related stress, perceived pressure and motivation. In this section, we will first examine the characteristics of the respondents. We then address workload as a difficult-to-observe but important variable against which background the views of judges should be interpreted. After that, we address the central questions presented in previous paragraphs.

#### Characteristics of respondents

Figure 1 to 4 provide an overview of the characteristics of the respondents. Figure 1 concerns the area of law they are working in. Differences in the legal system come to light in this panel. In the Netherlands, administrative law is a regular part of the work of the first-instance courts, while in other countries, these cases are handled by separate courts. In Finland, many judges are not specialized and handle criminal and civil cases. In Italy, relatively many presidents of (sections of) courts were among the respondents. Figure 2 reflects on the one hand that many judges in the Netherlands work part-time and on the other hand that many judges work overtime. Figures 3 and 4 shows that judges in the Netherlands have more experience and are older than in Italy, followed by Finland.

## Funding the Judiciary: how budgeting systems shape justice

Figure 1: Field of work

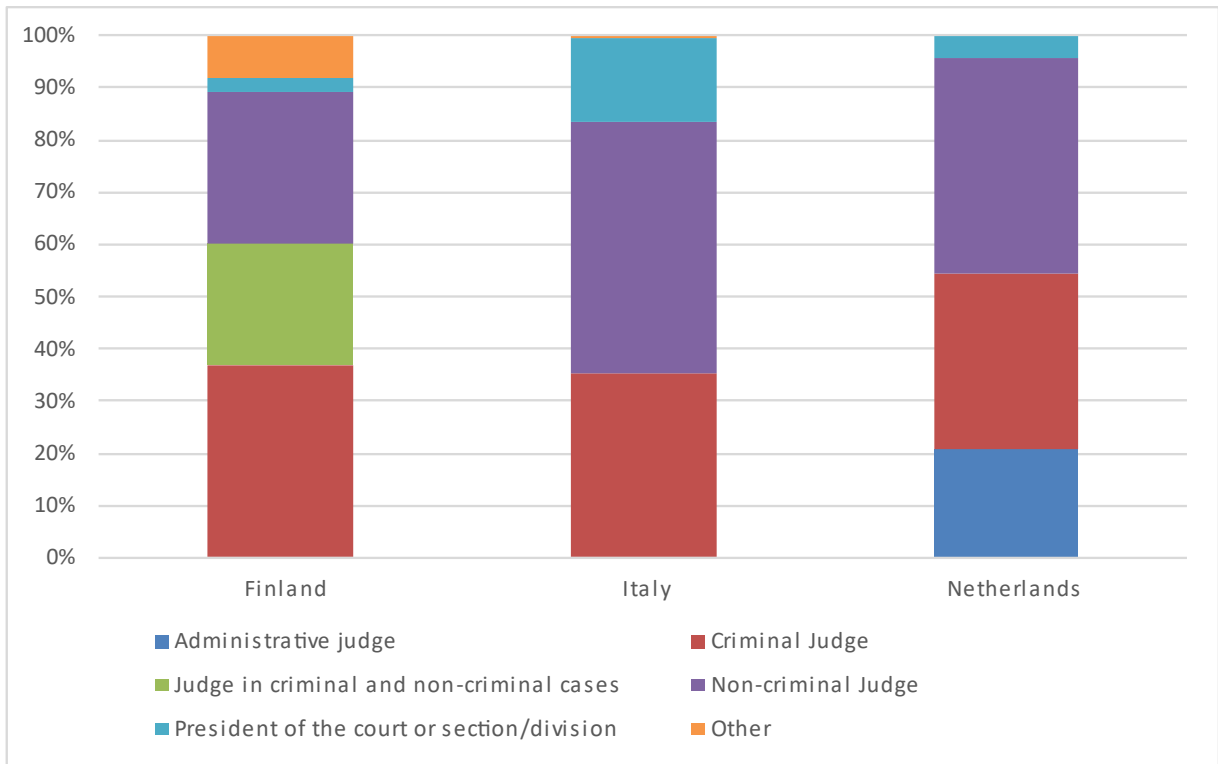


Figure 2: Hours worked (per week)

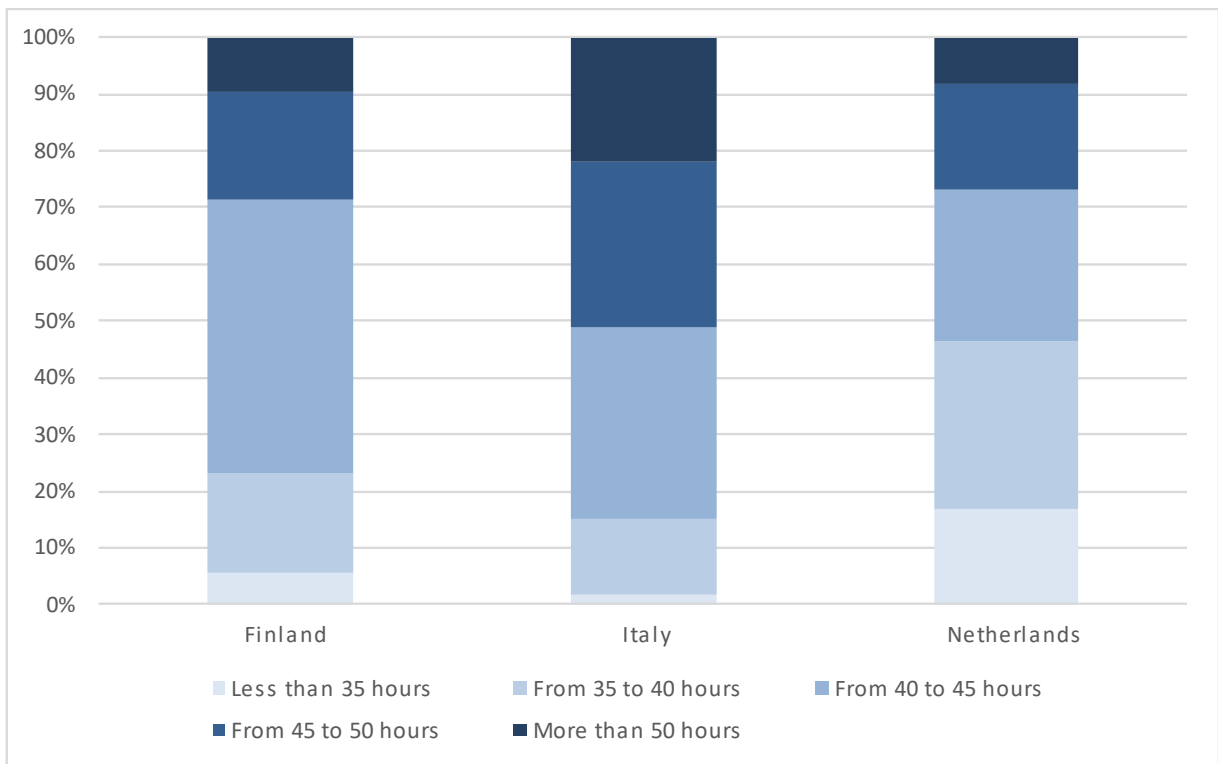


Figure 3: Years of experience

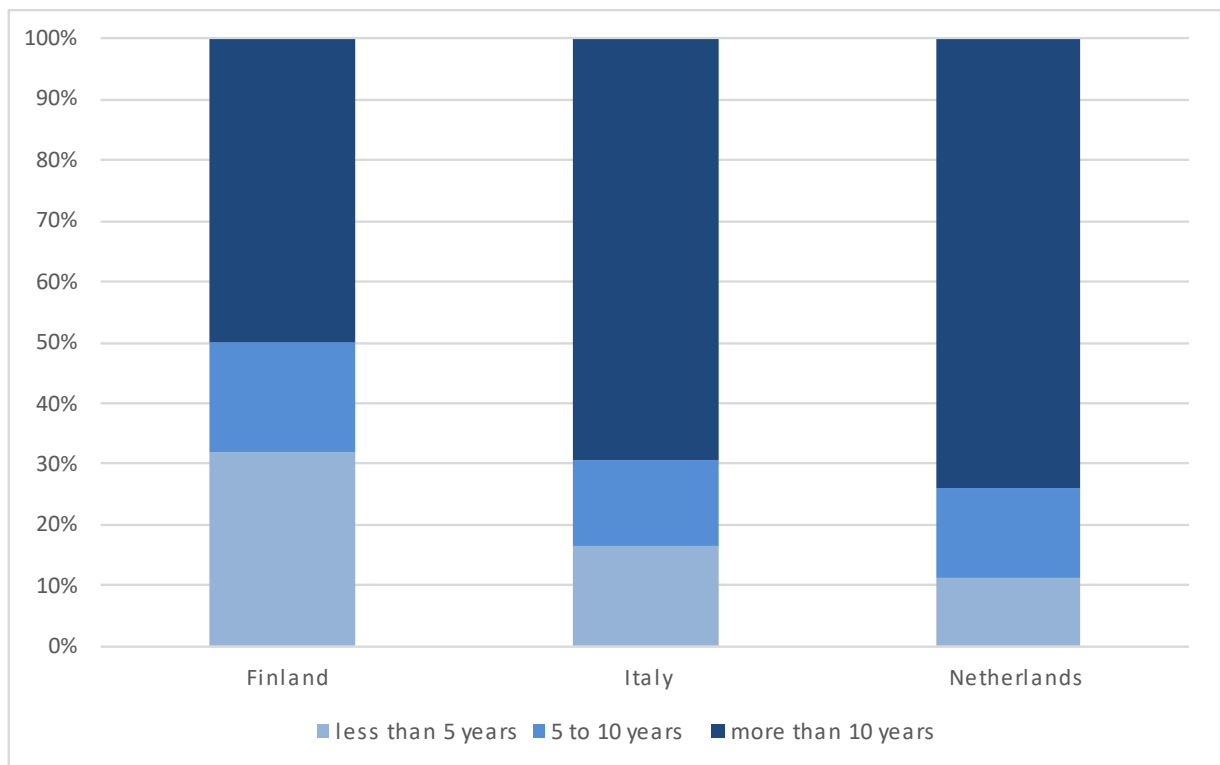
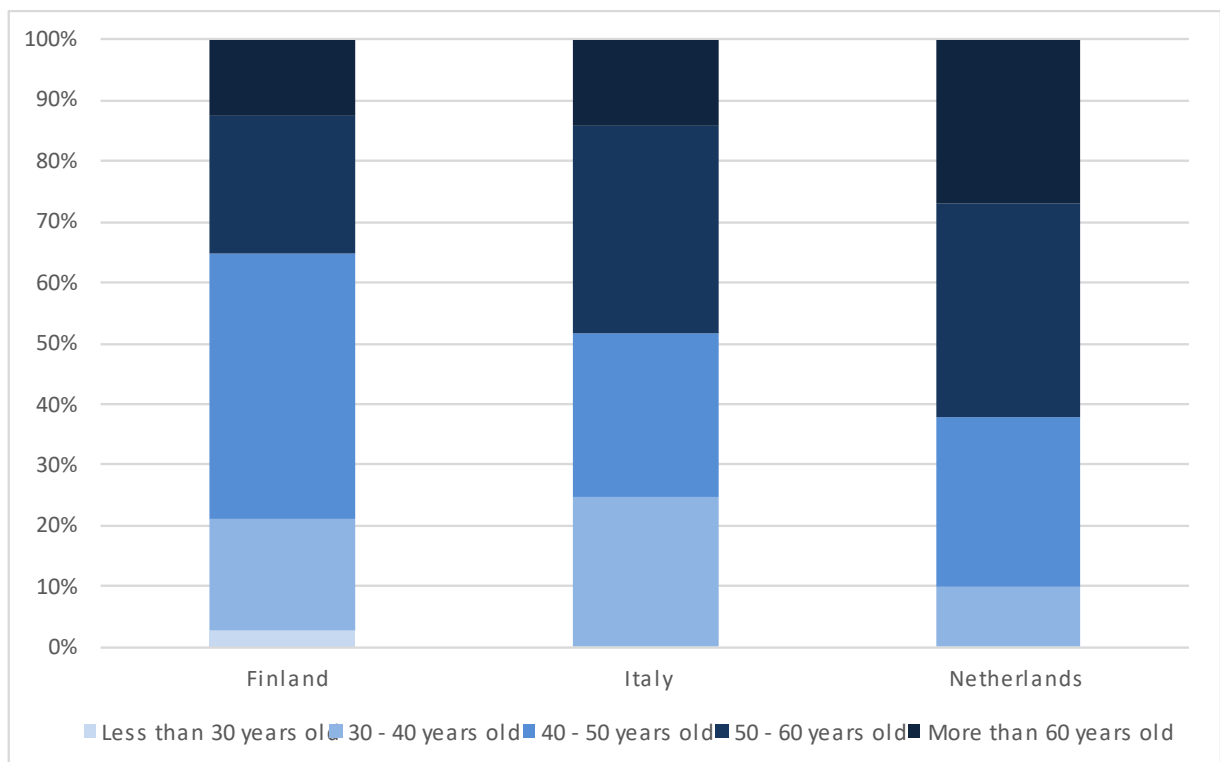


Figure 4: Age



### Central question 1: are judges working under pressure?

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To get an impression of the workload of judges in the three countries, we first examine the volume of the cases they handle in a year. Comparing the caseload of judges in the three countries is a difficult task, and the risk is that any comparison is misleading. The weighting systems to account for the large variety of court cases are different in the three countries and cannot be used to compare caseloads.

Consequently, we have to use unweighted figures to get an indication of differences between countries. In Finland, where a judge often deals with both criminal and civil cases, the median of resolved criminal and civil cases is 100 cases per judge, while the median of pending cases is 60 cases per judge. As regards non-criminal cases (excluding administrative cases), in Italy and in the Netherlands, the median for the number of solved cases is similar: 250 resolved cases per judge per year in Italy and 200 in the Netherlands<sup>32</sup>, while the number of pending cases is very different: in Italy, the median is 550 pending cases per judge, in the Netherlands it is 20. As regards criminal cases, in the Netherlands, there are 360 resolved cases per judge and 10 pending cases; in Italy, 250 resolved cases and 300 pending cases. Roughly speaking, judges in Italy and the Netherlands handle more cases per year than those in Finland. In Italy, work is burdened by huge backlogs of cases that require the attention of judges.

It should be noted that workload and caseload are not the same. Besides hearing and deciding cases, judges perform different tasks in the three countries: in the Netherlands, many tasks are dealt with by court staff, while in the other two countries, judges, for example, schedule their hearings themselves. In the next section, we return to this issue. We tentatively conclude that workload is highest in Italy (further IT), followed by the Netherlands (NL) and then Finland (FI).

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<sup>32</sup> In the Netherlands many judges work part-time. As a result, the reported number of cases underestimates the case load of fulltime judges.

Figure 5: Quality of adjudication (1)

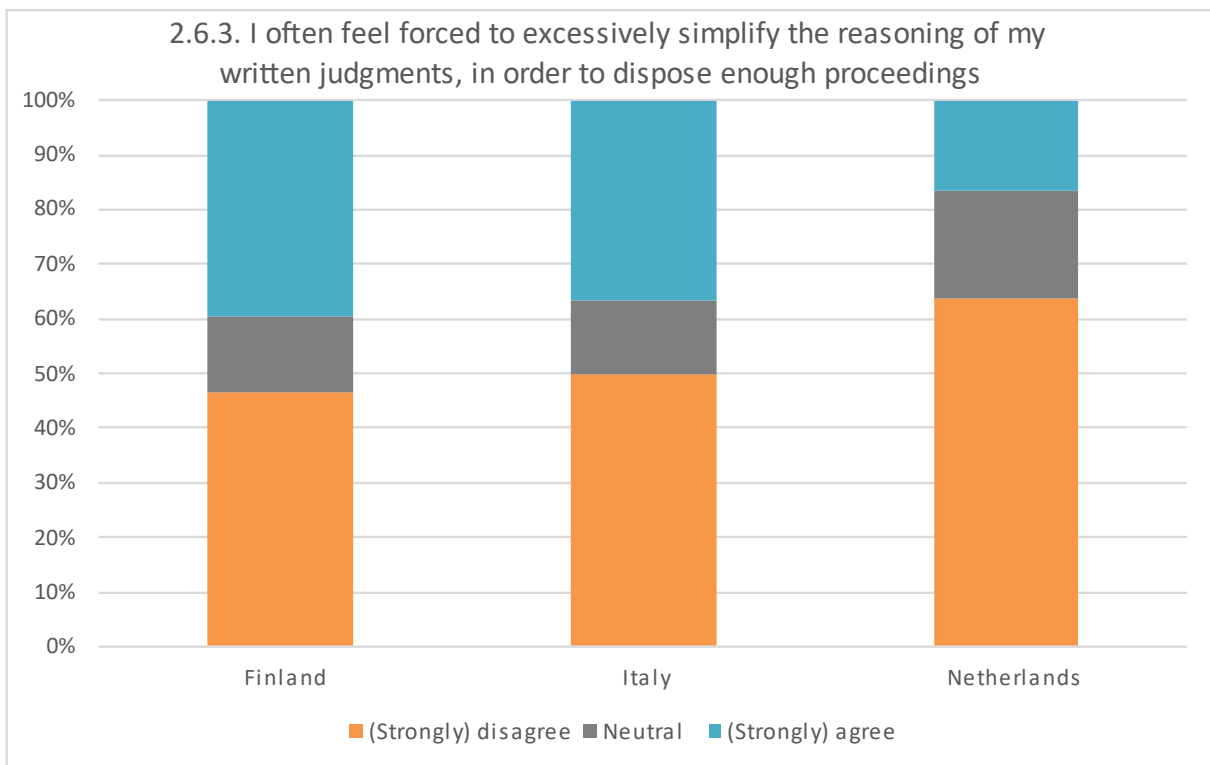
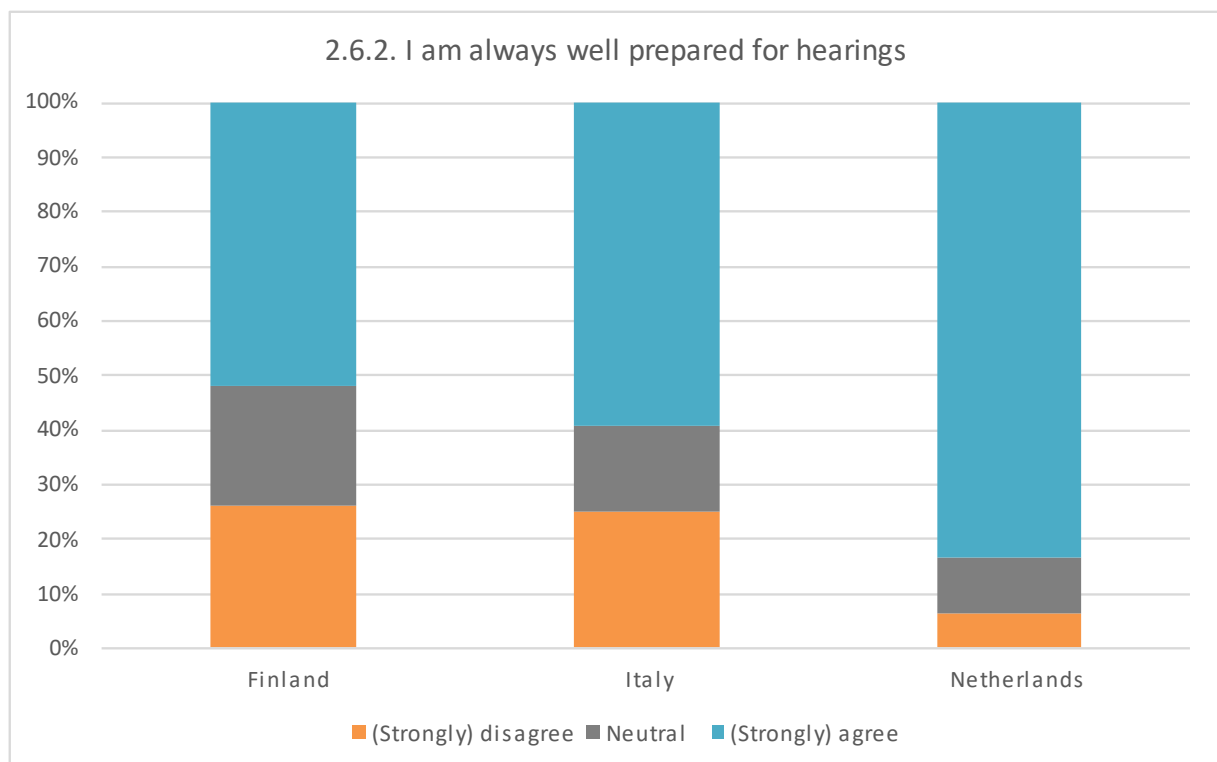


Figure 6: Quality of adjudication (2)



## Funding the Judiciary: how budgeting systems shape justice

Whether a high workload is problematic can be gleaned from the consequences it has for the quality of the work. Several items of the survey throw light on the quality of the work judges believe they are delivering. When asked whether they have enough time to study cases properly (Figure 5), high percentages of judges answer that they do not: 33% in NL, 42% in IT and 51% in FI (differences between the means<sup>33</sup> are not significant). A second item concerns whether the respondents are always well prepared for hearings (Figure 6): 84% of the respondents in NL, 59% in IT and 52% in FI believe they are. The differences between the means of NL and IT, as well as NL and FI, are significant ( $p=0.0000$ ), while the difference between IT and FI is not significant. The third item addresses whether the respondent is often forced to excessively simplify the reasoning of his/her written judgments in order to dispose of enough procedures: 16% in NL, 37% in IT, and 40% in FI do so (Annex II). The differences in the means between NL and IT, as well as NL and FI, are significant at, at least 5% level. The difference between IT and FI is not significant. These results indicate that, according to the judges, quality is least under pressure in NL, while there are no significant differences between IT and FI.

Among the three countries, in IT, the workload is considered by the respondents least sustainable, although the differences are not large: 38% of the judges declared the workload to be unsustainable versus 32% in NL and FI (see Annex II). The average score for sustainability is 2.8 in IT on a scale from 1 (absolutely unsustainable) to 5 (absolutely sustainable), while in the NL, the average score is 3.1 and in FI, 3.0.<sup>34</sup> The difference between the NL and IT is significant at the 1% level. Furthermore, in IT 87% of respondents consider the caseload as a source of stress (84% in the NL, 75% in FI), where the difference of the means for NL and IT is significant at 1% level, and for FI and IT at just above 5% level ( $p=0.052$ ).

These outcomes would lead *ceteris paribus* to work-related stress to be lowest in NL. This is partly found. On a five-point scale between 1 (low stress) and 5 (high stress), respondents rate their work-related stress at 3.4 in NL and 3.8 in IT, but 3.4 as well in FI. Differences in the means of NL and FI compared with IT are significant at 1% level. The difference between NL and FI is not significant. It should be emphasized that in all three judiciaries, stress is quite high. For instance, the maximum level of stress is reported by 11% of the respondents in NL, 24% in IT and 10% in F (Annex II). We conclude that workload is high in all three judiciaries, but foremost in Italy. This leads to quality issues. In this situation, it is of interest to examine what court management is focusing on.

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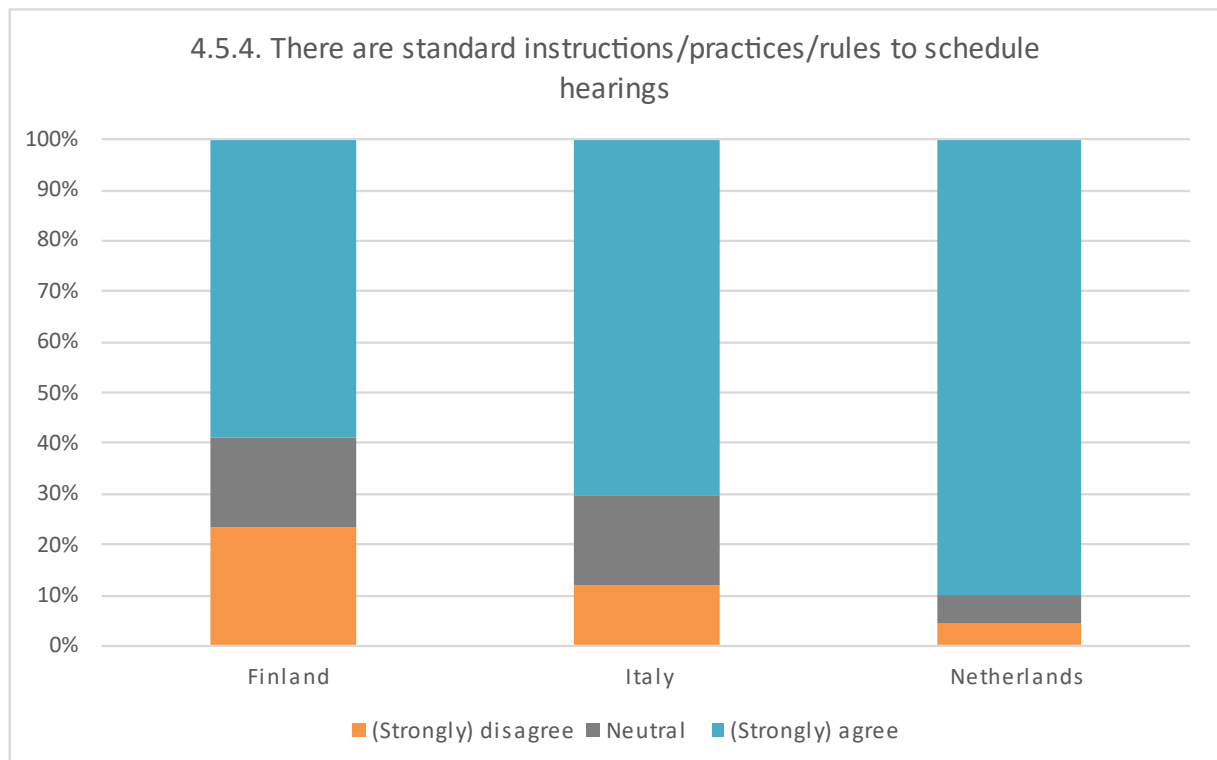
<sup>33</sup> Comparison of the means per country of the weighted percentages of generally five answer categories.

<sup>34</sup> As abilities differ among judges, whether a judge considers a workload is sustainable depends on his/her abilities if cases are apportioned uniformly. If nearly 40% as in Italy considers the caseload unsustainable, this points to a real issue.

**Central question 2: what is the focus of management?**

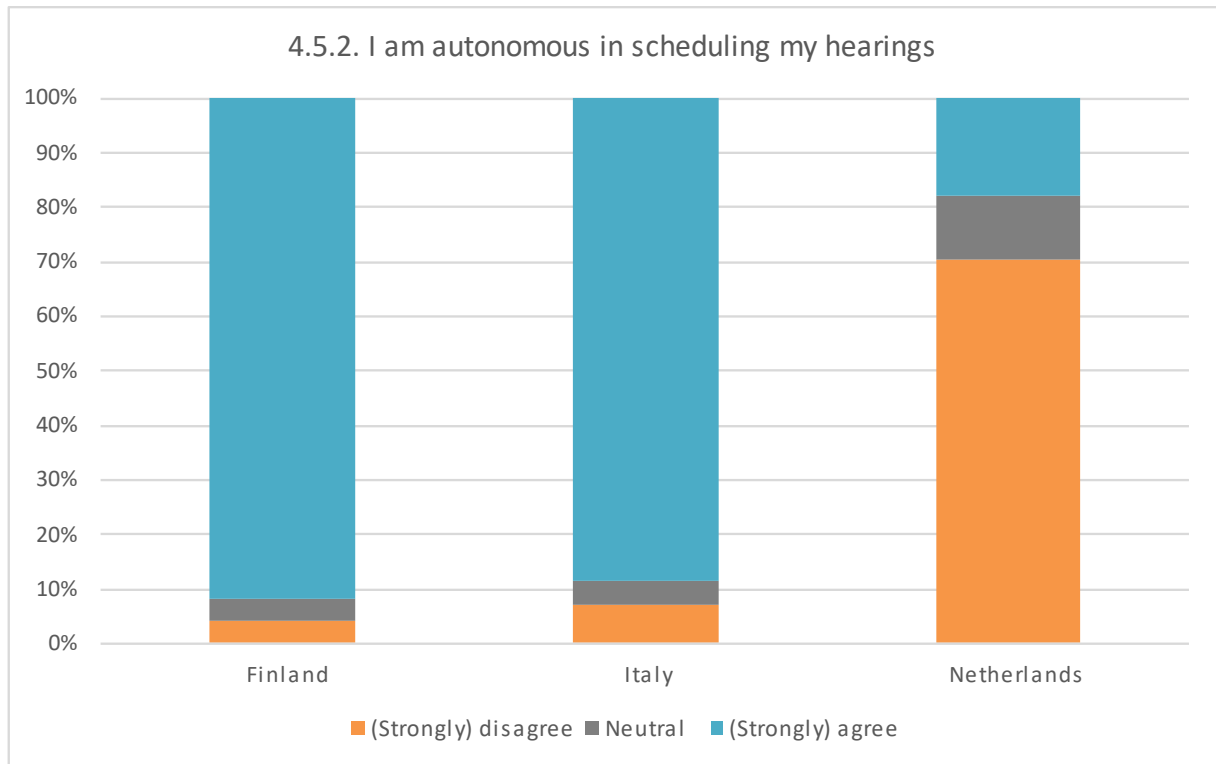
The second question we pose in the introduction is the role and focus of management in the three judiciaries. The main potential difference in focus is between the organization of the courts and its work processes and procedures versus the improvement of the productivity of personnel, given the organization of the court. The latter is about performance management and individual incentives. Both approaches are inspired by NPM. The three judiciaries differ much in this respect.

**Figure 7: Organisational autonomy (1)**



## Funding the Judiciary: how budgeting systems shape justice

Figure 8: Organisational autonomy (2)



### Organizational perspective

In the Netherlands, managerial control is evident when it comes to working processes. For instance, 90% of the respondents agree with the statement “There are standard instructions/practices/rules to schedule hearings” (FI 59%, IT 70%). Consistent with this, only 18% declare to be autonomous in scheduling their hearings (89% in IT and 92% in FI).<sup>35</sup> See Figure 7 and 8. Among the judges of the three countries, Dutch judges are by far the least autonomous in this respect. On a scale from 1 to 5 (where 5 is the maximum level), the self-estimated autonomy in organizing one’s work obtained an average score of 3.5 in the Netherlands, 4.2 in Italy and 4.4 in Finland. Only 36% of Dutch respondents declared to be autonomous in deciding which cases to deal with first (vs 80% in IT and 86% in FI), while 62% declared to be autonomous in deciding how to organize their work (90% in IT and 93% in FI) (Annex II).

The reasons for this striking difference lie in the different internal organization of Dutch courts, especially as regards the role of support (non-judge) staff in dealing with organizational tasks. Support staff, in fact, is in charge of scheduling hearings for the cases on the basis of a standardized calendar (days of hearing and number of cases per hearing are fixed). Therefore, judges do not decide which cases to deal with first. On the one hand, this reduces the organizational autonomy of

<sup>35</sup> All differences of the means of NL on the one hand and FI and IT on the other hand are highly significant.



## 6. Pressure on judges

judges; on the other hand, judges can delegate all administrative tasks, having more time to spend on hearing and deciding cases. This contrast is well explained in the following comment: “I sometimes feel like I work on an assembly line where hearings are just appearing in front of me the entire time, which can feel like a lot of pressure. On the other hand, I feel 'blessed' (compared to judges in other countries) that I don't have to spend time scheduling my cases / hearings: a lot of organizational work is taken out of my hands, so I have more time to spend on the cases itself. There are weeks where the 'assembly line' is causing a problem: when a casefile or hearing is costing more time than is scheduled, and other hearings are already appearing. This then leads to working free *time*.”

In the other two countries, many respondents would like to have more common practices among judges (71% of respondents in IT, 64% in FI, in contrast to 38% in NL) (Annex II). A Finnish judge adds this comment: “*I think we could be less autonomous and have more standard practices that each judge would be required to follow. Not to in anyway influence the rulings but just the way how the case is processed forward and ideally length of proceeding. That would give better predictability on the timing etc to parties and perhaps help advocates to plan their work and lower the costs of litigation.*”

In Italy, several judges complain about disorganization and excessive workload: “The problem is not autonomy in organization, but poor general organization that forces almost everyone to work in emergency conditions. Moreover, in the organization, the constraints imposed by the calendar of hearings fixed for the whole court on the basis of the available courtrooms and the needs of administrative staff cannot be overcome. Organizational autonomy is strongly conditioned by the shortage of available courtrooms and administrative staff.”

### Individual performance perspective

The three countries differ in the use of individualized production targets. In IT, 66% of the respondents answer that individual performance targets are clear and specific, while in FI only 22% and in the NL 35% think so (Figure 9 and 10). In IT 67% of the respondents agree with the statement that performance targets of courts and court divisions are well known by all judges, 70% agree that these targets are accepted by most judges, and 51% see them as formal arrangements (Annex II).

Figure 9: Individual performance targets (1)

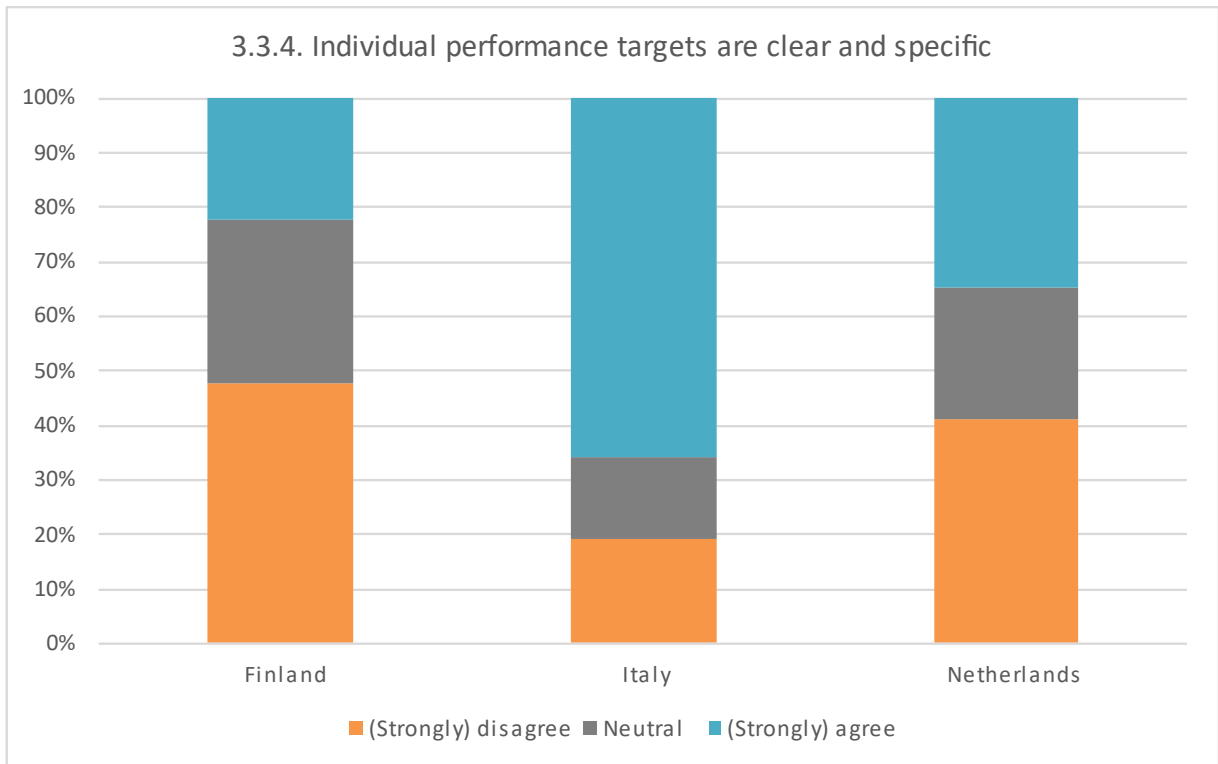
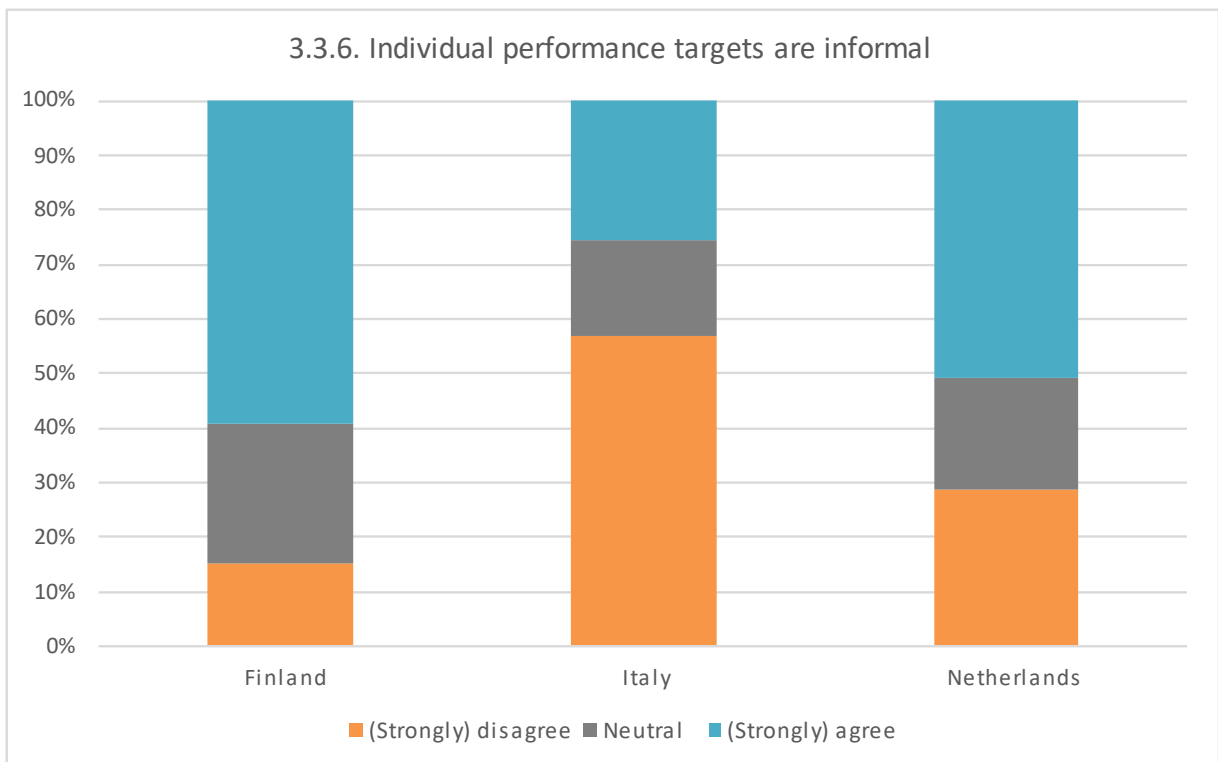


Figure 10: Individual performance targets (2)



In the Netherlands, instead, there are no formal individual performance targets (only 28% perceives targets as formal). “Targets are set by management for the entire department. In addition, there are professional standards (agreed upon in expert meetings [of judges]) which define caseload for

## 6. Pressure on judges

judges. These are applied for scheduling hearings of each judge.” Furthermore, “each judge has to do a certain amount of hearings every week” (around 2 days per week) and “there are performance targets in the number of (weekly) hearings; not in case *numbers*”.

In Finland, targets are set at the section level. “Ministry and nowadays National Court Administration make Performance targets agreement with chief judge of my court and he makes targets to every section of court. Officially there is no individual target of individual judge but of course that system needs that everybody makes his shares to sections target.”

In Italy, court and division targets are set by the court’s president, taking into account the maximum workload required of the judges and in discussion with the judges. “Performance targets are indicative and formulated on the basis of the previous year’s average”: they are calculated on the basis of the average number of resolved cases in the past three years, and they have to be in a range from -15% of the average to +15%, as noted earlier.

Apparently, Italy is the only country where individual performance targets are clear and specific. In the other two countries, performance targets are considered informal, and these are more like a moral obligation. In addition to production targets, there are timeliness standards. We will discuss these in the next section.

### Summing up

There is a different focus on management in the three countries. In NL court management is focused on the efficient organization of work. Due to the division of labour, the production process resembles, one might say, as the respondent quoted above does, an assembly line. Performance targets are largely implicit. In FI and IT judges organize their own work without management setting explicit production targets (FI) or with this role for management (IT). The question arises whether explicit or implicit performance management exerts more pressure on judges.

### Central question 3: does performance management exert pressure on judges?

We saw that performance management plays a role, but in very different manner. To examine the impact of performance management, a first question is whether performance targets are difficult to meet for most judges. If not, pressure is low, and impacts only dysfunctional judges. Performance targets are considered “too ambitious” by 27% of Italian respondents, 34% of Finnish and 53% of Dutch respondents (differences of means of NL and IT as well as NL and FI are highly significant). It seems that in Italy and Finland, targets are relatively easy to reach. As to timeliness, 66% of the respondents in Italy, 57% in NL and 54% in Finland agree that the targets for the timeframes of judicial procedures are difficult to meet. Timeliness seems to be more of a challenge than production

## Funding the Judiciary: how budgeting systems shape justice

as such.

Having (ambitious) targets is one thing; enforcing them is another. Turning to enforcement, 63% of the respondents in IT agree that section and court presidents check that all judges meet performance standards against 40% in FI and 27% in NL (means differ significantly between NL and IT and NL and FI at 1% level; no difference between IT and FI). A judge's failure to meet targets has significant consequences for the judge, according to 31% of the respondents in IT, 22% in FI and 11% in NL. Only the difference between NL and IT is significant ( $p=0.0000$ ).

Similarly, the court/section president may take action if the length of proceedings is about to exceed the target. In NL 26% perceive presidents to actually take action, 35% in Italy and 42% in Finland (mean significant between IT and NL and FI and NL at 5%). There are significant consequences for judges if the targets for the length of proceedings are not met, according to only 3% of the respondents in NL, 29% in Italy and 16% in Finland (all differences significant at least 5% level). Table 17 summarizes.

**Table 18: Percentage of respondents that agrees with statements about the enforcement of performance targets**

	FI	IT	NL
Production targets are too ambitious	34%	27%	53%
President is monitoring whether a judge meets his/her production targets	40%	63%	27%
Significant consequences for a judge if s(he) does not meet production targets	22%	31%	11%
Timeliness standards are difficult to meet	54%	66%	57%
President takes action if timeliness targets are about to be exceeded	42%	35%	26%
Significant consequences for a judge if s(he) does not meet timeliness targets	16%	29%	3%
Control/pressure by president affects my independence in a negative way*	25%	13%	22%

We find that, according to the respondents, production targets are not overly ambitious, especially in Italy and Finland. Monitoring of the individual performance of judges by the president is not common, and sanctioning of judges is even less so. The same holds with regard to timeliness. Thus, explicit performance management is not very aggressive. While performance management could conflict heavily with judicial independence, in practice, this is not much of an issue in all three judiciaries. See Table 17, the last row, where the differences between countries are insignificant. It should be stressed that pressure on judges may not only stem from monitoring and sanctioning by management but also by management making a moral appeal on intrinsic motivation (NL). It should

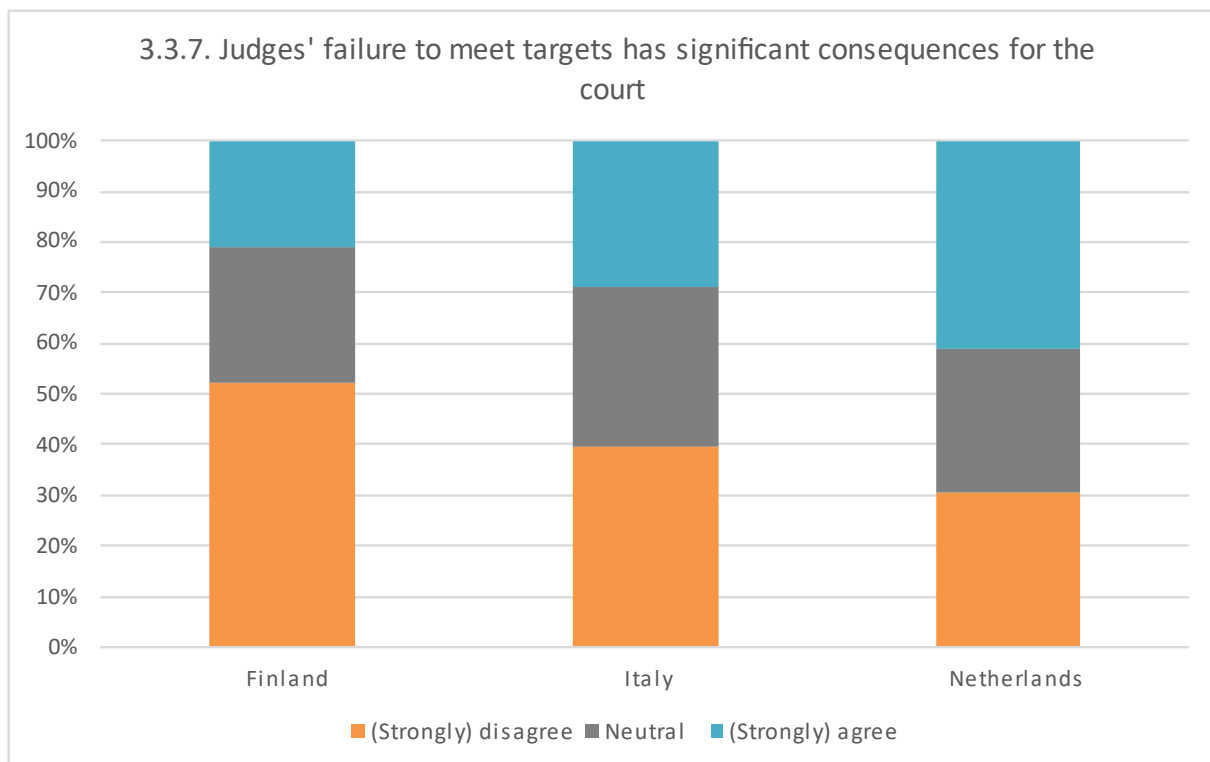
## 6. Pressure on judges

be noted as well that production targets may also serve to protect judges from overload or help them deal with the overload. In Italy, production targets set also a maximum which can be explained by the enormous backlog of cases (see above). It would be better for judges to resolve the backlog, but if that is not possible, for instance, due to a lack of resources, this is the least management can do.

### Central question 4: have budgeting methods an impact on workload and work pressure?

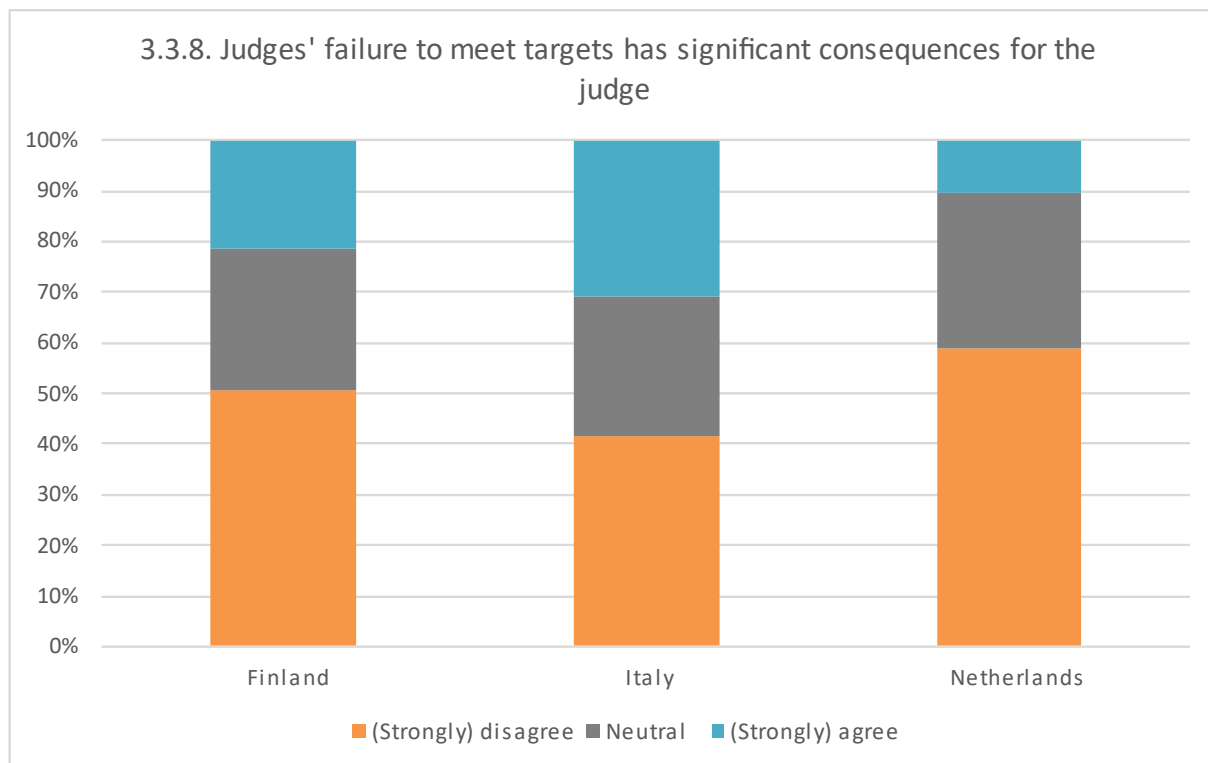
What is the relationship between different budgeting methods and the focus of the management of the courts? Does a strict performance-based budgeting system lead to a high or low workload and does it lead to stress? Are judges more aware of goals, costs and levels of efficiency than in other budgeting systems? Are they more concerned about productivity?

Figure 11: Enforcement of performance standards (1)



## Funding the Judiciary: how budgeting systems shape justice

Figure 12: Enforcement of performance standards (2)



Performance based budgeting implies production targets for each court. The strictest application is found in NL. This is reflected in the answers on the consequences for a court if it does not meet its production target. In FI only 20% of the respondents and in IT 29% believe that there are significant consequences for courts if targets are not met (Figure 11). However, in NL 62% of the respondents answer that there are such consequences for the court. All differences between judiciaries are significant at, at least, 5% level. In NL strict performance budgeting goes together with management focusing on the organization of the court, and not with making production targets explicit at the individual level and enforcing these targets, as we saw above. This means that in NL the link between the consequences for the court and judge are at best indirect. In a comment, the link between budgeting and individual performance is explained: “The Ministry agrees with the Council on a target of number of cases per year. The Council divides the monies amongst the courts. The president of the court divides the monies per section. The section president decides how many cases are scheduled for each type of court hearing and what time is available per case. Management decides how many hearings a judge has per year. These targets are not individual but are established for all judges per section (e.g. criminal law, civil law, administrative law etc.) according to a pro rate percentage of the working hours. As such they become *individual targets*”. Some judges feel that not reaching the target has severe consequences, albeit at collective level: “when the criminal judges in my court together fail the performance targets, the budget of the criminal section will be cut in the following year, so there will be less judges to do the work. This feels as a punishment for not meeting

*the targets.*” However, not all Dutch respondents feel the pressure: “I know we have as a court a target but I don't know this target and my section president is not using these targets to push me, so *in my personal work I don't feel pressure from any kind of target.*” Thus, the style of local management plays an important role. In the other countries the link between budgeting and performance is much weaker and absent in IT.

We concluded above that work-related stress is high in all three judiciaries. This holds true irrespective of the budget system. Comparing the three judiciaries, we concluded above that workload, work pressure and work stress are particularly high in IT. We conclude that strict performance budgeting does not necessarily lead to high workload, low quality and stress, relative to other budgeting systems, as the case of NL shows. On the contrary, such a system can lead to less pressure on judges than other systems. Obviously, this conclusion is valid for these three judiciaries, and generalization must be considered with caution.

### Awareness of the financial position of the court

An idea discussed in Chapter 2 is that performance-based budgeting is helpful in promoting goal alignment and awareness of efficiency among the professionals belonging to an organization (Brumby & Robinson, 2015). This theory is partially confirmed by the results of the questionnaire: Dutch judges are more aware of the budget allocated to their court (51%, 47% in FI and only 28% in IT) (Annex II). The difference between the means of NL and IT is significant (at 1% level). However, Italian judges seem to be more aware of the level of efficiency of their own court compared to the other courts in their country (75% of the respondents in IT, 64% in FI and only 34% in NL say they are aware of this) (Annex II).

### Balanced workload

Two questions of the questionnaire regarded the balanced workload within the court and within the department. The aim of these two questions was to find a parallelism between the balance in the resources' distribution among courts (as analysed in Chapter 4.2) and the balance in the workload distribution inside the courts. However, the results of the two questions seem to be unrelated to the results of the previous analysis. Italy is, in fact, the country where most respondents think that the caseload is well balanced among judges of the same department (66% vs 52% in NL and 45% in FN) (Annex II). However, in the three countries, the majority of respondents think that the caseload is not balanced among the judges of the same court (53% in FI, 50% in NL, 44% in IT) (Annex II). These questions regard, in fact, the ability of court management to balance workload and productivity, and this ability seems to be not related to the distribution of resources at the national level but more to court management's organisational abilities.

### Central question 5: are professional standards discernible and do they interact with performance targets?

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An insight into the professional standards of judges can be derived from the priorities judges set for themselves. Their opinion was asked about the statement: “I give the needed attention to each case, even if this may decrease the court’s efficiency”. In NL 89% agrees, 88% in FI and only 50% in IT (Figure 14). Similarly, on the statement “I give the needed attention to each case, even if this may increase the time of disposition” (Figure 13) 92% in NL, 89% in Finland and 65% in Italy agreed. Differences of the means are significant between IT and NL and IT and FI ( $p=0.0000$ ). In line with these priorities, only 21% of the respondents in NL, 20% in FI but 53% in IT perceive the court’s targets as binding (differences between IT and the other two countries are significant ( $p=0.0000$ )). Legal quality is an essential aspect of professional standards. As noted before, only minorities feel forced to excessively simplify the reasoning of their written judgments in order to dispose of enough proceedings: 16% in NL, 37% in Italy and 40% in Finland (Annex II). An indication of the behaviour towards each other is the opinion of the respondents that most judges do not monitor each other’s behaviour when it comes to the fulfilment of performance targets: 86% in NL, 49% in IT and 64% in FI (means differ significantly at 5% level). While the response of Italian judges is likely to be driven by necessity (backlogs, lack of funding), efficiency and timeliness do not override typical judicial values such as legal quality and integrity. Given the relatively weak enforcement of performance standards that we noted above, there does not seem to be a strong clash between the professional standards of the judges and the values of court management. This may not be surprising as management consists of judges.



Figure 13: Professional standards (1)

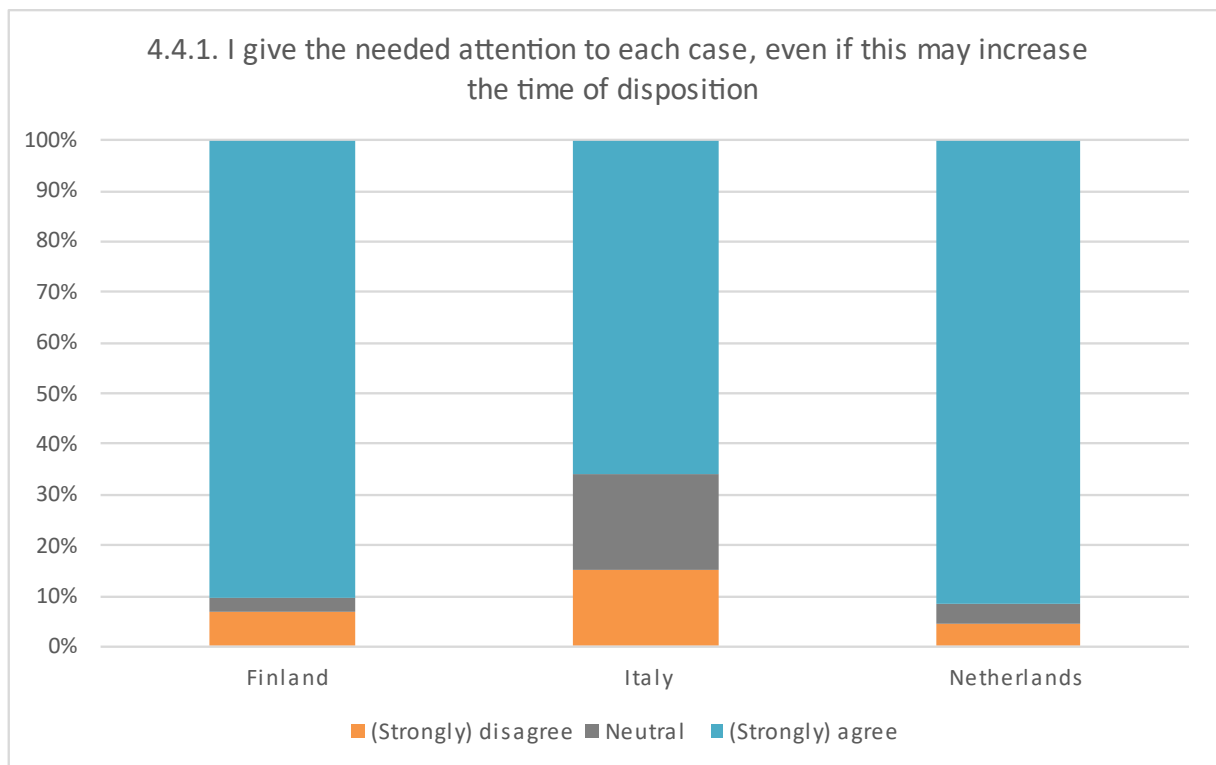
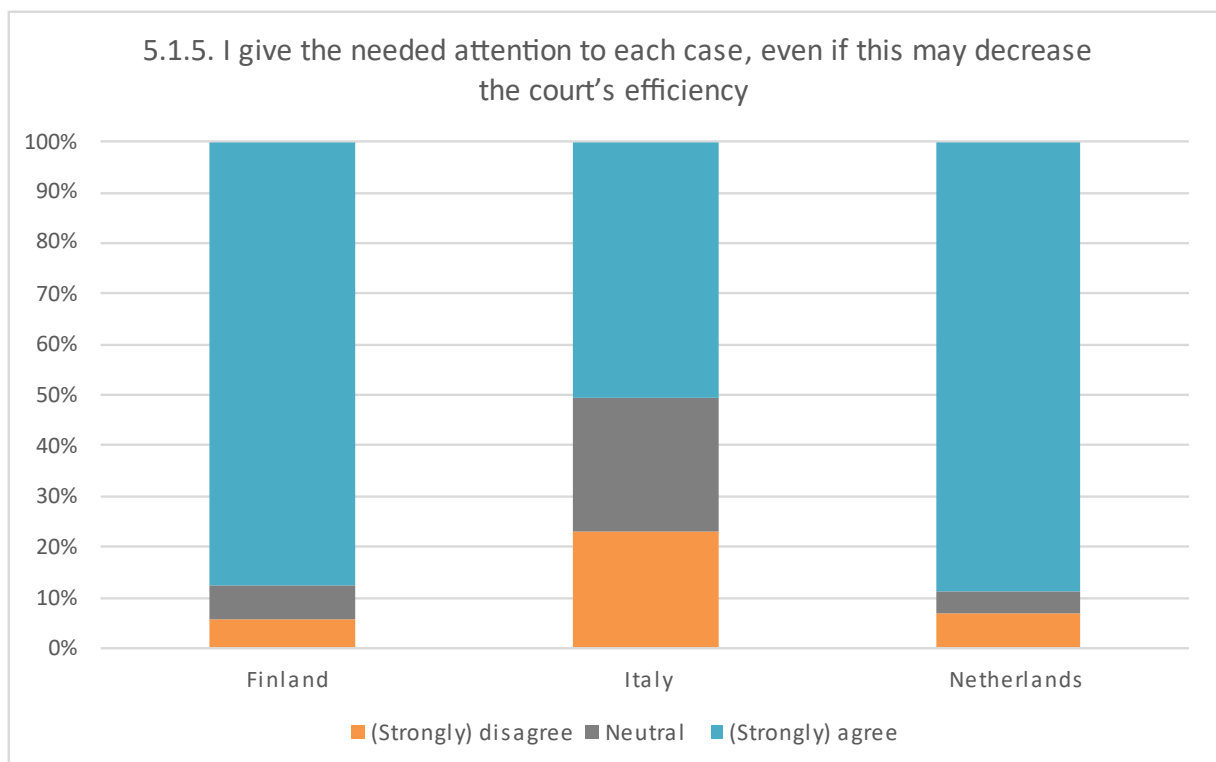


Figure 14: Professional standards (2)



### Central question 6: is extrinsic and intrinsic motivation related to stress and what is the role of management in regulating stress?

Tables 18 and 19 present a broad perspective on factors that lead to work-related stress and factors that reduce stress. As it is the task of management to ensure that the “job” gets done in a sustainable way, the influence of management on the stress that judges (and other personnel) experience is of particular interest. The tables show that judges in IT work in nearly every aspect under higher pressure than judges in the other countries. For all the judges in the three countries, the most stress-generating element is, without a doubt, caseload, followed by timeliness targets. Apart from these factors, the contribution of management and other governing bodies as such to stress is rather limited. The impact of perceived Judicial Council / NCA pressures is quite limited in IT (10%) and in FN (22%), while it is a little higher in the Netherlands (28%) where the Judicial Council has more competences, especially on budget allocation. However, other factors have higher impact: the parties and their lawyers put substantial pressure on judges in all three judiciaries, while public opinion is felt in IT and NL in particular. Another source of stress in IT is the lack of facilities for judges (office space, ICT, support staff). We saw earlier that, especially in NL, the focus of management is on facilitating judges. In the other judiciaries (in particular IT) management takes this role less actively or effectively. Still, the best management can do is to keep caseload workable for the judges by maintaining an adequate balance between production capacity (number of judges and support staff) and caseload.

**Table 19: Causes of work-related stress, % of respondents that experience pressure leading to stress**

Work-related stress caused by:	FI	IT	NL
Caseload	75%	86%	83%
Performance targets	32%	55%	32%
Timeframes (length of proceedings) targets	55%	69%	50%
Pressure from the president (section or court) on the organization of my work	14%	19%	14%
Pressure from colleagues	5%	7%	10%
Pressure from public opinion	25%	40%	41%
Pressure from the Judicial Council / National Court Administration	10%	22%	28%
Pressure from the Ministry of Justice	11%	14%	18%
Pressure from parties and/or lawyers	47%	55%	46%
Lack of adequate working space	21%	64%	25%
Lack of adequate ICT tools (hardware, software)	55%	51%	42%
Lack of adequate administrative support (clerks, judicial assistants etc)	52%	62%	53%
Difficulty of work-life balance	44%	59%	49%

**Table 20: Mitigating factors of work-related stress, % of respondents that experience relief**

Which factors help you to relieve your work-related stress?	FI	IT	NL
Support from administrative staff	73%	90%	93%
Support from colleagues	92%	79%	93%
Support from the president	66%	82%	47%
Strong motivation	99%	92%	96%
Perception of my role as a judge in the community	78%	84%	87%
Autonomy / freedom in managing my time and priorities	96%	92%	94%
Level of salary	49%	67%	49%

Examining the factors that relieve stress, the element that contributes most to the reduction of work-related stress is a strong motivation, together with autonomy in managing time and priorities, while the element which contributes least to work-stress relief is the level of salary. In Italy, an important role is played by the President of the court and his/her support of the judges, while in the other two countries, especially in the Netherlands, this support is perceived as much less important than other factors.

While it is not obvious by which mechanism strong motivation and one's role in society leads to stress reduction, this is, in any case, what keeps the judges going, in combination with their autonomy and freedom in managing time and priorities. Essentially, this reflects a very strong intrinsic motivation of the judges in all three judiciaries, and all three rely on this intrinsic motivation. Extrinsic incentives are, according to the results that we presented, relatively weak. Nevertheless, performance targets do cause stress.

### 6.3 Conclusion and Discussion

In the last decades, many judiciaries underwent the application of private sector techniques to courts of justice, including the appointment of managers within the courts, the re-organization and optimization of services, the use of performance measures and management and the implementation of performance-based budgeting models. These instruments interact with the professional standards of judges that emphasize impartiality and quality.

What is the impact of managerialisation of justice in the presence of the professional standards of judges on judges' organization, autonomy, quality of work, efficiency and work-related stress? To address these questions, between June and December 2020, a survey was conducted among the first-instance judges of ordinary courts in Finland, Italy and the Netherlands. In these three countries, three different budgeting models are in place. The purpose of the questionnaire was to investigate

## Funding the Judiciary: how budgeting systems shape justice

the sources of pressure and the level of perceived pressure and work-related stress, as well as the mechanisms, such as professional standards to deal with pressure and stress, in these three judiciaries. In particular, workload, performance targets, professional attitudes towards quality, timeliness and efficiency, judges' organizational autonomy, their relationship with managers (often being judges as well), motivation and other elements that can positively or negatively affect work well-being were investigated.

In all three judiciaries, workload and work stress are high, regardless of the court organisation, level of managerial control and budget system, but the levels differ. In NCM a major role is played by performance management with respect to caseload and timeliness. In all three judiciaries, with NCM (FI and NL) or largely without NCM (in IT), not much pressure on judges is caused by performance management: production targets are not ambitious, or if they are relatively ambitious, the targets are not enforced, and there are no serious consequences for judges that fail to meet the standards. In Italy, targets even protect against overload caused by backlogs and timeliness issues. This implies that there are not many tensions between the demands for independence and production. The other side is that performance management is largely ineffective in dealing with backlogs and long duration. This outcome is understandable from the perspective of the independence of the judge, but it does not resolve the performance issues of the judiciary, where these exist.

However, NCM can also be focused on the optimal design of work processes and the division of labour between judges and administrative/legal staff. This reduces the organisational autonomy of judges but delivers them from administrative tasks and improves the predictability of procedures for the parties. The Netherlands provides an example where judges do not have individualized production targets, but their work is defined in by the numbers of hearings.

Compared with the other two countries, few Dutch judges report in the survey that management monitors their performance and not reaching the informal targets has consequences for them. Still, they feel the informal targets are ambitious and a source of (intrinsic) pressure. The focus of management on organization has an impact on the organizational autonomy of judges: unlike their Italian and Finnish colleagues, Dutch judges state that they are not autonomous in organizing their hearings and deciding what cases they can deal with first. However, in their eyes, this lack of autonomy does not interfere with judicial independence and has positive effects when it comes to unburdening judges of the weight of organizational tasks. In Italy, indeed, some judges complained about the disorganization of administrative services. Also, in Finland, judges felt that judges and court users could benefit from standardized work processes.

In Finland, court performance targets are not translated into individual performance targets, even if judges are aware of an indicative number of cases that they need to handle. Finnish respondents

## 6. Pressure on judges

gave the highest percentage of positive answers regarding their autonomy.

Dutch judges report that it feels like an assembly line with high implicit production targets. Still, the assembly line can be stopped by the judge if the need arises. Quality standards stipulate that when more time is required for a case, this need transcends efficiency and timeliness. Strict output budgeting fits into this organizational model, as it profits from the high predictability of procedures.

The development of professional (quality) standards by the judges themselves seems to be triggered by increasing management pressure to achieve efficiency. Professional standards are designed as an instrument for judges and not for management: they embody the judges' vision of quality standards (see also Contini 2017), and management has to take the standards into account. These professional standards seem to be rooted in the Dutch judges' culture by now, and this is evident from the answers provided in the survey. What once were individual opinions, as they still largely are in the other two countries, has developed into professional standards, and this has led to the increased power of the judges.

Overall, judges in the three countries consider caseload as the major source of stress, followed by performance targets, in particular with regard to timeliness. However, they do not feel strong pressure from court management, and they do not think that pressure from court presidents affects their independence in a negative way.

In the context of applying the principal-agent theory, with the Judicial Council as the "principal" and judges as the "agents," the perceived impact of pressure from the principal to the agent appears to be relatively limited across all three countries. Although in the Netherlands, this impact is slightly more pronounced, possibly due to the Judicial Council's expanded competences, particularly in budget allocation, it seems to have a lesser influence on perceived pressure compared to other factors at play.

It is not possible to isolate the impact of the effects of performance budgeting on judges from other factors unequivocally. However, we can conclude that performance-based budgeting does not necessarily lead to higher pressures and stress than other budgeting systems, as the case of the Netherlands shows. In the Netherlands, stress is less high than in Italy, and work pressure has fewer negative consequences for the quality of adjudication than in the other two countries.

The Netherlands case also suggests that there seems to be a relationship between the budgeting model and court organization: a strict budgeting model corresponds with a strict work organization, while more "loose" budgeting models are related to a more flexible work organization. We cannot say that these organizational models result from the budgeting models since they were probably

## Funding the Judiciary: how budgeting systems shape justice

established before. Nevertheless, it seems that a strict performance budgeting model like the Dutch one – with budgets directly related to the forecasted number of resolved incoming cases – can exist only if it is accompanied by an efficient stringent work organization that ensures that the courts' targets are reached.

Yet, even if Dutch judges seem to be the less autonomous, they are at the same time the most committed to the quality of decisions. RechtspraakQ, which is the quality management system of the Dutch judiciary, was established indeed to counterbalance the dominance of efficiency. Furthermore, since 2012 professional standards have been developed by Dutch judges. Professional standards are designed as an instrument for judges and not for management: they embody the judges' vision of quality standards, and management has to take the standards into account. These professional standards seem to be deeply rooted in the Dutch judges' culture, and this is evident from the answers provided in the survey.

To conclude, work-related stress is high in all three judiciaries, regardless of the court organization, level of managerial control and budget system. While not a magic solution, NPM does not necessarily lead to higher pressure and stress than the traditional management methods of the courts. Indeed, it may help to reduce pressure by improving the organization of the courts and making financial needs more explicit.

## 7. Discussion

The main purpose of this research was to explore and describe various forms of performance-based budgeting in the Judiciary and to analyse the effects of budgeting in general and performance-based budgeting in particular on judicial efficiency, quality, organisation, independence and values.

I started this thesis by explaining that what initially pushed me towards this topic was the will to understand if and how performance-based budgeting could be helpful to improve the functioning of the judiciaries in general and courts in particular. Coming from a country (Italy) with the longest duration of proceedings of which the costs were not taken into account, I was asking myself if, among many other factors, the budgeting method was somehow related to the problem of delays and if a modern method (such as a form of performance-based budgeting) could somehow contribute to improving the situation by better rationalising the resources available and pushing courts and judges to perform better.

Moving forward with the research, I noticed that budgeting was related to (influencing and influenced by) many topics, such as judicial independence and accountability, efficiency and quality, management and organisation and judicial values. The first part of the research, based on a literature review, was dedicated to exploring the link between budgeting and those various topics.

The most important relationship, in my view, is between budgeting and judicial independence. As the funding of the Judiciary is mainly in the hands of the other two state powers, funding could be the cause of friction between powers, and this friction can jeopardise judicial independence. Following the recommendations of the Venice Commission and the ENCJ, a funding mechanism based upon transparent and objective criteria can enhance judicial independence and judicial accountability at the same time.

Secondly, relating funding with performance, as in performance-based budgeting models, could put emphasis on judges' productivity and improve overall efficiency. However, too much pressure on efficiency could push judges to neglect the content quality of their decisions.

Finally, a funding mechanism based on performance could also contribute to changing the work organisation and the relationship between professionals and managers, as well as impact the judicial values such as impartiality, ethics, equality and, therefore, a party's fair trial rights.

At the end of the first part of the literature analysis, the picture of the situation I had in my mind was the following: countries with a performance-based budgeting model, in general, use resources more rationally, are more efficient (less waste of resources and an enhanced productivity), the role of

## Funding the Judiciary: how budgeting systems shape justice

management is stronger, and this, in return, may cause friction with judges and weaken their autonomy, putting their perceived independence and professional autonomy at risk.

The second part of the research was dedicated to challenging the results of the literature analysis by examining three case studies of three countries that are implementing performance budgeting to different extents. The Netherlands is the country with the strongest link between performance and funding in the Judiciary. The allocation of funds is based on the formula  $P \times Q$  (price per quantity times quantity), and it is directly related to the number of decided cases. In Finland, the allocation of funds is based upon a discussion between the Ministry of Justice and the courts, and it is based on several performance indicators. Italy is used as a “control sample” since the allocation of resources is based upon historical criteria and not on performance indicators. The three countries were also chosen because they represent three different geographical areas in Europe and three different legal traditions. From a methodological point of view, the analysis has been conducted through data collection, interviews and a survey. In particular, a survey was conducted targeting all first-instance judges of the three countries. The survey contained a range of questions on organisation, management, autonomy, pressure to increase efficiency and work-related stress.

In particular, the research tried to answer the following questions:

- a. Does Performance-based budgeting change and balance the allocation of resources?  
Does Performance-based budgeting equalise the performance of courts and judges?
- b. Does Performance-based budgeting lead to changes in the court organisation and in the judge’s work? If so, how?  
Does Performance-based budgeting affect the relationship between managers and professionals in the Judiciary? If so, how?
- c. Does Performance-based budget affect the main values of a judiciary, such as accessibility, equality, independence, transparency, and professionalism?  
Do the judges perceive a change in their behaviour once Performance-based budgeting has been deployed? Do they perceive that Performance-based budgeting has an impact on autonomy, quality of decisions, pressure to increase efficiency and work-related stress?

In this concluding chapter, I will try to summarise the answers to the research questions.

### a. Does Performance-based budgeting change and balance the allocation of resources? Does Performance-based budgeting equalise the performance of courts and judges?

These two questions are both related to efficiency. According to literature (Robinson, 2007; Curristine, 2015; Robinson & Brumby, 2015), one of the main reasons that pushed countries from a traditional line-item budget to different models of performance-based budgeting was the need to increase allocative and technical efficiency. In the Judiciary, increasing technical efficiency would



mean increasing the number of solved cases with the same amount of resources or reducing the expenses with no negative effects on the number of resolved cases. Since in courts, as in other public institutions, the amount of salaries is around 80% of the total court's budget, the same amount of resources would mean the same number of judges and staff. Therefore, increasing technical efficiency means essentially increasing judges' labour productivity or cutting other expenses. As explained in the general introduction, there is no hard evidence available that the change from a traditional budgeting model to a performance-based budgeting model has increased the number of resolved cases per judge. However, from the literature, some general comments on efficiency can be retrieved.

In France, for example, one of the most immediate and visible effects of the LOLF (the law that imposed the change to a form of program-budgeting) was the reduction of costs due to the outsourcing of technical services (Marshall 2008). This change was attributed to the fact that these expenses were included in the court budget under the responsibility of the courts, while they were formerly managed at the central level. A sense of ownership has drawn attention to small expenses and contributed to their reduction. The shift from traditional input-based budgeting to performance-oriented budgeting led to a decrease in legal costs (*frais de justice*): "between 2003 and 2005, these had increased by 42.7%; by 2006, these costs decreased by 22.3% and then remained stable in 2007 and 2008 (Decker, 2011, p. 92)". Furthermore, individual performance targets established as part of the reforms have brought backlog reduction.

In Italy, even in the absence of budgetary autonomy of the courts and prosecutor offices, increased attention to the problem of justice expenses (raised by public opinion in the first years of the 2000s) had pushed the judicial offices to reduce some expenses such as phone tapping and custody of goods. The Sustainability Report of the Bolzano Prosecutor's Office was the first case of an economic report developed directly and autonomously by an Italian judicial office. This experience has shown that the provision of a simple spending control system, combined with economic objectives, allowed the monitoring of costs, the identification of items of expenditure that could be reduced, and the reduction of the same through the definition of goals based on organisational measures designed to eliminate inefficiencies.

In Finland, the change in the budgeting system has enabled the Ministry to "coordinate the principles of allocation and ensure equality and objective rules" (Pekkanen et al. in Contini et al. 2017, p.44). Through the weighted caseload scores, apparently, there is a more balanced resource distribution among courts, with an increase in allocative efficiency. A further result is increased transparency of budget and production between courts and the citizens.

In the Netherlands, performance-based budgeting has made the resource allocation process more transparent and based on clear and shared criteria, which contributed to improving allocative

## Funding the Judiciary: how budgeting systems shape justice

efficiency. According to the Court of Audit: “Since the introduction of performance-based funding, the cost of a court case stabilised after having increased for a long period of time (1983-2002), and the cost differences between courts and cases have declined. It is reasonable to assume that this is due in part to the introduction of performance-based funding”<sup>36</sup>.

However, these opinions have not been fully proven. In general, there are several difficulties connected with this kind of analysis. It is not easy to isolate the effects of judicial reforms on efficiency since there are many factors that impact efficiency simultaneously. Exogenous and unexpected factors (legal context, political and economic situation, cultural and societal changes), as well as system factors (ICT development, organisational aspects, human and monetary resources), can influence the success of every reform. Secondly, the impact of every reform can be evaluated only in the long term. In fact, the analysis will require a comparison between data before and after the budgetary reforms, but the data from the period before the reforms are not available or not comparable.

Therefore, I’ve tried to use a different approach, considering “allocative efficiency” as the balanced (“fair”) distribution of resources (proportionate to the court's needs and productivity) that allows the equal performance of the courts. The principle behind this interpretation is that the resources in the Judiciary are rationally allocated if the efficiency and timeliness of every court are guaranteed and performance is balanced among the country’s courts. Resources should be allocated proportionally to courts’ needs, as the resource allocation process plays a crucial role in providing adequate means to the courts and ensuring they are able to work efficiently and effectively.

After having studied the different criteria that the three countries use for allocating resources among courts, I collected and analysed performance data of all the first-instance courts in the three countries over a three-year period, and I compared the variability of these indicators among the courts of the same country.

To assess the variability of efficiency, productivity and timeliness among the courts, the coefficient of variation of several performance indicators was calculated. In particular, I compared the variability among input indicators (number of incoming and pending cases per judge, cost per incoming and pending cases) and output indicators (number of resolved cases per judge and staff, cost per resolved case). The input indicators are related to resource allocation, and they express how much funding is allocated to each case to be resolved and the total caseload assigned to each judge. The output indicators are related to efficiency: they measure judges’ and staff’s productivity and calculate how much it costs to solve a single case. The analysis of the variability in terms of input and output

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<sup>36</sup> <https://english.rekenkamer.nl/publications/reports/2016/04/21/funding-the-judiciary-system-consequences-for-efficiency> - last access: November 2022

of the three judiciaries' district courts has enabled an examination of the relationship between the Judiciary's funding criteria, proportionality in the allocation of resources (equity) and balance in performance (equality).

The results of the analysis show that:

- In Italy, there was, at the moment of the analysis, an absence of transparent and rational criteria for resource distribution and an extremely uneven situation among courts as regards the distribution of resources and the courts' performance, including the length of proceedings.
- In Finland, the allocation criteria are based primarily on the forecasted weighted caseload, and they are associated with a balanced distribution of resources and performance and medium variability in the length of proceedings.
- In the Netherlands, the allocation criteria are based on a close link between performance and budget, and they are associated with a well-balanced distribution of resources and performance and a low variability in disposition time.

The analysis seems to confirm the hypothesis that a performance-based budgeting model with its transparent and rational allocation of resources allows balanced funding of the courts, and this results in low variability in efficiency between courts. From the citizens' point of view, performance-based budgeting contributes to reducing geographical inequalities.

Therefore, the answer to the questions "Does Performance-based budgeting change and balance the allocation of resources?" and "Does Performance-based budgeting balance the performance of courts and judges?" seems to be affirmative.

Caution should be taken with regard to generalising these findings to include other countries, especially judiciaries that do not use performance-based budgeting models but still use objective criteria in resource distribution. Of paramount importance is that distribution criteria are transparent and well-known, and discretion should be limited and well-argued, aimed at pursuing equal performance among courts. Judiciaries that do not include performance information in the resource allocation process cannot ensure performance balancing; judiciaries in which courts "that shout the loudest get the most" cannot guarantee a rational and equitable distribution of resources. However, efficiency, productivity and timeliness offer only a partial view of overall performance and quality in the Judiciary. "Very efficient (or effective) justice system could potentially suffer from a lack of an independent judiciary and/or miss fairness and/or deliver a poor treatment to court users" (Onatu et al. in Contini et al. 2017, p.329). While the results of this study give insights into the efficiency, productivity and timeliness of courts, they do not provide information about judicial independence, quality of services and quality of decisions.

## Funding the Judiciary: how budgeting systems shape justice

In this part of the research, the study was limited to three countries, but I believe the methodology presented has proven to be solid and has resulted in increased knowledge about court functioning and performance. Therefore, it could be profitable to extend to a larger number of countries. The scope of this part of the research is limited to a quantitative approach to performance, but the overall research project explored the issue of performance and budgeting of the Judiciary from other perspectives: the effects on judges' behaviour and work well-being, court organisation and quality of justice.

Further analysis will confirm or deny the main finding suggested by this study: the funding models with a medium or close link between performance and budget better guarantee proportionality in the allocation of resources among courts and, therefore, result in equal performance (productivity and timeliness) of the courts in a country. Conversely, the absence of transparent and rational criteria in resource allocation endangers a balanced distribution of resources proportional to courts' needs and equal performance of the courts, especially as regards the timeliness of decisions.

This poses a serious problem of equality, as citizens do not have equal opportunities to receive an answer from the judicial system. The unbalanced allocation of resources leads to inequalities in judicial efficiency and effectiveness and, consequently, to the unequal treatment of citizens before the law by the courts.

Allocative efficiency and equality in resource distribution is only one aspect that can be addressed by a performance-based budgeting model. While some forms of performance budgeting are aimed at improving allocative efficiency, many contemporary forms of performance-based budgeting are (also) intended to motivate the agencies to perform "better", meaning to increase productivity and/or reduce expenses (Robinson 2007). As agencies (courts, in this case) are primarily dependent on human resources (judges and staff), an agency performing better requires that the judges working there perform "better". Court management may be required to achieve the performance targets, but it is not clear how it can push judges and staff to increase productivity, especially in the absence of financial incentives. Some systems relate the quantitative performance of judges to their professional evaluation, with effects on their career. However, it is not evident what is the impact of these methods on judges' productivity. In the article "Pressure on judges, how managerialisation and evolving professional standards affect judges' autonomy and efficiency", I – with Frans van Dijk and Bart Diephuis<sup>37</sup> - analysed the impact of different forms of performance budgeting on pressure to increase efficiency from the judges' point of view. From the results of the survey, it seems that these pressures on efficiency are unrelated to the budgeting model.

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<sup>37</sup> The article "Pressure on judges: how managerialization and evolving professional standards affect judges' autonomy, efficiency and stress" has not been published yet

Managerialisation of justice in general, and performance budgeting in particular, were accused on several occasions to be the cause of too much pressure to increase efficiency, to the detriment of quality (Langbroek and Westenberg, 2018). It has been argued that managerialism reduces the courts to, in Switzerland, a shoe factory (De Santis et al. 2016, p.130) and, in the Netherlands, a biscuit factory (Holvast and Doornbos, 2015; Frissen et al., 2013).

This was one of the aspects examined through the survey on judges: several questions were aimed at investigating the relationship between performance-based budgeting and pressure on efficiency.

The results of the questionnaire showed that work-related stress was high in all three judiciaries because of the high caseload and regardless of the court organisation, level of managerial control and budget model. Performance-based budgeting does not necessarily lead to higher pressure and stress than the traditional management methods of the courts. In all three judiciaries, not much pressure on judges is caused by performance management: production targets are not ambitious, or if they are relatively ambitious, the targets are not enforced, and there are no serious consequences for judges that fail to meet the standards. In Italy, targets even protect against overload caused by backlogs and timeliness issues. This implies that there are not many tensions between the demands for independence and production. The other side is that performance management is largely ineffective in dealing with backlogs and long duration. This outcome is understandable from the perspective of the independence of the judge, but it does not resolve the performance issues of the judiciary, where these exist.

### b. Does Performance-based budgeting affect changes in the court organisation and in the judge's work? If so, how?

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Does Performance-based budgeting affect the relationship between managers and professionals in the Judiciary? If so, how?

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Since the Judiciary in general, and courts in particular, were called to be efficient, courts' organisation and court management started to play an important role in the lives of judges. In the past, courts were described as "loosely coupled organisations", where judges had a high level of autonomy, and the court management had limited leverage. With the "managerialisation of justice", meaning the application of private-sector techniques to court administration, the role of managers was strengthened, and the emphasis on efficiency became stronger. However, the concept of "managerialism" was often not well received by judges, who blamed management for reducing professionals to bureaucrats (Noordegraaf & Stijn, 2014, pp.41-52). Performance measurement, emphasis on efficiency and organisational standards were seen as a threat to judicial independence (Lienhard & Kettiger, 2017, pp. 7-17).

## Funding the Judiciary: how budgeting systems shape justice

A certain level of friction between managers and professionals is common, and there is a wide literature on this topic (De Bruijn 2011, Noordergraaf & Stijn, 2014). However, judges are a peculiar type of professionals, as they are, and they must be, independent. For this reason, as already explained, the resistance to management and managerialisation was higher than in other sectors, and some managerial techniques were implemented later than in other public institutions. From the managers' point of view, the management of a court can be a daunting task. Courts' managers are squeezed between external pressures towards courts' efficiency and internal pressure on judges to respect their organisational autonomy and independence. Court managers also have less leverage compared to other public managers: every decision that affects judges' behaviour can be perceived as a threat to their independence; they are limited by the procedural norms, meaning that they have the faculty to change organisational procedures only if they do not collide with norms. In many countries, presidents of the courts are considered "primus inter pares", meaning that they have a higher seniority but that they are formally equal to the other judges of the court.

However, the necessity to ensure the citizens their right to a fair trial within a reasonable time and, in this way, to ensure the effective protection of legal rights led the judiciaries to implement some managerial techniques, in particular performance measurement and management, target setting and time frames.

By means of the survey, the impact of different budgeting models on different forms of court management and court organisation was analysed by comparing the three countries that are the subject of this study through an investigation of managerial practices in courts.

The purpose was to explore if and to what extent the budgeting model has an impact on the organisational framework and court management. As noted before, some performance-budgeting models have the specific purpose of increasing technical efficiency by motivating agencies to perform better. Since "agencies" (courts) are composed of human resources, they will perform better if individuals working there (judges and staff) perform better. The purpose of the survey was, among others, to understand what the "mechanism of transmission" is, from the budgeting model to judges' behaviour and productivity through managerial control, which could push judges to improve their performance. In particular, the presence of productivity targets was explored, together with other forms of pressure to increase productivity.

The three countries present three different forms of organisational and managerial practices. Italy, where the budgeting model does not foresee any link between performance and funding, seems to be the country with the strictest individual target-setting mechanism. Even if there are no national targets, individual targets are set by the courts' presidents after a discussion with the judges. According to the survey, in Italy, individual targets are formal and considered binding. However, they

are not seen as ambitious. In fact, targets are calculated as a range around the average productivity of the previous three years, meaning that there is a minimum requirement but also a maximum requirement. This maximum requirement was explicitly requested by judges to protect them from overload.

In Finland, where a budgeting model with a loose link between performance and targets is in use, national performance targets are approved together with the budget, and court targets are set in a discussion between the National Court Administration and the president of the courts. Courts' targets are not automatically translated into individual performance targets. In Finland, according to the survey, individual performance targets are mainly informal and more like a moral obligation. They are not considered binding nor ambitious, and there are no significant consequences for courts and judges if targets are not met. In both countries, managerial control doesn't seem to be strict.

In the Netherlands, the number of cases to be solved by the court is directly related to the amount of funding the court will receive. There are no individual targets as such; however, the organisational structure makes sure that courts' performance targets are generally reached. Indeed, according to the number of cases to be solved, the court management decides how many hearings per year judges must conduct in principle. The number of hearings is, in a sense, a performance target, and there are significant consequences for the courts' budget if agreed production targets are not met since that court's budget will be reduced if overall targets are not reached. From an organisational point of view, in the Netherlands, the non-judge staff is in charge of scheduling hearings on the basis of the standardised calendar and on the number of hearings decided by the court management. Formally, the judges are responsible; judges are allowed to deviate from the planning if there are case-related reasons. Nevertheless, judges consider themselves less autonomous than their Italian and Finnish colleagues. Therefore, it seems that the "mechanism of transmission" from performance-based budgeting to individual performance lies in the work processes of the courts that are based on the division of labour between judges and staff.

However, emphasis on individual performance occurs even when performance-based budgeting is not in use, meaning that the budgeting model is not directly related to target setting or enhanced control.

In Italy, the well-known issue of the excessive length of proceedings needed to be tackled by a more systematic approach involving national targets, timeframes and strategies for the reduction of delays. Timeframe targets, in particular, unlike productivity targets, are considered difficult to meet (according to the survey, 66% of respondents in IT consider timeframes targets difficult to meet, t vs 54% in FN and 57% in NL) and a source of stress (69% in IT vs 57% in FI and 51% in NL). In Italy,



## Funding the Judiciary: how budgeting systems shape justice

only 66% of judges declared that they give the needed attention to each case, even if this may increase the time of disposition (vs 90% in FI and 91% in NL) (see Annex II).

Nevertheless, the managerial control is quite limited: only 34% of respondents answered that “the court/section president takes action if the length of proceeding is about to exceed the target” (36% in FI and 24% in NL), and only 28% said that there are consequences for judges if the targets for the length of proceedings are not met (14% in FI and 2% in NL). As regards performance targets, in Italy, the divisions’ and courts’ presidents check that all judges meet performance targets (59%), but it is also true that judges’ opinion is taken into consideration in setting the performance targets (56%) and that dialogue between president and judge is the main way to address individual performance issues (58%). In the other two countries, since formal performance targets are not there, the role of management is quite limited in this regard (Annex II).

In general, managerial control looked quite limited in all three countries. As underlined several times, the role of the court manager in the Judiciary is peculiar since it is generally played by one of the judges, and limitation to the court manager's powers comes from the procedural norms. The survey showed how in the three countries, court management is not considered to have an impact on perceived stress, meaning that the tension between managers and professionals is not as high as suggested in the literature. To the question, “the control /pressure by the court/section president affects my independence in a negative way”, a few respondents (13% in IT, 22% in FN and 21% in NL) gave an affirmative answer. Similarly, a few respondents (19% in IT and 14% in FN and NL) blamed court management for their work-related stress (Annex II).

However, in the Netherlands, court management is in charge of reaching the productivity targets set in the budget contracting phase since funding is directly related to the number of resolved cases, and if the target is not reached, the court has to refund part of the budget to the Judicial Council. The key question is: how can managers push the judges to achieve the productivity targets if they are not setting individual targets, they are not controlling their performance, and, in principle, they are not putting stress on judges? As anticipated, the “solution” lies in the court organisation.

Support staff schedules hearings for the cases on the basis of a standardised calendar where days of hearing and the number of cases per hearing are fixed. Standardisation of court procedures and procedural guidelines, together with an effective schedule of hearings and control of the number of hearings per week and cases per hearing, helps to build a roadmap for the resolution of all forecasted cases. Procedural guidelines limit the length of documents sent to the courts, limit requested delays and limit hearing times. Effectively, they are limiting lawyers to demand time from the court and therefore enhance court capacity.



More common practices among judges are desired by many respondents in Finland and Italy (64% in FI and 69% in IT). However, 44% of Dutch respondents answered that the standardisation of work practices is affecting their autonomy (Annex II). I will return to this point in the next paragraph when examining the impact of performance budgeting on judicial autonomy.

In summary, to answer the two research questions in this paragraph:

As regards the relationship between performance-based budgeting and organisation, the case of the Netherlands shows that there is a relationship between the performance-budgeting model and court organisation, and it seems clear that a strict performance budgeting model can work only if accompanied by an efficient work organisation that ensures that courts targets are met. This organisational model can, in its turn, have an impact on the organisational autonomy of judges, as will be further discussed in the next paragraph.

As regards the relationship between management and professionals, perhaps surprisingly, managerial control seems to be stronger in a country where a strict performance-budgeting model is not in place. Apparently, strict managerial control is not necessary for performance budgeting to be effective.

However, management can also be focused on the optimal design of work processes and the division of labour between judges and administrative/legal staff. This reduces the organizational autonomy of judges but delivers them from administrative tasks and improves the predictability of procedures for the parties. The Netherlands provides an example where judges do not have individualized production targets, but their work is defined by the number of hearings. They report that it feels like an assembly line with high implicit production targets. Still, the assembly line can be stopped by the judge if the need arises. Quality standards stipulate that when more time is required for a case, this need transcends efficiency and timeliness. Strict output budgeting fits into this organizational model, as it profits from the high predictability of procedures.

c. Does Performance-based budgeting affect the main values of a judiciary, such as accessibility, equality, independence, transparency, and professionalism?

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Do judges perceive that Performance-based budgeting has an impact on autonomy, quality of decisions, pressure on efficiency and work-related stress?

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As widely discussed, a funding model based on transparent and objective criteria is necessary to ensure judicial independence. Performance-based budgeting models, on the one side, are the most suitable ones to guarantee the rational and transparent allocation of resources; on the other side, they are sometimes seen as a threat to judicial independence insofar as they impose on judges' performance targets or time schedules. With performance budgeting models, even if external

## Funding the Judiciary: how budgeting systems shape justice

independence (independence of the Judiciary from the executive) is safeguarded, internal independence (independence of the judges from the court management) could be at risk.

In 2019, the European Network of Councils for the Judiciary carried out a survey among judges investigating, among other factors, the role of court funding on perceived independence. In particular, to the proposition, “I believe that changes which occurred in my working conditions in relation to court resources directly affected my independence”, judges of many countries declared to agree or strongly agree (ENCJ, 2019). It seems that in countries using some form of performance-based budgeting, the percentage of judges that agree with the proposition is lower than in other countries.

By crossing with other data coming from that survey, there seems to be a positive relationship between the transparency of budget allocation criteria and judges’ perception of their independence: countries that adopt transparent and objective (not discretionary) criteria to distribute resources among courts, based on performance measures such as the number of incoming and/or solved cases, can ensure that resources are equally distributed among courts, enhancing the judges’ perception of their independence.

As regards judges’ autonomy, the results of our survey showed that a strict performance-based budgeting model like the Dutch one is related to a low level of autonomy of judges. They are not very autonomous in managing their caseload and their hearings. They “just work on the files in the order they receive them” (Langbroek & Westenberg, 2018, p.92). The survey showed how Dutch judges perceive themselves as less autonomous than judges of the other two countries: in fact, on a scale from 1 to 5 (where 5 is the maximum level), the self-estimated autonomy average score was 3.5 in the Netherlands, 4.2 in Italy and 4.4 in Finland (see Annex II). As explained in the chapter (4.3) dedicated to the survey, in the Netherlands, the support staff is in charge of micro-organisational tasks such as scheduling the hearings on the basis of a standardised calendar and deciding the priority of the cases to be dealt with.

However, according to what emerges from the survey, Dutch judges do not perceive this lack of autonomy as a threat to their independence. In particular, only 22% of Dutch respondents declare that managerial control affects their independence in a negative way (13% in Italy and 25% in Finland) (Annex II). The Dutch judges make clear that they do not want to be burdened with administrative tasks that organisational autonomy implies.

Judicial independence seems then to be not at risk, especially if court managers are judges themselves. But what about the other judicial values such as integrity, competencies, access to justice, quality, fairness, and equality? As mentioned in the introduction, budget and budgeting play an important role in upholding the values that underpin the Judiciary. Budget allocations given to the

Judiciary (personnel, salaries, equipment, facilities, operational costs, ICT, training, etc.) can affect working conditions, motivation, skills, and competencies.

The survey showed a high level of work-related stress in Italy due to the lack of adequate working space (64% of respondents, vs 21% in FI and 25% in NL), lack of adequate administrative support (62% in IT, 52% in FI and 53% in NL) and lack of adequate ICT tools (51% in IT, 55% in FI and 42% in IT) (Annex II). A low level of resources allocated to courts can deteriorate the quality of services to the citizens and limit their access to justice.

The budgeting model can influence the level of funding of each court, but above all, it influences the way in which resources are allocated among courts.

In the part of the work dedicated to resource allocation, the issue of equity in resource allocation and equality in courts' efficiency was examined, and the role of different budgeting models in guaranteeing equity and equality was analysed. The issue is particularly relevant in the Judiciary, where the priority should be the proportional allocation of adequate resources to guarantee equality in the treatment of citizens before the law, especially with regard to the timeliness of decisions.

One of the functions of Performance-based budgeting in the Judiciary should be the rational allocation of resources proportional to courts' needs, ensuring a balance in terms of performance and timeliness of the courts. The length of proceedings should be reasonable in every court because excessively lengthy proceedings can undermine access to justice by the most vulnerable sector of the population, exacerbating inequalities. Some performance-based budgeting models, according to the literature (Robinson, 2007; Rice & Smith, 2001; Noe, 1986), are more concerned with promoting equity by reimbursing needs rather than results. Generally speaking, moving away from an allocation system based on lobbying power towards a model that measures performance and facilitates the analysis of various services can lead to a more equitable distribution of resources (Noe, 1986, p.364).

As discussed above, to assess if resources and performance are balanced across the courts of the three countries, the coefficient of variation of different distribution and performance indicators was calculated. The lowest level of variability was found in the Netherlands, while the highest level was in Italy. There seems to be a relationship between variability in resource allocation and variability in performance: where resources are unfairly distributed, efficiency is unbalanced, and the length of proceeding is unequal. From the citizens' point of view, this means that geographical inequalities are in place.

From the results of the analysis, it can be concluded that:

## Funding the Judiciary: how budgeting systems shape justice

- a) The funding models with a close link between performance and budget seem able to better guarantee a proportional allocation of resources among courts and therefore result in a more similar performance among the courts in a country.
- b) The unbalanced allocation of resources seems to lead to inequalities in judicial efficiency and effectiveness and, consequently, unequal treatment of citizens before the law by different courts.

As regards “quality”, in the last two decades, the focus of judicial reforms has shifted from efficiency to quality, trying to integrate performance indicators with quality measures. The risk is that if attention is paid to what is measured only, quality could be neglected. However, while the identification of efficiency indicators can be relatively easy, the definition of quality indicators could be daunting.

Nevertheless, from the judges’ point of view, one of the most concerning aspects related to performance budgeting regards precisely the effects on the quality of decisions. In the Netherlands, after the publication of the “Manifesto”, several actions were undertaken in order to ensure the quality of judicial decisions and reduce pressure on efficiency: RechtspraakQ, which is the quality management system of the Judicial Council, from the one side, and “professional standards”, which are quality standard developed by judges, from the other side. The survey showed that professional standards and attention to quality are deeply rooted in the Dutch judges’ culture. Among the three countries analysed in this study, the Netherlands is the one where judges seem to be the most concerned with the quality of decisions. They declared to give the needed attention to each case, even if this can increase the time of disposition and decrease the court’s efficiency; they are mostly well prepared for hearings, and they do not feel forced to excessively simplify the reasoning of their written judgments, in order to dispose of enough procedures. However, most of them (58% of respondents) still feel there is too much pressure on efficiency (vs 44% of Finnish respondents and 50% of Italian respondents) (Annex II).

In general, the survey showed that a strict performance budgeting model does not necessarily coincide with a lower quality of judicial decisions, especially if it is balanced with quality standards.

A second aspect connected to budgeting regards the quality of working conditions. As already described, a high source of stress for Italian judges is the lack of adequate working space, together with the lack of adequate administrative support. In this case, an amount of budget not adequate for courts’ needs can result in higher stress for judges and lower quality of their working environment.

In answer to the questions of this paragraph, the performance budgeting model seems to have a positive impact on equity in resource distribution and equality regarding citizens. It doesn’t seem to endanger judicial independence, nor the quality of decisions, while it could help to determine the adequate amount of budget necessary to guarantee good working conditions.

## 7. Discussion

As regards work-related stress, performance-based budgeting doesn't seem to be the cause of it since, in the Netherlands, the level of perceived stress is lower than in the other two countries. The results of the survey showed how work-related stress is mostly related to caseload and timeframes.

## 8. Conclusions

Performance budgeting is the systematic use of performance information in the public budgeting process to inform, influence or determine the number of funds allocated to public agencies.

The expected benefits of this budgeting method are:

- **Transparency:** the use of performance information to allocate funds can help citizens to understand the use of resources on their behalf, emphasising the link between funds spent and results achieved with these funds. Transparency is important to underpin public trust;
- **Accountability:** by making explicit the objectives and the expected results related to the use of resources, public managers have to be accountable for the proper use of public resources and the achievement of goals;
- **Efficiency:** the use of indicators can facilitate the assessment of efficiency and its improvement over time;

Other benefits regard evidence-based policy-making and the promotion of a “cultural shift” towards a governance model that prioritises performance and results (OECD, 2017).

In the Judiciary, performance-budgeting models and, more generally speaking, budgeting models that guarantee the use of transparent and objective criteria for the allocation of resources are considered most appropriate to ensure judicial independence (CoE, 2010; ENCJ, 2016).

There are different budgeting models depending on the tightness of the link between performance and funding: some models use performance information together with other elements to loosely influence budgetary decisions, while other models establish a tight link connecting performance and funds through a direct formula.

The results of the present study showed how performance budgeting models with a tight link between performance and funding are related to better allocative efficiency in the Judiciary, proportionality in resources distribution according to courts’ needs, and equality in courts’ performance. A rational, proportional, transparent and objective resource distribution among courts results in a balanced courts’ performance and contributes to guaranteeing equal access to justice in a country and equality of citizens before the law.

However, there can be concerns about the implementation of performance budgeting models in the Judiciary, and they regard the possibility of putting too much pressure on judges’ productivity and efficiency with reduced attention to the quality of judgements, together with an increased power of court management that can result in a threat to judges’ autonomy and independence.

From the results of the survey conducted among the 1<sup>st</sup> instance judges of Finland, Italy and the Netherlands, it appears that work-related stress is high in the three judiciaries regardless of court organisation, level of managerial control and budgeting method, but it is higher in Italy. In general, too much pressure on efficiency seems to derive primarily from caseload and not from any form of managerial pressure by court management.

Nevertheless, the Dutch budgeting model, where the link between performance and funding is the tightest, is accompanied by a strict work organisation that leaves little room for judges' autonomy. In the Netherlands, funding of courts is directly related to the forecasted number of resolved cases. In order to reach this annual objective, court managers depend on an efficient work organisation in which many tasks are performed by court staff, including the setting of timetables, scheduling of hearings and prioritising of proceedings (although under judicial control). On the one hand, Dutch judges, compared to the judges of other countries, have more time to dedicate to decisions since organisational tasks are dealt with by the non-judge staff. On the other hand, if judges need more time than planned to decide a case, they are under pressure to work extra time to meet the schedule, and they have little flexibility to decide their own work organisation. Of course, if the need arises, Dutch judges can and do set aside any schedule and give cases the attention they need. In principle, these arrangements could be seen as a threat to judges' independence, even if the survey conducted in this research shows that independence is not considered at risk by the judges.

Another crucial issue regards the consequences for the courts if performance targets are not met. If a court performs poorly, does it deserve fewer or more resources?

Different budgeting models provide different answers to this question. In formula-funding models like the Dutch one, where performance and funding are related through a formula, a court that does not reach its target will obtain less money. This could be a risk because adequate funding is necessary for the proper functioning of justice, and taking funds away from a court that is not resolving enough cases without analysing the underlying reasons, could lead to a further deterioration of the performance of that court. In the Netherlands system, however, the causes of any substantial shortfall of adjudicated cases are analysed, and measures are taken to address performance problems. Other models, such as the Finnish one, are based on a dialogue between the Ministry of Justice and courts, and they are more likely to allocate resources on the basis of workload and to reallocate temporary resources to poorly performing courts, if necessary.

Ultimately, performance-based budgeting in the Judiciary seems to work well by improving the rational and balanced allocation of resources, increasing transparency, and streamlining the organisation of courts and work processes without endangering judicial independence and quality of decisions.

## Funding the Judiciary: how budgeting systems shape justice

This conclusion regards the three countries that are the object of this analysis, and caution must be taken if we want to extend the conclusions to other countries. There is a rising interest in forms of performance-based budgeting in the Judiciary, and many countries (Moldova but also Latvia, Ukraine and Albania, for example) are considering the possibility of gradually moving from line-item budgeting to a form of performance budgeting.

As a general principle, it can be safely said that budgetary decisions should be based on performance data. Establishing objective and transparent criteria for the allocation of resources is fundamental not only to increase accountability and reinforce independence but also to allocate resources more efficiently, according to courts' needs and performance. Furthermore, performance data are necessary to support budgetary requests with facts and evidence. Budgetary requests based on facts are more likely to be satisfied.

The Dutch model can be considered as the extreme realisation of these principles. However, I do not think that this model can function everywhere. As already said, every country has its legal, cultural and economic background, and the choice of the model depends on the purpose and on the organisational context. A shift from line-item budgeting to performance-based should be tested through incremental steps.

In any case, it is extremely important to underline that every performance-based budgeting model in the Judiciary can only function if certain conditions are fulfilled:

1. Performance information should be based upon timely, consistent, and reliable data: high quality and reliability of courts' statistics are essential. It is important that data used to calculate performance indicators come from a Case Management System (CMS) or from a Business Intelligence System. If statistics are not robust and accurate, there is the risk of taking wrong decisions that can have a negative impact on the whole justice system. "Garbage in, garbage out", meaning that bad data lead to bad decisions. Furthermore, any possibility of data manipulation must be prevented, especially if those data have a direct impact on the allocation of resources.
2. A case-weighting system should be in place. Cases should be weighted depending on their complexity, and resources should be allocated proportionally. If the complexity of cases is not considered, there is a serious risk that courts and judges display dysfunctional behaviours, such as focusing on simple cases avoiding complex cases in order to improve statistics on performance. Without a proper measuring system of performance proportional to the different complexity of cases, there is the risk of misallocating resources. Case weighting is important not only to rationalise the allocation of resources at a national level but also to balance the workload among judges of the same court.



3. The organisational structure should support the budgetary model. Standardised practices are necessary to ensure that performance targets are reached. The role of court management should be reinforced, and their aim should be to put all judges and staff in conditions to perform at their best. Generally speaking, the organisation's goals should be clear and shared by all actors (managers, judges, staff, and, preferably, lawyers as well). The court staff should be able to support the judges by taking care of those activities that do not need the judges' specific competencies. However, it is also important that judges maintain their autonomy in managing their time and adjust the plans to specific needs related to the cases.
4. As the role of court manager becomes more important, judges who apply for the role of court manager should be properly trained to acquire organisational, budgetary and managerial skills. Training institutions should support this transition with specific courses dedicated to judicial management. The establishment of a managerial board with a mixed composition of professionalism (judges and non-judges) should be considered an opportunity.
5. Attention to the quality of services in general and the quality of decisions, in particular, should be ensured. Quality should be measured and taken into consideration in the overall evaluation of courts and judges. Quality should be promoted, and mechanisms to reward judicial quality should be put in place in order to counterbalance the stress on efficiency. Quality surveys are also important to assess the satisfaction of court users and employees.

In conclusion, performance-based budgeting is certainly not the miracle cure for the inefficiency of judiciaries, but with necessary adaptations to the specific characteristics of every country and with mechanisms of quality control and independence in place as safeguards, it can help to ensure transparency, rationalise resource allocation, increase awareness of spending and efficiency, and have positive consequences on work organisation and judges' performance.

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## Annex I – performance indicators

Table 21: Finland - courts' performance indicators - 2015-17 average – full data

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff	Weighted cost per case	Weighted cases per judges	Weighted cost per staff
FN01	€ 380	615	€ 505	461	165	1.081	211	120
FN02	€ 220	1.019	€ 282	795	295	630	367	161
FN03	€ 198	1.414	€ 317	899	232	695	403	122
FN04	€ 215	1.483	€ 265	1.200	318	628	494	159
FN05	€ 202	1.309	€ 272	963	281	689	333	143
FN06	€ 260	1.048	€ 386	707	230	626	419	166
FN07	€ 200	1.367	€ 249	1.103	313	623	404	148
FN08	€ 174	1.390	€ 218	1.102	355	600	408	154
FN09	€ 236	1.112	€ 271	966	265	564	520	141
FN10	€ 205	1.326	€ 235	1.154	350	618	411	165
FN11	€ 229	1.336	€ 315	972	282	662	440	160
FN12	€ 253	1.132	€ 308	933	246	746	388	118
FN13	€ 195	1.335	€ 234	1.108	327	583	422	161
FN14	€ 228	1.388	€ 270	1.171	290	673	467	137
FN15	€ 205	1.410	€ 270	1.057	305	716	486	166
FN16	€ 232	1.179	€ 291	923	292	589	356	132
FN17	€ 206	1.238	€ 266	978	289	590	425	156
FN18	€ 216	1.440	€ 259	1.205	329	469	465	146
FN19	€ 201	1.354	€ 244	1.119	329	735	551	196
FN20	€ 227	1.175	€ 298	908	267	780	333	140
FN21	€ 212	1.432	€ 277	1.075	291	656	384	141
FN22	€ 211	1.367	€ 264	1.090	295	763	362	160
FN23	€ 178	1.600	€ 234	1.216	336	541	519	168
FN24	€ 175	1.420	€ 219	1.143	361	562	444	164
FN25	€ 185	1.241	€ 245	931	327	531	409	189
FN26	€ 180	1.391	€ 250	995	307	578	407	161
FN27	€ 228	1.425	€ 285	1.136	279	756	424	120
Maximum	€ 380	1.600	€ 505	1.216	361	1.081	551	196
Minimum	€ 174	615	€ 218	461	165	469	211	118
Mean	€ 217	1.294	€ 279	1.011	295	655	417	152
St.dev.	€ 39	€ 189	€ 56	€ 165	€ 42	€ 113	€ 68	€ 19
CV	18%	15%	20%	16%	14%	17%	16%	13%

**Table A2: Italy - courts' performance indicators - 2015-17 average – full data**

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
IT001	€ 221	1.759	€ 479	811	185
IT002	€ 233	1.502	€ 420	833	244
IT003	€ 190	1.849	€ 332	1.056	312
IT004	€ 312	909	€ 440	646	332
IT005	€ 151	2.291	€ 274	1.258	376
IT006	€ 249	1.454	€ 472	769	207
IT007	€ 218	1.466	€ 357	895	332
IT008	€ 203	1.690	€ 423	809	244
IT009	€ 190	2.072	€ 374	1.052	237
IT010	€ 130	2.764	€ 417	863	238
IT011	€ 149	2.281	€ 340	1.000	312
IT012	€ 232	1.572	€ 406	901	254
IT013	€ 213	1.729	€ 431	854	218
IT014	€ 165	1.816	€ 296	1.011	453
IT015	€ 171	1.846	€ 329	959	371
IT016	€ 177	1.776	€ 363	863	339
IT017	€ 246	1.320	€ 394	825	284
IT018	€ 154	1.918	€ 267	1.105	515
IT019	€ 192	1.876	€ 433	834	224
IT020	€ 199	1.494	€ 353	840	374
IT021	€ 169	2.084	€ 385	915	261
IT022	€ 153	2.690	€ 439	934	193
IT023	€ 465	753	€ 1.090	321	94
IT024	€ 231	1.763	€ 403	1.009	215
IT025	€ 138	2.666	€ 368	996	268
IT026	€ 157	2.360	€ 417	890	226
IT027	€ 182	1.724	€ 477	659	248
IT028	€ 197	1.774	€ 410	852	252
IT029	€ 239	1.448	€ 390	888	264
IT030	€ 122	2.659	€ 307	1.052	373
IT031	€ 194	1.710	€ 324	1.023	343
IT032	€ 203	1.692	€ 438	784	237
IT033	€ 176	1.785	€ 317	992	393
IT034	€ 205	1.579	€ 448	721	256
IT035	€ 267	1.396	€ 437	854	214
IT036	€ 260	1.328	€ 602	574	169
IT037	€ 161	2.292	€ 341	1.082	280
IT038	€ 242	1.488	€ 364	988	271
IT039	€ 188	1.747	€ 405	810	278
IT040	€ 131	2.563	€ 280	1.203	376
IT041	€ 187	1.819	€ 325	1.048	328

## Annex I – performance indicators

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
IT042	€ 176	2.065	€ 343	1.058	292
IT043	€ 188	1.929	€ 485	746	205
IT044	€ 298	1.080	€ 511	630	223
IT045	€ 222	1.511	€ 372	901	294
IT046	€ 140	2.390	€ 383	875	275
IT047	€ 222	1.591	€ 402	879	246
IT048	€ 242	1.657	€ 478	838	186
IT049	€ 190	1.563	€ 345	861	395
IT050	€ 192	2.012	€ 355	1.088	270
IT051	€ 227	1.591	€ 391	921	247
IT052	€ 183	1.842	€ 636	531	169
IT053	€ 172	2.203	€ 459	824	205
IT054	€ 246	1.543	€ 432	879	222
IT055	€ 280	1.525	€ 834	511	96
IT056	€ 211	1.447	€ 476	641	267
IT057	€ 119	3.058	€ 349	1.040	280
IT058	€ 166	2.201	€ 392	935	246
IT059	€ 171	1.755	€ 309	969	437
IT060	€ 196	1.821	€ 350	1.017	279
IT061	€ 207	1.621	€ 556	603	193
IT062	€ 151	2.228	€ 284	1.184	375
IT063	€ 188	2.070	€ 336	1.160	264
IT064	€ 191	1.932	€ 368	1.002	258
IT065	€ 193	1.772	€ 299	1.141	347
IT066	€ 256	1.384	€ 477	741	214
IT067	€ 247	1.490	€ 473	779	208
IT068	€ 235	1.536	€ 489	737	199
IT069	€ 215	1.588	€ 516	661	204
IT070	€ 253	1.131	€ 419	683	348
IT071	€ 167	1.829	€ 287	1.065	448
IT072	€ 179	1.665	€ 317	939	421
IT073	€ 261	1.148	€ 530	564	250
IT074	€ 162	1.648	€ 399	670	434
IT075	€ 127	2.622	€ 317	1.052	346
IT076	€ 163	1.820	€ 375	791	356
IT077	€ 157	2.176	€ 333	1.026	320
IT078	€ 275	1.212	€ 596	559	182
IT079	€ 278	1.282	€ 544	656	184
IT080	€ 182	1.917	€ 318	1.097	321
IT081	€ 234	1.430	€ 501	667	217
IT082	€ 270	1.257	€ 677	502	160
IT083	€ 161	2.509	€ 438	922	199

## Funding the Judiciary: how budgeting systems shape justice

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
IT084	€ 164	2.038	€ 310	1.079	358
IT085	€ 113	3.100	€ 373	941	275
IT086	€ 155	2.094	€ 333	972	349
IT087	€ 140	2.395	€ 354	949	317
IT088	€ 205	1.673	€ 338	1.014	309
IT089	€ 169	2.072	€ 328	1.066	313
IT090	€ 188	2.077	€ 355	1.099	258
IT091	€ 163	2.189	€ 340	1.051	286
IT092	€ 167	2.041	€ 343	994	310
IT093	€ 198	1.672	€ 369	896	294
IT094	€ 206	1.691	€ 559	622	186
IT095	€ 148	2.075	€ 287	1.070	437
IT096	€ 153	2.340	€ 378	946	260
IT097	€ 172	2.095	€ 354	1.019	275
IT098	€ 257	1.338	€ 790	435	133
IT099	€ 163	1.911	€ 293	1.064	443
IT100	€ 198	1.725	€ 383	890	273
IT101	€ 155	2.093	€ 288	1.126	411
IT102	€ 217	1.418	€ 432	713	282
IT103	€ 284	1.151	€ 463	707	235
IT104	€ 192	1.905	€ 337	1.082	285
IT105	€ 169	1.983	€ 421	796	258
IT106	€ 163	1.827	€ 378	785	347
IT107	€ 204	1.939	€ 414	956	213
IT108	€ 248	1.437	€ 392	907	255
IT109	€ 275	1.701	€ 565	827	134
IT110	€ 170	1.845	€ 359	874	344
IT111	€ 138	2.767	€ 364	1.048	251
IT112	€ 311	1.162	€ 524	690	185
IT113	€ 132	2.592	€ 385	892	272
IT114	€ 262	1.587	€ 463	897	197
IT115	€ 159	1.974	€ 375	837	317
IT116	€ 107	4.272	€ 381	1.202	213
IT117	€ 173	2.139	€ 339	1.093	282
IT118	€ 214	2.070	€ 492	900	159
IT119	€ 232	1.551	€ 459	787	220
IT120	€ 120	2.871	€ 249	1.389	409
IT121	€ 271	1.136	€ 439	700	278
IT122	€ 210	1.576	€ 436	758	251
IT123	€ 160	2.303	€ 359	1.026	265
IT124	€ 290	1.256	€ 546	666	179
IT125	€ 214	1.533	€ 356	922	318

## Annex I – performance indicators

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff
IT126	€ 162	1.977	€ 300	1.065	388
IT127	€ 242	1.396	€ 438	770	243
IT128	€ 257	1.378	€ 443	797	223
IT129	€ 186	1.672	€ 406	764	307
IT130	€ 117	2.697	€ 455	692	267
IT131	€ 126	2.592	€ 359	913	319
IT132	€ 272	1.417	€ 480	804	196
IT133	€ 128	2.776	€ 281	1.266	358
IT134	€ 224	1.440	€ 433	747	262
IT135	€ 284	1.223	€ 470	738	216
IT136	€ 224	1.371	€ 369	831	347
IT137	€ 144	2.298	€ 286	1.159	384
IT138	€ 131	2.686	€ 448	782	228
IT139	€ 165	2.107	€ 324	1.070	321
IT140	€ 151	2.345	€ 351	1.010	283
Maximum	€ 465	4.272	€ 1.090	1.389	515
Minimum	€ 107	753	€ 249	321	94
Mean	€ 198	1.862	€ 409	887	277
St.dev.	€ 52	500	€ 110	181	77
CV	26%	27%	27%	20%	28%

**Table A3: the Netherlands - courts' performance indicators - 2015-17 average – full data**

	Cost per caseload	Caseload per judge	Cost per resolved case	Resolved cases per judge	Resolved cases per staff	Weighted cost per case	Weighted cases per judges	Weighted cost per staff
NL01	€ 342	1.146	€ 446	882	328	612	737	223
NL02	€ 300	1.301	€ 373	1.042	349	671	825	186
NL03	€ 262	1.372	€ 312	1.153	442	708	907	156
NL04	€ 272	1.569	€ 346	1.240	389	756	979	173
NL05	€ 269	1.402	€ 340	1.111	385	690	893	170
NL06	€ 317	1.207	€ 400	957	340	637	773	200
NL07	€ 262	1.510	€ 323	1.222	413	742	961	162
NL08	€ 290	1.435	€ 372	1.116	367	703	901	186
NL09	€ 276	1.396	€ 349	1.104	430	690	913	174
NL10	€ 281	1.391	€ 340	1.151	393	716	892	170
NL11	€ 294	1.486	€ 388	1.127	344	710	915	194
Maximum	€ 342	1.569	€ 446	1.240	442	756	979	223
Minimum	€ 262	1.146	€ 312	882	328	612	737	156
Mean	€ 288	1.383	€ 363	1.100	380	694	881	181

## Funding the Judiciary: how budgeting systems shape justice

St.dev.	€ 24	120	€ 37	101	36	40	71	18
CV	8%	9%	10%	9%	10%	6%	8%	10%

**Table A4: Finland - DT by category -- 2015-17 average – full data**

	Criminal cases	Other criminal cases	Coercive measures	Extensive civil cases	Summary cases	Divorce cases	Non-contentious civil cases	Restructuring of debts	Bankruptcy cases
	DT	DT	DT	DT	DT	DT	DT	DT	DT
FN01	196	61	513	459	59	226	83	239	327
FN02	156	55	325	261	68	222	81	169	591
FN03	73	53	150	277	214	222	65	176	202
FN04	79	47	211	211	83	217	78	222	120
FN05	117	60	54	298	107	244	82	205	53
FN06	212	82	256	426	142	245	231	166	1.016
FN07	112	51	217	200	65	246	67	156	364
FN08	155	51	234	296	65	236	81	242	86
FN09	72	18	117	413	37	235	53	94	53
FN10	103	41	417	223	39	219	70	167	110
FN11	116	60	56	212	119	234	65	273	64
FN12	98	36	45	286	63	247	77	105	90
FN13	122	50	52	223	52	226	77	282	318
FN14	79	26	42	236	57	220	57	147	314
FN15	115	48	142	211	65	223	76	172	100
FN16	140	71	600	286	110	224	96	263	124
FN17	116	43	76	197	97	235	93	229	219
FN18	99	24	68	187	57	231	71	151	116
FN19	153	84	952	322	71	235	94	199	384
FN20	59	27	66	159	94	223	46	145	203
FN21	98	47	98	318	73	239	79	167	300
FN22	64	35	136	162	56	224	63	193	259
FN23	71	31	38	211	106	241	56	132	780
FN24	141	64	344	249	68	238	96	167	455
FN25	141	52	110	258	95	238	68	204	408
FN26	102	55	143	222	118	235	81	146	701
FN27	119	53	200	289	69	228	121	268	233
Maximum	212	84	952	459	214	247	231	282	1016
Minimum	59	18	38	159	37	217	46	94	53
Mean	115	49	210	263	83	231	82	188	296
St.dev.	37	16	205	75	36	9	33	50	236
CV	33%	33%	98%	28%	44%	4%	41%	26%	80%



Table 22: Italy - DT by category – 2015-17 average – full data

	Criminl cases	Civil cases	Enforcement	Bankruptcy	Labour cases	Summary cases	Other cases
IT001	302	722	120	857	566	120	535
IT002	294	441	40	642	375	40	975
IT003	231	522	57	786	455	57	488
IT004	119	265	30	445	247	30	227
IT005	390	492	39	560	364	39	1.072
IT006	253	593	41	1.194	609	41	603
IT007	189	326	45	733	368	45	983
IT008	291	809	82	1.095	662	82	502
IT009	459	519	67	773	453	67	456
IT010	862	1.904	225	1.235	1121	225	1.016
IT011	447	910	96	938	648	96	671
IT012	167	504	60	1.061	542	60	737
IT013	238	774	196	1.023	664	196	475
IT014	166	443	42	565	350	42	1.034
IT015	442	497	27	974	500	27	752
IT016	489	502	52	609	388	52	1.303
IT017	163	412	34	670	372	34	1.327
IT018	146	597	41	657	432	41	1.227
IT019	369	911	66	854	610	66	678
IT020	354	305	37	727	356	37	771
IT021	335	791	170	704	555	170	822
IT022	821	1.353	71	1.331	918	71	467
IT023	236	528	96	1.358	661	96	1.398
IT024	164	711	58	713	494	58	435
IT025	815	968	92	692	584	92	682
IT026	388	1.223	176	1.281	893	176	542
IT027	467	1.034	106	834	658	106	663
IT028	305	1.114	149	666	643	149	529
IT029	282	403	39	555	332	39	258
IT030	553	965	117	630	571	117	780
IT031	171	399	47	610	352	47	857
IT032	225	988	103	1.182	758	103	543
IT033	340	363	57	772	398	57	499
IT034	341	892	144	771	602	144	659
IT035	169	426	40	624	363	40	851
IT036	352	840	134	1.296	757	134	726
IT037	476	670	47	963	560	47	674
IT038	161	250	23	453	242	23	421
IT039	348	793	63	706	520	63	1.603
IT040	372	1.000	115	1.056	724	115	765

## Funding the Judiciary: how budgeting systems shape justice

	Criminal cases	Civil cases	Enforcement	Bankruptcy	Labour cases	Summary cases	Other cases
IT041	194	550	53	566	390	53	965
IT042	388	723	85	537	448	85	487
IT043	373	965	114	995	691	114	866
IT044	205	401	61	621	361	61	1.053
IT045	300	500	33	532	355	33	896
IT046	1.090	848	59	1.470	792	59	895
IT047	295	649	94	1.402	715	94	814
IT048	373	807	53	863	574	53	485
IT049	332	379	72	749	400	72	879
IT050	291	667	45	483	398	45	136
IT051	281	551	41	906	499	41	763
IT052	1.211	1.439	104	1.118	887	104	675
IT053	532	1.098	111	1.264	825	111	522
IT054	289	460	27	579	355	27	496
IT055	906	846	163	1.345	784	163	970
IT056	502	782	91	747	540	91	661
IT057	965	1.046	151	1.232	810	151	562
IT058	382	730	88	717	512	88	718
IT059	224	388	45	1.148	527	45	1.046
IT060	333	380	53	597	343	53	437
IT061	719	836	152	2.020	1002	152	732
IT062	421	397	67	720	395	67	536
IT063	311	469	42	699	403	42	608
IT064	370	735	49	767	517	49	237
IT065	223	369	26	634	343	26	173
IT066	273	495	55	804	451	55	519
IT067	272	576	73	447	365	73	777
IT068	313	673	63	1.151	629	63	569
IT069	228	1.190	117	885	730	117	702
IT070	167	485	66	589	380	66	980
IT071	257	451	31	636	373	31	847
IT072	254	358	54	712	374	54	1.069
IT073	330	808	73	527	469	73	540
IT074	245	717	73	356	382	73	815
IT075	430	1.322	162	696	727	162	584
IT076	248	1.002	100	752	618	100	876
IT077	557	521	37	794	451	37	730
IT078	451	637	96	1.090	608	96	830
IT079	273	590	101	833	508	101	716
IT080	247	432	37	750	406	37	610
IT081	453	633	81	1.197	637	81	511
IT082	577	908	78	798	595	78	796
IT083	841	1.309	102	1.360	924	102	702

## Annex I – performance indicators

	Criminl cases	Civil cases	Enforcement	Bankruptcy	Labour cases	Summary cases	Other cases
IT084	257	706	33	987	575	33	852
IT085	935	1.617	231	896	915	231	1.967
IT086	533	379	53	734	389	53	889
IT087	779	899	61	862	607	61	908
IT088	129	583	40	556	393	40	270
IT089	423	529	52	758	446	52	500
IT090	216	619	36	775	477	36	932
IT091	309	830	73	638	514	73	924
IT092	307	559	52	598	403	52	1.162
IT093	152	517	46	897	487	46	1.242
IT094	434	1.522	174	868	854	174	554
IT095	383	530	45	638	405	45	1.030
IT096	564	1.073	54	790	639	54	582
IT097	559	372	30	579	327	30	586
IT098	1.029	996	115	787	633	115	715
IT099	310	440	30	693	388	30	877
IT100	353	646	92	1.371	703	92	334
IT101	332	517	54	617	396	54	691
IT102	347	766	48	518	444	48	508
IT103	193	271	33	703	336	33	888
IT104	336	598	43	607	416	43	211
IT105	574	1.057	99	739	632	99	511
IT106	494	1.136	109	972	739	109	832
IT107	451	454	75	1.326	619	75	555
IT108	179	364	49	845	419	49	839
IT109	357	555	68	1.265	629	68	415
IT110	429	684	74	729	495	74	782
IT111	865	840	90	986	639	90	627
IT112	149	499	49	712	420	49	841
IT113	1.326	874	90	771	578	90	652
IT114	295	430	54	1.129	537	54	460
IT115	765	652	103	682	479	103	535
IT116	1.506	985	134	1.229	783	134	1.013
IT117	185	915	86	766	589	86	831
IT118	403	783	82	619	495	82	528
IT119	336	660	31	763	485	31	589
IT120	341	640	70	557	422	70	419
IT121	153	423	43	705	390	43	739
IT122	315	799	77	820	565	77	605
IT123	406	943	76	794	604	76	451
IT124	320	606	60	545	403	60	661
IT125	163	430	38	739	402	38	1.264
IT126	231	460	43	801	434	43	594

## Funding the Judiciary: how budgeting systems shape justice

	Criminal cases	Civil cases	Enforcement	Bankruptcy	Labour cases	Summary cases	Other cases
IT127	266	463	49	585	366	49	1.215
IT128	184	362	32	596	330	32	1.223
IT129	413	576	52	666	431	52	674
IT130	1.170	2.211	235	1.273	1240	235	684
IT131	1.318	403	61	974	480	61	749
IT132	236	529	91	771	463	91	472
IT133	600	618	81	755	484	81	491
IT134	236	592	64	813	490	64	1.000
IT135	188	354	28	925	436	28	605
IT136	264	352	36	837	408	36	781
IT137	524	433	45	636	371	45	655
IT138	928	1.425	111	911	816	111	1.007
IT139	243	686	53	786	508	53	1.323
IT140	727	886	75	681	547	75	477
Maximum	1.506	2.211	235	2.020	1.240	235	1.967
Minimum	119	250	23	356	242	23	136
Mean	415	702	75	830	536	75	732
St.dev.	267	325	43	263	175	43	283
CV	64%	46%	57%	32%	33%	57%	39%

**Table 23: the Netherlands - DT by category – 2015-17 average – full data**

	Commercial cases	Family cases	Provisional injunctions	Administrative cases	Foreign cases	Tax cases	Criminal cases	Commercial + Family
	DT	DT	DT	DT	DT	DT	DT	DT
NL01	353	56	34	154	86	193	223	132
NL02	384	71	34	147	88	155	152	150
NL03	359	62	26	173	87	254	137	146
NL04	516	67	32	216	78	230	206	179
NL05	405	64	25	174	87	618	139	141
NL06	424	68	28	193	97	240	175	151
NL07	497	66	40	191	82	281	163	181
NL08	517	50	50	141	71	540	156	150
NL09	463	50	21	127	58	163	203	141
NL10	349	69	26	176	62	104	129	147
NL11	458	120	25	172	77	478	170	202
Maximum	517	71	50	216	97	618	223	181
Minimum	349	50	21	127	58	104	129	132
Mean	429	67	31	169	79	296	169	156
St.dev.	64	19	8	26	12	171	31	21
CV	15%	28%	27%	15%	15%	58%	18%	14%



## Annex II – survey results

### 1.2 What's your position?

#	Administrative judge	Criminal Judge	Judge in criminal and non-criminal cases	Non-criminal Judge	President of the court or section/division	Other	Unresponsive
Finland	0	27	17	21	2	6	0
Italy	0	157	0	215	70	3	0
Netherlands	40	64	0	79	8	0	4

% of Total	Administrative judge	Criminal Judge	Judge in criminal and non-criminal cases	Non-criminal Judge	President of the court or section/division	Other	Unresponsive
Finland	0%	37%	23%	29%	3%	8%	0%
Italy	0%	35%	0%	48%	16%	1%	0%
Netherlands	21%	33%	0%	41%	4%	0%	2%

% of Total excl. UR-NA	Administrative judge	Criminal Judge	Judge in criminal and non-criminal cases	Non-criminal Judge	President of the court or section/division	Other	Unresponsive
Finland	0%	37%	23%	29%	3%	8%	-
Italy	0%	35%	0%	48%	16%	1%	-
Netherlands	21%	34%	0%	41%	4%	0%	-

### 1.3 How long have you been a judge?

#	less than 5 years	5 to 10 years	more than 10 years	NA
Finland	23	13	36	1
Italy	74	63	309	2
Netherlands	22	29	144	0

% of Total	less than 5 years	5 to 10 years	more than 10 years	NA
Finland	32%	18%	49%	1%
Italy	17%	14%	69%	0%
Netherlands	11%	15%	74%	0%

% of Total excl. NA-NAP	less than 5 years	5 to 10 years	more than 10 years	NA
Finland	32%	18%	50%	-
Italy	17%	14%	69%	-
Netherlands	11%	15%	74%	-

## 1.4 Gender

#	Man	Woman	Unresponsive	NA
Finland	33	35	2	3
Italy	223	220	1	4
Netherlands	82	107	3	3

% of Total	Man	Woman	Unresponsive	NA
Finland	45%	48%	3%	4%
Italy	50%	49%	0%	1%
Netherlands	42%	55%	2%	2%

% of Total excl. NA-NAP	Man	Woman	Unresponsive	NA
Finland	47%	50%	3%	-
Italy	50%	50%	0%	-
Netherlands	43%	56%	2%	-

## 1.5 Age

#	Less than 30 years old	30 - 40 years old	40 - 50 years old	50 - 60 years old	More than 60 years old	Unres ponsiv e	NA
Finland	2	13	31	16	9	1	1
Italy	0	110	121	152	63	1	1
Netherlands	0	19	54	68	52	1	1

% of Total	Less than 30 years old	30 - 40 years old	40 - 50 years old	50 - 60 years old	More than 60 years old	Unres ponsiv e	NA
Finland	3%	18%	42%	22%	12%	1%	1%
Italy	0%	25%	27%	34%	14%	0%	0%
Netherlands	0%	10%	28%	35%	27%	1%	1%

% of Total excl. NA-NAP	Less than 30 years old	30 - 40 years old	40 - 50 years old	50 - 60 years old	More than 60 years old	Unres ponsiv e	NA
Finland	3%	18%	44%	23%	13%	-	-
Italy	0%	25%	27%	34%	14%	-	-
Netherlands	0%	10%	28%	35%	27%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 2.4 How many hours per week do you work on average?

#	Less than 35 hours	From 35 to 40 hours	From 40 to 45 hours	From 45 to 50 hours	More than 50 hours	NA	Not applicable
Finland	4	13	35	14	7	0	-
Italy	7	60	151	129	98	3	-
Netherlands	33	57	52	36	16	1	-

% of Total	Less than 35 hours	From 35 to 40 hours	From 40 to 45 hours	From 45 to 50 hours	More than 50 hours	NA	Not applicable
Finland	5%	18%	48%	19%	10%	0%	-
Italy	2%	13%	34%	29%	22%	1%	-
Netherlands	17%	29%	27%	18%	8%	1%	-

% of Total excl. NA-NAP	Less than 35 hours	From 35 to 40 hours	From 40 to 45 hours	From 45 to 50 hours	More than 50 hours	NA	Not applicable
Finland	5%	18%	48%	19%	10%	-	-
Italy	2%	13%	34%	29%	22%	-	-
Netherlands	17%	29%	27%	19%	8%	-	-

### 2.6a.1. I don't have enough time to study the cases properly

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5	21	9	29	8	1	0
Italy	19	156	77	142	46	3	5
Netherlands	5	70	56	58	5	1	0

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	29%	12%	40%	11%	1%	0%
Italy	4%	35%	17%	32%	10%	1%	1%
Netherlands	3%	36%	29%	30%	3%	1%	0%

% of Total excl. NA-NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	29%	13%	40%	11%	-	-
Italy	4%	35%	18%	32%	10%	-	-
Netherlands	3%	36%	29%	30%	3%	-	-



**2.6a.2. I am always well-prepared for hearings**

	1	2	3	4	5	NA	NAP
#	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	1	18	16	33	5	0	0
Italy	16	95	70	183	78	4	2
Netherlands	0	12	20	124	38	1	0

	1	2	3	4	5	NA	NAP
% of Total	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	1%	25%	22%	45%	7%	0%	0%
Italy	4%	21%	16%	41%	17%	1%	0%
Netherlands	0%	6%	10%	64%	19%	1%	0%

	1	2	3	4	5	NA	NAP
% of Total excl. NA-NAP	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	1%	25%	22%	45%	7%	-	-
Italy	4%	21%	16%	41%	18%	-	-
Netherlands	0%	6%	10%	64%	20%	-	-

**2.6a.3. I often feel forced to excessively simplify the reasoning of my written judgments, in order to dispose enough proceedings**

	1	2	3	4	5	NA	NAP
#	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	10	24	10	22	7	0	0
Italy	44	175	58	127	34	3	7
Netherlands	23	101	39	26	6	0	0

	1	2	3	4	5	NA	NAP
% of Total	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	14%	33%	14%	30%	10%	0%	0%
Italy	10%	39%	13%	28%	8%	1%	2%
Netherlands	12%	52%	20%	13%	3%	0%	0%

	1	2	3	4	5	NA	NAP
% of Total excl. NA-NAP	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	14%	33%	14%	30%	10%	-	-
Italy	10%	40%	13%	29%	8%	-	-
Netherlands	12%	52%	20%	13%	3%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 2.6b.4. I think that the caseload is well balanced among the judges of my section/department

	1	2	3	4	5	NA	NAP
#	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	2	22	16	28	5	0	0
Italy	26	58	62	258	39	5	0
Netherlands	8	47	38	96	5	1	0

	1	2	3	4	5	NA	NAP
% of Total	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	3%	30%	22%	38%	7%	0%	0%
Italy	6%	13%	14%	58%	9%	1%	0%
Netherlands	4%	24%	19%	49%	3%	1%	0%

	1	2	3	4	5	NA	NAP
% of Total excl. NA-NAP	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	3%	30%	22%	38%	7%	-	-
Italy	6%	13%	14%	58%	9%	-	-
Netherlands	4%	24%	20%	49%	3%	-	-

### 2.6b.5. I think that the caseloads are well balanced among the judges of my court

	1	2	3	4	5	NA	NAP
#	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	6	33	16	15	3	0	0
Italy	54	144	94	146	8	2	0
Netherlands	25	72	69	28	0	1	0

	1	2	3	4	5	NA	NAP
% of Total	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	8%	45%	22%	21%	4%	0%	0%
Italy	12%	32%	21%	33%	2%	0%	0%
Netherlands	13%	37%	35%	14%	0%	1%	0%

	1	2	3	4	5	NA	NAP
% of Total excl. NA-NAP	Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Not available	Not applicable
Finland	8%	45%	22%	21%	4%	-	-
Italy	12%	32%	21%	33%	2%	-	-
Netherlands	13%	37%	36%	14%	0%	-	-

**2.8. On a scale from 1 to 5 (where 5 is the maximum level), how do you rate the sustainability of your workload - considering an average of the last two years**

#	1 Totally unsustainable	2 Unsustainable	3 Neutral	4 Sustainable	5 Totally sustainable	NA Not available	NAP Not applicable
Finland	4	20	26	18	5	0	0
Italy	39	129	171	81	27	1	0
Netherlands	7	55	61	53	18	1	0

% of Total	1 Totally unsustainable	2 Unsustainable	3 Neutral	4 Sustainable	5 Totally sustainable	NA Not available	NAP Not applicable
Finland	5%	27%	36%	25%	7%	0%	0%
Italy	9%	29%	38%	18%	6%	0%	0%
Netherlands	4%	28%	31%	27%	9%	1%	0%

% of Total excl. NA-NAP	1 Totally unsustainable	2 Unsustainable	3 Neutral	4 Sustainable	5 Totally sustainable	NA Not available	NAP Not applicable
Finland	5%	27%	36%	25%	7%	-	-
Italy	9%	29%	38%	18%	6%	-	-
Netherlands	4%	28%	31%	27%	9%	-	-

**3.3a.1. The court's performance targets are well known by all court's judges**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	14	13	28	7	0	7
Italy	18	45	51	189	113	6	26
Netherlands	18	67	49	47	8	0	6

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	19%	18%	38%	10%	0%	10%
Italy	4%	10%	11%	42%	25%	1%	6%
Netherlands	9%	34%	25%	24%	4%	0%	3%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6%	21%	20%	42%	11%	-	-
Italy	4%	11%	12%	45%	27%	-	-
Netherlands	10%	35%	26%	25%	4%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 3.3a.2. Section/division performance targets are known by all section's judges

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	17	12	26	7	0	7
Italy	15	20	36	209	134	7	27
Netherlands	19	57	31	72	10	0	6

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	23%	16%	36%	10%	0%	10%
Italy	3%	4%	8%	47%	30%	2%	6%
Netherlands	10%	29%	16%	37%	5%	0%	3%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6%	26%	18%	39%	11%	-	-
Italy	4%	5%	9%	50%	32%	-	-
Netherlands	10%	30%	16%	38%	5%	-	-

### 3.3a.3. Section performance targets are accepted by most judges

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6	13	22	23	3	0	6
Italy	14	40	70	198	87	9	30
Netherlands	11	42	62	62	7	0	11

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8%	18%	30%	32%	4%	0%	8%
Italy	3%	9%	16%	44%	19%	2%	7%
Netherlands	6%	22%	32%	32%	4%	0%	6%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	9%	19%	33%	34%	4%	-	-
Italy	3%	10%	17%	48%	21%	-	-
Netherlands	6%	23%	34%	34%	4%	-	-

**3.3a.4. Individual performance targets are clear and specific**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5	25	19	11	3	0	10
Italy	28	50	62	179	89	12	28
Netherlands	21	47	40	46	11	0	30

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	34%	26%	15%	4%	0%	14%
Italy	6%	11%	14%	40%	20%	3%	6%
Netherlands	11%	24%	21%	24%	6%	0%	15%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8%	40%	30%	17%	5%	-	-
Italy	7%	12%	15%	44%	22%	-	-
Netherlands	13%	28%	24%	28%	7%	-	-

**3.3a.5. Individual performance targets are accepted by most judges**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	15	25	15	3	0	11
Italy	19	58	92	162	72	12	33
Netherlands	15	31	62	48	6	1	32

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	21%	34%	21%	4%	0%	15%
Italy	4%	13%	21%	36%	16%	3%	7%
Netherlands	8%	16%	32%	25%	3%	1%	16%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6%	24%	40%	24%	5%	-	-
Italy	5%	14%	23%	40%	18%	-	-
Netherlands	9%	19%	38%	30%	4%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 3.3b.6. Individual performance targets are informal

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	3	7	17	29	10	0	7
Italy	66	162	72	86	16	10	36
Netherlands	4	46	36	73	16	0	20

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4%	10%	23%	40%	14%	0%	10%
Italy	15%	36%	16%	19%	4%	2%	8%
Netherlands	2%	24%	18%	37%	8%	0%	10%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	11%	26%	44%	15%	-	-
Italy	16%	40%	18%	21%	4%	-	-
Netherlands	2%	26%	21%	42%	9%	-	-

### 3.3b.7. Judges' failure to meet targets has significant consequences for the court

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	10	25	18	11	3	0	6
Italy	20	149	136	104	20	4	15
Netherlands	7	49	52	58	18	1	10

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	14%	34%	25%	15%	4%	0%	8%
Italy	4%	33%	30%	23%	4%	1%	3%
Netherlands	4%	25%	27%	30%	9%	1%	5%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	15%	37%	27%	16%	4%	-	-
Italy	5%	35%	32%	24%	5%	-	-
Netherlands	4%	27%	28%	32%	10%	-	-

**3.3b.8. Judges' failure to meet targets has significant consequences for the judge**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	14	19	18	7	7	0	8
Italy	26	150	117	107	24	5	19
Netherlands	25	83	56	16	3	0	12

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	19%	26%	25%	10%	10%	0%	11%
Italy	6%	33%	26%	24%	5%	1%	4%
Netherlands	13%	43%	29%	8%	2%	0%	6%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	22%	29%	28%	11%	11%	-	-
Italy	6%	35%	28%	25%	6%	-	-
Netherlands	14%	45%	31%	9%	2%	-	-

**3.3b.9. Performance targets are too ambitious**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6	11	24	19	2	0	11
Italy	20	157	128	74	40	8	21
Netherlands	0	34	50	48	47	1	15

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8%	15%	33%	26%	3%	0%	15%
Italy	4%	35%	29%	17%	9%	2%	5%
Netherlands	0%	17%	26%	25%	24%	1%	8%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	10%	18%	39%	31%	3%	-	-
Italy	5%	37%	31%	18%	10%	-	-
Netherlands	0%	19%	28%	27%	26%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 3.3b.10. Section/court presidents check that all judges meet performance targets

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	9	25	17	8	0	10
Italy	23	58	79	215	49	7	17
Netherlands	22	49	59	44	6	0	15

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	12%	34%	23%	11%	0%	14%
Italy	5%	13%	18%	48%	11%	2%	4%
Netherlands	11%	25%	30%	23%	3%	0%	8%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6%	14%	40%	27%	13%	-	-
Italy	5%	14%	19%	51%	12%	-	-
Netherlands	12%	27%	33%	24%	3%	-	-

### 3.3c.11. My colleagues monitor that everyone fulfils the performance targets

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11	30	12	9	2	1	8
Italy	23	174	133	68	10	7	33
Netherlands	34	120	16	7	2	0	16

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	15%	41%	16%	12%	3%	1%	11%
Italy	5%	39%	30%	15%	2%	2%	7%
Netherlands	17%	62%	8%	4%	1%	0%	8%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	17%	47%	19%	14%	3%	-	-
Italy	6%	43%	33%	17%	2%	-	-
Netherlands	19%	67%	9%	4%	1%	-	-



**3.3c.12. Judge's opinion is taken into account in setting the performance targets**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11	22	15	14	3	0	8
Italy	38	63	87	182	54	7	17
Netherlands	26	67	44	41	4	0	13

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	15%	30%	21%	19%	4%	0%	11%
Italy	8%	14%	19%	41%	12%	2%	4%
Netherlands	13%	34%	23%	21%	2%	0%	7%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	17%	34%	23%	22%	5%	-	-
Italy	9%	15%	21%	43%	13%	-	-
Netherlands	14%	37%	24%	23%	2%	-	-

**3.3c.13. Dialogue between president and judge is the main way to address individual performance issues**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	9	17	15	21	1	0	10
Italy	26	65	68	192	70	8	19
Netherlands	23	54	38	47	10	0	23

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	12%	23%	21%	29%	1%	0%	14%
Italy	6%	15%	15%	43%	16%	2%	4%
Netherlands	12%	28%	19%	24%	5%	0%	12%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	14%	27%	24%	33%	2%	-	-
Italy	6%	15%	16%	46%	17%	-	-
Netherlands	13%	31%	22%	27%	6%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 4.4.1. I give the needed attention to each case, even if this may increase the time of disposition

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	1	4	2	49	17	0	0
Italy	8	59	83	238	50	4	6
Netherlands	0	9	7	117	60	0	2

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	1%	5%	3%	67%	23%	0%	0%
Italy	2%	13%	19%	53%	11%	1%	1%
Netherlands	0%	5%	4%	60%	31%	0%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	1%	5%	3%	67%	23%	-	-
Italy	2%	13%	19%	54%	11%	-	-
Netherlands	0%	5%	4%	61%	31%	-	-

### 4.4.2. In my court, some judges solve less complex cases first to have better statistics

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5	17	34	9	5	0	3
Italy	13	85	161	126	42	5	16
Netherlands	31	68	55	19	2	0	20

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	23%	47%	12%	7%	0%	4%
Italy	3%	19%	36%	28%	9%	1%	4%
Netherlands	16%	35%	28%	10%	1%	0%	10%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	24%	49%	13%	7%	-	-
Italy	3%	20%	38%	30%	10%	-	-
Netherlands	18%	39%	31%	11%	1%	-	-

**4.4.3. It is difficult to meet the targets for the timeframes of judicial proceedings set by the office court**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	2	8	16	20	10	0	17
Italy	12	58	76	199	85	5	13
Netherlands	3	23	45	67	28	1	28

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	3%	11%	22%	27%	14%	0%	23%
Italy	3%	13%	17%	44%	19%	1%	3%
Netherlands	2%	12%	23%	34%	14%	1%	14%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4%	14%	29%	36%	18%	-	-
Italy	3%	13%	18%	46%	20%	-	-
Netherlands	2%	14%	27%	40%	17%	-	-

**4.4.4. The court/section president takes action if the length of proceeding is about to exceed the target**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7	14	15	21	5	0	11
Italy	33	135	111	130	23	3	13
Netherlands	28	62	42	42	4	0	17

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	10%	19%	21%	29%	7%	0%	15%
Italy	7%	30%	25%	29%	5%	1%	3%
Netherlands	14%	32%	22%	22%	2%	0%	9%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11%	23%	24%	34%	8%	-	-
Italy	8%	31%	26%	30%	5%	-	-
Netherlands	16%	35%	24%	24%	2%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 4.4.5. There are significant consequences for judges if the targets for the length of proceedings are not met

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11	31	13	9	1	0	8
Italy	39	134	134	99	25	2	14
Netherlands	61	85	29	3	1	1	15

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	15%	42%	18%	12%	1%	0%	11%
Italy	9%	30%	30%	22%	6%	0%	3%
Netherlands	31%	44%	15%	2%	1%	1%	8%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	17%	48%	20%	14%	2%	-	-
Italy	9%	31%	31%	23%	6%	-	-
Netherlands	34%	47%	16%	2%	1%	-	-

### 4.5a.1. I am autonomous in deciding which cases to deal with first

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0	6	4	30	33	0	0
Italy	6	43	39	250	104	3	3
Netherlands	33	64	21	48	19	0	10

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	8%	5%	41%	45%	0%	0%
Italy	1%	10%	9%	56%	23%	1%	1%
Netherlands	17%	33%	11%	25%	10%	0%	5%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	8%	5%	41%	45%	-	-
Italy	1%	10%	9%	57%	24%	-	-
Netherlands	18%	35%	11%	26%	10%	-	-

**4.5a.2. I am autonomous in scheduling my hearings**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0	3	3	26	41	0	0
Italy	5	26	19	272	120	2	4
Netherlands	42	91	22	31	3	0	6

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	4%	4%	36%	56%	0%	0%
Italy	1%	6%	4%	61%	27%	0%	1%
Netherlands	22%	47%	11%	16%	2%	0%	3%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	4%	4%	36%	56%	-	-
Italy	1%	6%	4%	62%	27%	-	-
Netherlands	22%	48%	12%	16%	2%	-	-

**4.5a.3. I am autonomous in deciding how to organize my work**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0	3	2	28	40	0	0
Italy	2	11	27	280	124	3	1
Netherlands	8	37	28	88	32	1	1

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	4%	3%	38%	55%	0%	0%
Italy	0%	2%	6%	63%	28%	1%	0%
Netherlands	4%	19%	14%	45%	16%	1%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	4%	3%	38%	55%	-	-
Italy	0%	2%	6%	63%	28%	-	-
Netherlands	4%	19%	15%	46%	17%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 4.5a.4. There are standard instructions/practices/rules to schedule hearings

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	13	13	34	9	0	0
Italy	11	41	78	247	62	4	5
Netherlands	1	8	10	124	50	0	2

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	18%	18%	47%	12%	0%	0%
Italy	2%	9%	17%	55%	14%	1%	1%
Netherlands	1%	4%	5%	64%	26%	0%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	18%	18%	47%	12%	-	-
Italy	3%	9%	18%	56%	14%	-	-
Netherlands	1%	4%	5%	64%	26%	-	-

### 4.5b.5. More common practices among judges would be desirable

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	2	5	19	33	14	0	0
Italy	6	32	90	233	75	5	7
Netherlands	1	43	76	63	9	0	3

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	3%	7%	26%	45%	19%	0%	0%
Italy	1%	7%	20%	52%	17%	1%	2%
Netherlands	1%	22%	39%	32%	5%	0%	2%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	3%	7%	26%	45%	19%	-	-
Italy	1%	7%	21%	53%	17%	-	-
Netherlands	1%	22%	40%	33%	5%	-	-

**4.5b.6. The standardization of procedures affects my autonomy**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5	33	15	16	4	0	0
Italy	37	214	101	71	12	3	10
Netherlands	5	69	34	61	24	0	2

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	45%	21%	22%	5%	0%	0%
Italy	8%	48%	23%	16%	3%	1%	2%
Netherlands	3%	35%	17%	31%	12%	0%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	45%	21%	22%	5%	-	-
Italy	9%	49%	23%	16%	3%	-	-
Netherlands	3%	36%	18%	32%	12%	-	-

**4.5b.7. The control /pressure by the court/section president affects my independence in a negative way**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	14	22	12	13	3	0	9
Italy	47	225	102	43	13	3	15
Netherlands	32	81	32	22	18	1	9

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	19%	30%	16%	18%	4%	0%	12%
Italy	10%	50%	23%	10%	3%	1%	3%
Netherlands	16%	42%	16%	11%	9%	1%	5%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	22%	34%	19%	20%	5%	-	-
Italy	11%	52%	24%	10%	3%	-	-
Netherlands	17%	44%	17%	12%	10%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 4.6. On a scale from 1 to 5 (where 5 is the maximum level), how do you rate your autonomy in organizing your work?

#	1 Totally not autonomou s	2 Not autonomou s	3 Neutral	4 Autonomou s	5 Totally autonomou s	NA Not available	NAP Not applicable
Finland	0	1	5	34	33	0	0
Italy	2	5	62	217	161	1	0
Netherlands	10	20	50	91	23	1	0

% of Total	1 Totally not autonomou s	2 Not autonomou s	3 Neutral	4 Autonomou s	5 Totally autonomou s	NA Not available	NAP Not applicable
Finland	0%	1%	7%	47%	45%	0%	0%
Italy	0%	1%	14%	48%	36%	0%	0%
Netherlands	5%	10%	26%	47%	12%	1%	0%

% of Total excl. NA- NAP	1 Totally not autonomou s	2 Not autonomou s	3 Neutral	4 Autonomou s	5 Totally autonomou s	NA Not available	NAP Not applicable
Finland	0%	1%	7%	47%	45%	-	-
Italy	0%	1%	14%	49%	36%	-	-
Netherlands	5%	10%	26%	47%	12%	-	-

### 5.1a.1. I am aware of the level of efficiency of my court compared to other courts

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5	9	12	33	14	0	0
Italy	9	31	71	257	73	3	4
Netherlands	15	66	48	59	5	2	0

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	12%	16%	45%	19%	0%	0%
Italy	2%	7%	16%	57%	16%	1%	1%
Netherlands	8%	34%	25%	30%	3%	1%	0%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	7%	12%	16%	45%	19%	-	-
Italy	2%	7%	16%	58%	17%	-	-
Netherlands	8%	34%	25%	31%	3%	-	-



**5.1a.2. I think there's too much emphasis/pressure on efficiency**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4	19	18	14	18	0	0
Italy	17	103	100	126	95	3	4
Netherlands	4	45	32	71	41	2	0

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	26%	25%	19%	25%	0%	0%
Italy	4%	23%	22%	28%	21%	1%	1%
Netherlands	2%	23%	16%	36%	21%	1%	0%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	5%	26%	25%	19%	25%	-	-
Italy	4%	23%	23%	29%	22%	-	-
Netherlands	2%	23%	17%	37%	21%	-	-

**5.1a.3. I think that the focus on efficiency is compromising the quality of my decisions**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	6	21	10	22	14	0	0
Italy	29	161	121	83	44	3	7
Netherlands	8	59	40	67	18	2	1

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8%	29%	14%	30%	19%	0%	0%
Italy	6%	36%	27%	19%	10%	1%	2%
Netherlands	4%	30%	21%	34%	9%	1%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8%	29%	14%	30%	19%	-	-
Italy	7%	37%	28%	19%	10%	-	-
Netherlands	4%	31%	21%	35%	9%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 5.1a.4. I don't perceive the court's targets as binding

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	3	11	19	28	7	0	5
Italy	35	191	113	77	11	4	17
Netherlands	1	37	46	86	19	0	6

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4%	15%	26%	38%	10%	0%	7%
Italy	8%	43%	25%	17%	2%	1%	4%
Netherlands	1%	19%	24%	44%	10%	0%	3%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	4%	16%	28%	41%	10%	-	-
Italy	8%	45%	26%	18%	3%	-	-
Netherlands	1%	20%	24%	46%	10%	-	-

### 5.1b.5. I give the needed attention to each case, even if this may decrease the court's efficiency

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0	4	5	46	18	0	0
Italy	16	83	115	197	22	5	10
Netherlands	0	13	9	122	51	0	0

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	5%	7%	63%	25%	0%	0%
Italy	4%	19%	26%	44%	5%	1%	2%
Netherlands	0%	7%	5%	63%	26%	0%	0%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	0%	5%	7%	63%	25%	-	-
Italy	4%	19%	27%	45%	5%	-	-
Netherlands	0%	7%	5%	63%	26%	-	-

**5.1b.6. I am aware of the budget allocated to my court**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8	21	8	28	6	1	1
Italy	50	139	111	93	19	4	32
Netherlands	17	49	30	87	11	0	1

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11%	29%	11%	38%	8%	1%	1%
Italy	11%	31%	25%	21%	4%	1%	7%
Netherlands	9%	25%	15%	45%	6%	0%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11%	30%	11%	39%	8%	-	-
Italy	12%	34%	27%	23%	5%	-	-
Netherlands	9%	25%	15%	45%	6%	-	-

**5.1b.7. I am aware of the average cost of the proceedings I am conducting**

#	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	8	31	11	19	3	0	1
Italy	38	123	98	137	23	6	23
Netherlands	26	77	29	57	5	0	1

% of Total	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11%	42%	15%	26%	4%	0%	1%
Italy	8%	27%	22%	31%	5%	1%	5%
Netherlands	13%	39%	15%	29%	3%	0%	1%

% of Total excl. NA- NAP	1 Strongly disagree	2 Disagree	3 Neutral	4 Agree	5 Strongly agree	NA Not available	NAP Not applicable
Finland	11%	43%	15%	26%	4%	-	-
Italy	9%	29%	23%	33%	5%	-	-
Netherlands	13%	40%	15%	29%	3%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 6.2. To what extent do you think the following elements put pressure on you and lead to work-related stress

#### 6.2a.1. Caseload

#	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	1	17	28	27	0	0	0
Italy	10	50	169	218	0	1	0
Netherlands	3	28	102	60	0	2	0

% of Total	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	1%	23%	38%	37%	0%	0%	0%
Italy	2%	11%	38%	49%	0%	0%	0%
Netherlands	2%	14%	52%	31%	0%	1%	0%

% of Total excl. NA- NAP	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	1%	23%	38%	37%	0%	-	-
Italy	2%	11%	38%	49%	0%	-	-
Netherlands	2%	15%	53%	31%	0%	-	-

#### 6.2a.2. Performance targets

#	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	8	38	19	4	0	0	4
Italy	31	158	182	64	0	2	11
Netherlands	26	88	48	14	0	0	19

% of Total	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	11%	52%	26%	5%	0%	0%	5%
Italy	7%	35%	41%	14%	0%	0%	2%
Netherlands	13%	45%	25%	7%	0%	0%	10%

% of Total excl. NA- NAP	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	12%	55%	28%	6%	0%	-	-
Italy	7%	36%	42%	15%	0%	-	-
Netherlands	15%	50%	27%	8%	0%	-	-

**6.2a.3. Timeframes (length of proceedings) targets**

#	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	2	28	33	7	0	0	3
Italy	21	113	220	89	0	1	4
Netherlands	16	76	81	16	0	0	6

% of Total	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	3%	38%	45%	10%	0%	0%	4%
Italy	5%	25%	49%	20%	0%	0%	1%
Netherlands	8%	39%	42%	8%	0%	0%	3%

% of Total excl. NA- NAP	1 Very low stress	2 Low stress	3 High stress	4 Very high stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	3%	40%	47%	10%	0%	-	-
Italy	5%	26%	50%	20%	0%	-	-
Netherlands	8%	40%	43%	8%	0%	-	-

**6.2a.4. Pressure from the president (section or court) on the organization of my work**

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	23	35	9	1	0	0	5
Italy	128	212	61	24	0	5	18
Netherlands	66	86	23	5	0	0	15

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	32%	48%	12%	1%	0%	0%	7%
Italy	29%	47%	14%	5%	0%	1%	4%
Netherlands	34%	44%	12%	3%	0%	0%	8%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	34%	51%	13%	1%	0%	-	-
Italy	30%	50%	14%	6%	0%	-	-
Netherlands	37%	48%	13%	3%	0%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 6.2a.5. Pressure from colleagues

#	1 Very low pressure	2 Low pressure	3 High pressure	4 Very high pressure	5 Very high pressure	NA Not available	NAP Not applicable
Finland	44	22	3	1	0	0	3
Italy	253	141	27	4	0	2	21
Netherlands	67	95	18	2	0	1	12

% of Total	1 Very low pressure	2 Low pressure	3 High pressure	4 Very high pressure	5 Very high pressure	NA Not available	NAP Not applicable
Finland	60%	30%	4%	1%	0%	0%	4%
Italy	56%	31%	6%	1%	0%	0%	5%
Netherlands	34%	49%	9%	1%	0%	1%	6%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High pressure	4 Very high pressure	5 Very high pressure	NA Not available	NAP Not applicable
Finland	63%	31%	4%	1%	0%	-	-
Italy	60%	33%	6%	1%	0%	-	-
Netherlands	37%	52%	10%	1%	0%	-	-

### 6.2a.6. Pressure from the public opinion

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	27	26	12	6	0	0	2
Italy	112	137	119	58	0	2	20
Netherlands	38	65	67	13	0	0	12

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	37%	36%	16%	8%	0%	0%	3%
Italy	25%	31%	27%	13%	0%	0%	4%
Netherlands	19%	33%	34%	7%	0%	0%	6%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	38%	37%	17%	8%	0%	-	-
Italy	26%	32%	28%	14%	0%	-	-
Netherlands	21%	36%	37%	7%	0%	-	-

**6.2b.7. Pressure from the National Court Administration**

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	32	23	7	0	0	0	11
Italy	155	178	79	20	0	2	14
Netherlands	62	61	40	15	0	1	16

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	44%	32%	10%	0%	0%	0%	15%
Italy	35%	40%	18%	4%	0%	0%	3%
Netherlands	32%	31%	21%	8%	0%	1%	8%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	52%	37%	11%	0%	0%	-	-
Italy	36%	41%	18%	5%	0%	-	-
Netherlands	35%	34%	22%	8%	0%	-	-

**6.2b.8. Pressure from the Ministry**

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	31	23	7	1	0	0	11
Italy	183	172	49	15	0	7	22
Netherlands	82	48	19	16	0	1	29

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	42%	32%	10%	1%	0%	0%	15%
Italy	41%	38%	11%	3%	0%	2%	5%
Netherlands	42%	25%	10%	8%	0%	1%	15%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	50%	37%	11%	2%	0%	-	-
Italy	44%	41%	12%	4%	0%	-	-
Netherlands	50%	29%	12%	10%	0%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 6.2b.9. Pressure from parties and/or lawyers

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	9	27	29	5	0	1	2
Italy	46	148	185	62	0	4	3
Netherlands	10	91	80	9	0	1	4

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	12%	37%	40%	7%	0%	1%	3%
Italy	10%	33%	41%	14%	0%	1%	1%
Netherlands	5%	47%	41%	5%	0%	1%	2%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	13%	39%	41%	7%	0%	-	-
Italy	10%	34%	42%	14%	0%	-	-
Netherlands	5%	48%	42%	5%	0%	-	-

### 6.2b.10. Lack of adequate working space

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	25	29	12	3	0	0	4
Italy	37	112	128	157	0	4	10
Netherlands	58	64	30	18	0	1	24

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	34%	40%	16%	4%	0%	0%	5%
Italy	8%	25%	29%	35%	0%	1%	2%
Netherlands	30%	33%	15%	9%	0%	1%	12%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	36%	42%	17%	4%	0%	-	-
Italy	9%	26%	29%	36%	0%	-	-
Netherlands	34%	38%	18%	11%	0%	-	-



**6.2b.11. Lack of adequate ICT tools (hardware, software)**

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	11	19	21	19	0	0	3
Italy	50	158	112	117	0	2	9
Netherlands	34	69	50	31	0	0	11

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	15%	26%	29%	26%	0%	0%	4%
Italy	11%	35%	25%	26%	0%	0%	2%
Netherlands	17%	35%	26%	16%	0%	0%	6%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	16%	27%	30%	27%	0%	-	-
Italy	11%	36%	26%	27%	0%	-	-
Netherlands	18%	38%	27%	17%	0%	-	-

**6.2b.12. Lack of adequate administrative support (clerks, judicial assistants etc)**

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	10	22	23	15	0	0	3
Italy	41	114	140	139	0	2	12
Netherlands	22	58	69	35	0	0	11

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	14%	30%	32%	21%	0%	0%	4%
Italy	9%	25%	31%	31%	0%	0%	3%
Netherlands	11%	30%	35%	18%	0%	0%	6%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	14%	31%	33%	21%	0%	-	-
Italy	9%	26%	32%	32%	0%	-	-
Netherlands	12%	32%	38%	19%	0%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 6.2b.13. Difficulty of work-life balance

#	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	14	25	22	10	0	0	2
Italy	48	116	141	123	0	4	16
Netherlands	21	71	62	33	0	0	8

% of Total	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	19%	34%	30%	14%	0%	0%	3%
Italy	11%	26%	31%	27%	0%	1%	4%
Netherlands	11%	36%	32%	17%	0%	0%	4%

% of Total excl. NA- NAP	1 Very low pressure	2 Low pressure	3 High stress	4 Very high stress	5 Very high pressure	NA Not available	NAP Not applicable
Finland	20%	35%	31%	14%	0%	-	-
Italy	11%	27%	33%	29%	0%	-	-
Netherlands	11%	38%	33%	18%	0%	-	-

### 6.3. Which factors do help you to relieve your work-related stress?

#### 6.3.1. Support from administrative staff

#	1 Totally uninfluen- cial	2 Uninfluen- cial	3 High stress	4 Very high stress	5 Totally influen- cial	NA Not available	NAP Not applicable
Finland	11	8	36	17	0	0	1
Italy	8	31	263	141	0	3	2
Netherlands	2	8	111	70	0	1	3

% of Total	1 Totally uninfluen- cial	2 Uninfluen- cial	3 High stress	4 Very high stress	5 Totally influen- cial	NA Not available	NAP Not applicable
Finland	15%	11%	49%	23%	0%	0%	1%
Italy	2%	7%	59%	31%	0%	1%	0%
Netherlands	1%	4%	57%	36%	0%	1%	2%

% of Total excl. NA- NAP	1 Totally uninfluen- cial	2 Uninfluen- cial	3 High stress	4 Very high stress	5 Totally influen- cial	NA Not available	NAP Not applicable
Finland	15%	11%	50%	24%	0%	-	-
Italy	2%	7%	59%	32%	0%	-	-
Netherlands	1%	4%	58%	37%	0%	-	-

**6.3.2. Support from colleagues**

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	2	4	34	33	0	0	0
Italy	15	72	251	103	0	4	3
Netherlands	1	11	121	61	0	0	1

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	3%	5%	47%	45%	0%	0%	0%
Italy	3%	16%	56%	23%	0%	1%	1%
Netherlands	1%	6%	62%	31%	0%	0%	1%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	3%	5%	47%	45%	0%	-	-
Italy	3%	16%	57%	23%	0%	-	-
Netherlands	1%	6%	62%	31%	0%	-	-

**6.3.3. Support from the president**

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	8	15	35	13	0	0	2
Italy	23	42	254	115	0	5	9
Netherlands	27	59	75	17	0	1	16

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	11%	21%	48%	18%	0%	0%	3%
Italy	5%	9%	57%	26%	0%	1%	2%
Netherlands	14%	30%	38%	9%	0%	1%	8%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	11%	21%	49%	18%	0%	-	-
Italy	5%	10%	59%	26%	0%	-	-
Netherlands	15%	33%	42%	10%	0%	-	-

## Funding the Judiciary: how budgeting systems shape justice

### 6.3.4. Strong motivation

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	0	1	23	49	0	0	0
Italy	3	23	183	228	0	4	7
Netherlands	1	5	80	107	0	0	2

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	0%	1%	32%	67%	0%	0%	0%
Italy	1%	5%	41%	51%	0%	1%	2%
Netherlands	1%	3%	41%	55%	0%	0%	1%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	0%	1%	32%	67%	0%	-	-
Italy	1%	5%	42%	52%	0%	-	-
Netherlands	1%	3%	41%	55%	0%	-	-

### 6.3.5. Perception of my role as a judge in the community

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	2	11	26	31	0	0	3
Italy	12	52	177	200	0	4	3
Netherlands	4	19	74	96	0	0	2

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	3%	15%	36%	42%	0%	0%	4%
Italy	3%	12%	40%	45%	0%	1%	1%
Netherlands	2%	10%	38%	49%	0%	0%	1%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influential	NA Not available	NAP Not applicable
Finland	3%	16%	37%	44%	0%	-	-
Italy	3%	12%	40%	45%	0%	-	-
Netherlands	2%	10%	38%	50%	0%	-	-

**6.3.6. Autonomy / freedom in managing my time and priorities**

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	0	2	31	39	0	0	1
Italy	2	27	199	212	0	5	3
Netherlands	1	6	85	99	0	1	3

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	0%	3%	42%	53%	0%	0%	1%
Italy	0%	6%	44%	47%	0%	1%	1%
Netherlands	1%	3%	44%	51%	0%	1%	2%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	0%	3%	43%	54%	0%	-	-
Italy	0%	6%	45%	48%	0%	-	-
Netherlands	1%	3%	45%	52%	0%	-	-

**6.3.7. Level of salary**

#	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	10	26	27	9	0	0	1
Italy	24	104	213	86	0	5	16
Netherlands	23	74	76	19	0	1	2

% of Total	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	14%	36%	37%	12%	0%	0%	1%
Italy	5%	23%	48%	19%	0%	1%	4%
Netherlands	12%	38%	39%	10%	0%	1%	1%

% of Total excl. NA- NAP	1 Totally uninfluencia l	2 Uninfluenci al	3 High stress	4 Very high stress	5 Totally influencial	NA Not available	NAP Not applicable
Finland	14%	36%	38%	13%	0%	-	-
Italy	6%	24%	50%	20%	0%	-	-
Netherlands	12%	39%	40%	10%	0%	-	-

## Funding the Judiciary: how budgeting systems shape justice

6.1. On a scale from 1 to 5 (where 5 is the maximum level), how do you rate your work-related stress?

#	1 Very low stress	2 Low stress	3 Neutr al	4 High stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	4	9	21	32	7	0	0
Italy	7	24	115	193	105	4	0
Netherlands	6	28	67	71	22	1	0

% of Total	1 Very low stress	2 Low stress	3 Neutr al	4 High stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	5%	12%	29%	44%	10%	0%	0%
Italy	2%	5%	26%	43%	23%	1%	0%
Netherlands	3%	14%	34%	36%	11%	1%	0%

% of Total excl. NA- NAP	1 Very low stress	2 Low stress	3 Neutr al	4 High stress	5 Very high stress	NA Not available	NAP Not applicable
Finland	5%	12%	29%	44%	10%	-	-
Italy	2%	5%	26%	43%	24%	-	-
Netherlands	3%	14%	35%	37%	11%	-	-