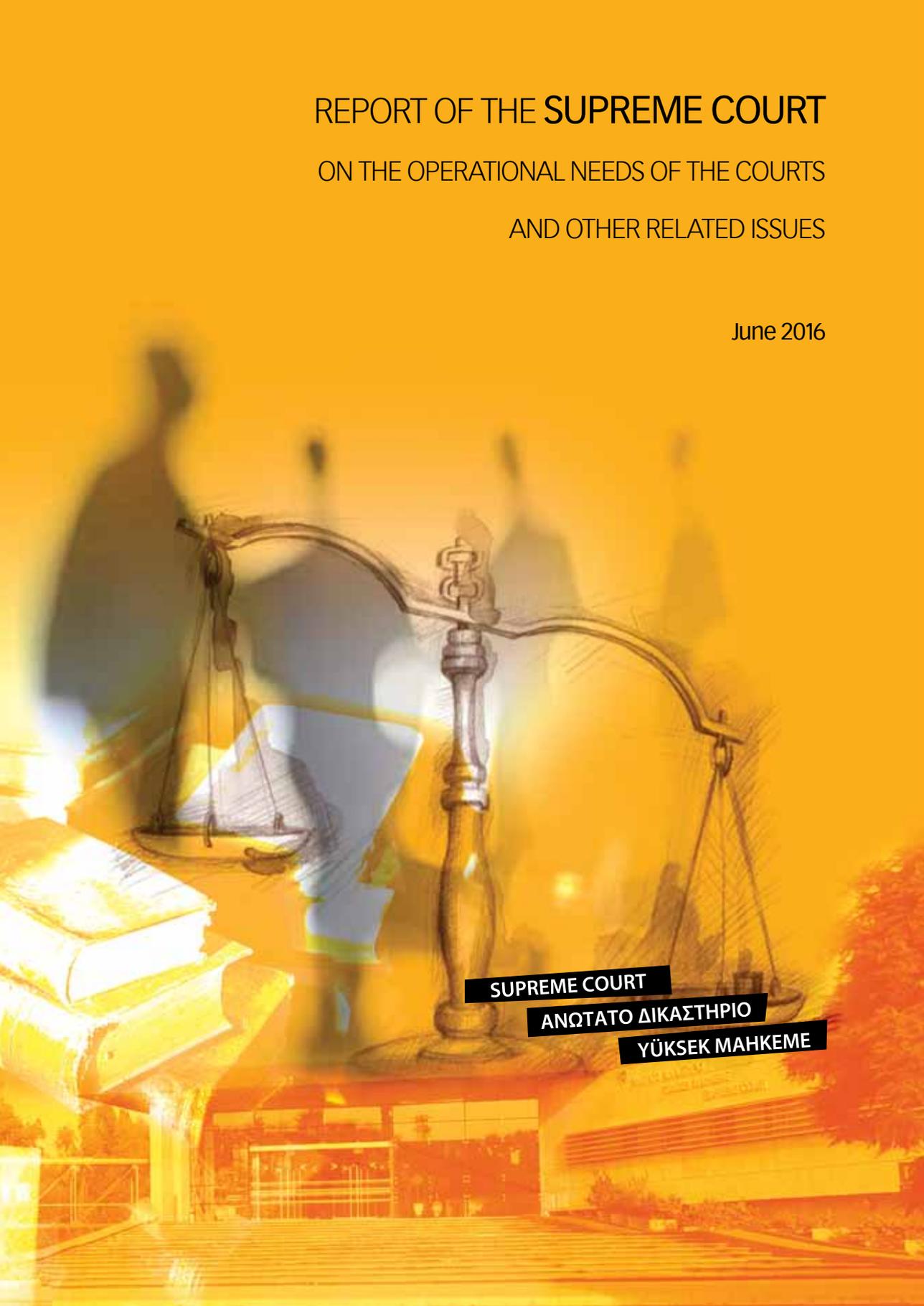


REPORT OF THE **SUPREME COURT**
ON THE OPERATIONAL NEEDS OF THE COURTS
AND OTHER RELATED ISSUES

June 2016



SUPREME COURT

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ

YÜKSEK MAHKEME



SUPREME COURT

Charalambos Mouskos str., 1404 - Nicosia, Cyprus

Phone: (+357) 22865741, Fax: (+ 357) 22304500

Email address: chief.reg@sc.judicial.gov.cy

REPORT OF THE **SUPREME COURT**

ON THE OPERATIONAL NEEDS OF THE COURTS

AND OTHER RELATED ISSUES



SUPREME COURT

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ

YÜKSEK MAHKEME



SUPREME COURT

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ

YÜKSEK MAHKEME

Foreword by the Committee Chairman

In drafting the Report, I had the support of two Committee members, my dear colleagues, D. Michaelidou and A. Liatsos, to both of whom I am particularly grateful for giving me free rein with regard to drafting this report and their feedback to improve its content.

On behalf of the Committee, I would also like to thank the other members of the Supreme Court who had the kindness, in the limited time afforded to them, to study the report and, in a special session of the Supreme Court, to express their opinions on how to improve its content.

I think it would be a great omission if I failed to note the excellent cooperation with the Government Printing Office, which always responds to the Supreme Court's requests for assistance. Special thanks are also due to Mrs Litsa Panteli, who designed with much imagination and creativity the cover of the Report and took care of its layout within the tight deadline she was given.

Finally, both the other two members of the Committee and myself hope that State awareness will be raised, even at this late stage, and will provide the Courts with the necessary resources and means, so that Justice will continue to be administered in a way that safeguards the Rule of Law.

Nicosia, June 1, 2016

G. Erotocritou

**Justice, Supreme Court
Committee Chairman**

P.S. This Report was translated with the assistance of the IMF and for this we would like to express our gratitude to its permanent representative in Cyprus, Mr Vincenzo Guzzo. We are also grateful to our colleague Mrs P. Panayi, judge of the Supreme Court, who finalized the English text.



SUPREME COURT

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ

YÜKSEK MAHKEME

Foreword by the President of the Supreme Court Myron M. Nicolatos

The Supreme Court, in its continuous effort to ensure the proper and speedy administration of justice, which is a constitutional requirement, appointed a Committee comprising three of its members, distinguished Judges George Erotocritou, Despo Michaelidou and Antonis Liatsos, chaired by Judge Erotocritou, with a view to drafting a Report on the operational needs of the Courts and related matters, along the lines of previous reports.

The purpose of this Report is to highlight gaps and problems encountered in the administration of Justice, and to point out the needs of the Courts, which the state has a duty to satisfy within its financial means.

The Report was prepared with great care and speed by the three members of the Supreme Court, complemented by Judge Erotocritou's experience from his previous involvement in the 2012 Report.

Justice in Cyprus is independent and impartial. We are proud because Justice has not been associated with any corruption scandal. However, there are problems regarding the speed with which justice is administered. Our first priority is to accelerate the administration of justice, without degrading its high quality.

Table of Contents

1. INTRODUCTION	9
2. CONSTITUTIONAL REQUIREMENTS	19
3. INDEPENDENCE OF THE JUDICIARY AND THE RULE OF LAW	20
(A) Budget of the Judiciary	22
(B) Wages and Benefits	22
4. DELAYS	24
5. SUPREME COURT	26
(A) Reform Committee of Experts for restructuring the Supreme Court	26
(B) Other suggestions and thoughts	27
(d) Creation of a Second-tier Court of Appeal so that the Supreme Court becomes a Third-tier Court	27
(b) Establishing Court Divisions	27
(c) Reduction in the number of Appeals	27
(d) Establishing a fast track appeal process	28
(e) Establishing management infrastructure to assist the administration work of the Supreme Court	29
(f) Transfer of Admiralty Court cases to the District Courts	30
6. DISTRICT COURTS AND OTHER SPECIAL JURISDICTION COURTS	31
(A) Increasing the number of judges	31
(B) Increasing the staff of District Courts and interchangeability	33
(C) Limiting the number of cases filed in the courts	34
(D) Establishing a model Commercial Court	35
(E) Establishing a Reform Committee of Experts on the reorganization of jurisdictions and functioning of the District Courts	35
7. ADMINISTRATIVE COURT	36
8. CIVIL PROCEDURE RULES OF COURT	37

9. BUILDING FACILITIES	39
(A) Nicosia District Court	40
(B) Limassol District Court	41
(C) Famagusta District Court	41
(D) Larnaca District Court	42
(E) Paphos District Court	42
(F) Old Supreme Court Building	42
(G) Administrative Court	43
(H) Storage Facilities	43
10. INTRODUCTION OF MODERN TECHNOLOGY, MEDIA AND SECURITY	44
(A) E-Justice	44
(B) Keeping of Court Minutes – Court Reporting	45
(C) Electronic Hardware Upgrade	46
(D) Internet Connection	46
(E) Videoconference Systems Upgrade	46
(F) Security System	46
(G) Deficiencies in Offender and Detainee Detention Spaces	46
11. JUDICIAL TRAINING	47
12. OTHER ISSUES RELATING TO JUSTICE AND COURT OPERATION	53
(A) Establishing Permanent Committees for Monitoring the Operation of the Civil Procedure Rules and the Law	53
(B) Republishing the Annual Report of the Supreme Court	53
(C) Establishing Performance Evaluation Criteria for District and Other Judges	54
(D) Supreme Council of Judicature	54
(E) Reassessment of the Functionality of Special Jurisdiction Courts	54
(F) State Protocol	55
13. SUMMARY	56
14. EPILOGUE	59



Committee Members

George Erotocritou

Justice, Supreme Court

President of the Committee

Despo Michaelidou

Justice, Supreme Court

Committee Member

Antonis Liatsos

Justice, Supreme Court

Committee Member

1. INTRODUCTION

Each State decides the level of justice it wishes to have and plans accordingly. Planning, to date, has been inadequate at all levels. The main responsibility lies with the Supreme Court which at times did not insist or exert pressure on the Executive to provide the Judicial Service with the necessary resources to perform its duties adequately. Over the years, the Supreme Court chose to sparingly provide for the needs of the courts. This policy changed for the first time with the Pikis Report in 1989. But despite the points highlighted in the Pikis Report, the State has failed to implement its recommendations.

Secondly, responsibility must be attributed to the State, the Executive, the Legislature and other organized bodies that failed to ensure that the Judiciary had the necessary means to perform its duties, especially after our accession to the European Union.

Finally, responsibility must also be attributed to the Cyprus Bar Association, which failed to exert more pressure on the State to solve diachronic problems in the administration of justice in Cyprus, which the Bar knows firsthand.

Despite the points made in the Pikis (1989) and Kramvis (2012) Reports, most recommendations unfortunately did not materialize, for various reasons, with



the tragic result that Cyprus is now amongst the member states at the bottom of the list in the European Commission’s Report “The 2016 EU Justice Scoreboard” with regard to the efficiency of justice. We note that the “Scoreboard” is considered the most reliable indicator in Europe regarding the effectiveness of the judicial system and the administration of justice in each Member State of the EU.

Below are several indicators of the Report which show the current tragic situation of the judicial system in Cyprus. For example, [Cyprus] holds the last position regarding the time needed for case determination. Relevant tables are Tables 4, 5, 6, 7 and 8, which we set out:

Figure 4

Time needed to resolve civil, commercial, administrative and other cases (*) (first instance)/in days

2010 2012 2013 2014

Source: CEPEJ study



(*) Under the CEPEJ methodology, this category includes all civil and commercial litigious and non-litigious cases, non-litigious land and business registry cases, other registry cases, other non-litigious cases, administrative law cases and other non-criminal cases. Comparisons should be drawn with care as some Member States reported changes in the methodology for data collection or categorisation (CZ, EE, HR, IT, CY, LV, HU, RO, SI, FI). CZ and SK report it is not possible to single out the number of pending cases at first instance, as cases are considered pending until no further proceeding is possible. PT. Data were not available due to technical constraints.

Figure 5

Time needed to resolve litigious civil and commercial cases^(*) (first instance/in days)

2010 2012 2013 2014

Source: CEPEJ study



^(*) Litigious civil (and commercial) cases concern disputes between parties, e.g. disputes regarding contracts, under the CEPEJ methodology. By contrast, non-litigious civil (and commercial) cases concern uncontested proceedings, e.g. uncontested payment orders. Commercial cases are addressed by special commercial courts in some countries and by ordinary (civil) courts in others. Comparisons should be drawn with care, as some Member States reported changes in the methodology for data collection or categorisation (CZ, EE, EL, ES, HR, IT, CY, LV, LU, HU, RO, SI, FI) or made caveats on completeness of data that may not cover all federal states or all courts (DE, LU). CZ and SK report it is not possible to single out the number of pending cases at first instance, as cases are considered pending until no further proceeding is possible. Before 2014, NL provided a measured disposition time, not calculated by CEPEJ. PT Data for 2014 were not available due to technical constraints.



Figure 6**Time needed to resolve administrative cases (*) (first instance/in days)**

2010 2012 2013 2014

Source: CEPEJ study

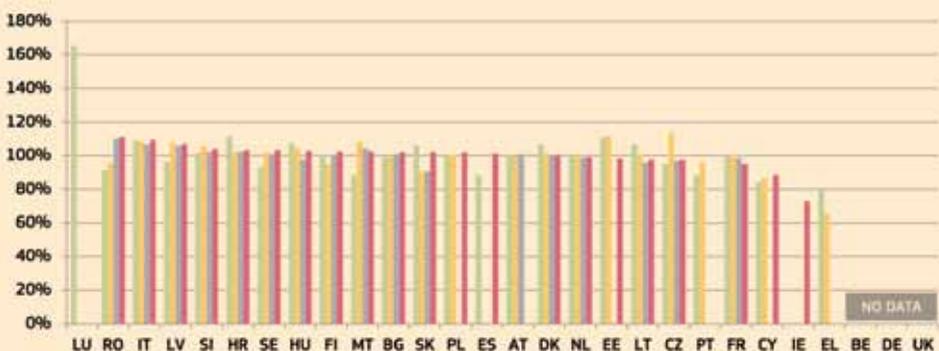


(*) Administrative law cases concern disputes between citizens and local, regional or national authorities, under the CEPEJ methodology. Administrative law cases are addressed by special administrative courts in some countries and by ordinary (civil) courts in others. Comparisons should be drawn with care as some Member States reported changes in the methodology for data collection or categorisation (HU, FI), a reorganisation of the administrative court system (HR in 2012) or made caveats on completeness of data that may not cover all federal states or all courts (DE, LU). CZ and SK report it is not possible to single out the number of pending cases at first instance, as cases are considered pending until no further proceeding is possible. CY: The increase in cases related to the bail and their joint resolution reportedly explain variations. MT: An increase in the number of judges reportedly explains variations.

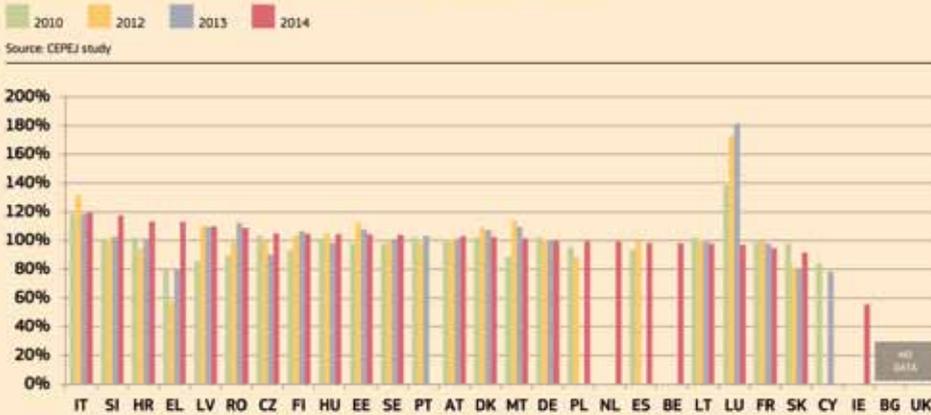
Figure 7**Rate of resolving civil, commercial, administrative and other cases (*) (first instance/in % - values higher than 100% indicate that more cases are resolved than come in, while values below 100% indicate that fewer cases are resolved than come in)**

2010 2012 2013 2014

Source: CEPEJ study



(*) Comparisons should be drawn with care as some Member States reported changes in the methodology for data collection or categorisation (CZ, EE, IT, CY, LU, HU, SI, FI). Changes in incoming cases reportedly explain variations in LT and SK. LV: External and internal factors such as new insolvency proceedings reportedly had an impact in variations. PT: Data were not available due to technical constraints.

Figure 8**Rate of resolving litigious civil and commercial cases (*) (first instance/in %)**

(*) Comparisons must be drawn with care, as some Member States reported changes in the methodology for data collection or categorisation (CZ, EE, EL, IT, CY, LV, HU, SI, FI) or made caveats on completeness of data that may not cover all federal states or all courts (DE, LU). NL: Before 2014 a measured disposition time was provided, not calculated by CEPEJ. LU: The introduction of new statistical methods reportedly explains the variations. IE: Historical practices in recording pending civil cases reportedly explain the low results. PT: Data for 2014 were not available due to technical constraints.

Cyprus ranked last or in one of the last places in many other areas, such as e-Justice (Tables 21, 22 and 23), Relations with the Media (Table 24), Publication of first-instance decisions (Table 26), etc.

The reasons why Cyprus consistently has a low ranking are not coincidental. There is an explanation. The system was programmed to operate in this way. The State has always considered the Courts an unproductive sector, with the result that it has not spent the required funds for its reinforcement. The recent crisis only aggravated the situation. The failure to provide the necessary resources for the proper operation of the Courts is also noted by the European Commission. As shown in paragraph 3.2.2. of the EU Commission's Report on State provided financial resources, Cyprus holds the last position, as central government spends the lowest percentage per capita in the EU for the operation of the Courts. Given that countries such as Luxembourg and the United Kingdom spend € 160-€ 180 per capita for the operation of the Courts, whilst Cyprus spends about € 25, the results are not surprising.

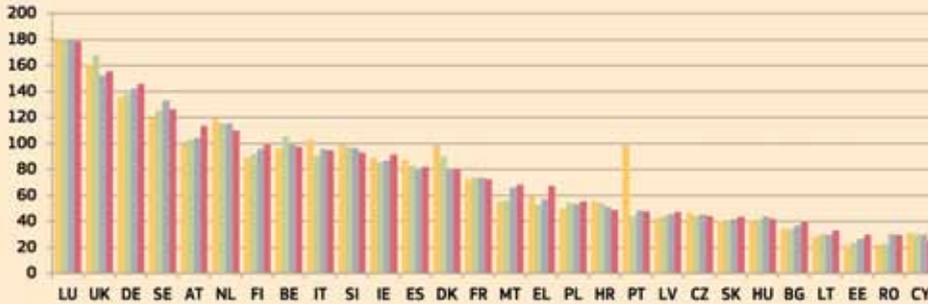
Table 28 is also relevant.

Figure 28

General government total expenditure on law courts (*) (in EUR per inhabitant)

2011 2012 2013 2014

Source: Eurostat



(*) Data for ES, LT, LU, NL and SK are provisional.

Cyprus is also last in the percentage of Gross National Product spent on the operation of the Courts. Whereas Belgium, which holds the first place, spends 0.65 percent of the Gross National Product, Cyprus spends 0.12 percent, while the average in the EU is 0.32 percent of the Gross National Product. Table 29 is an accurate representation of this situation.

Figure 29

General government expenditure on law courts (*) (as a percentage of gross domestic product)

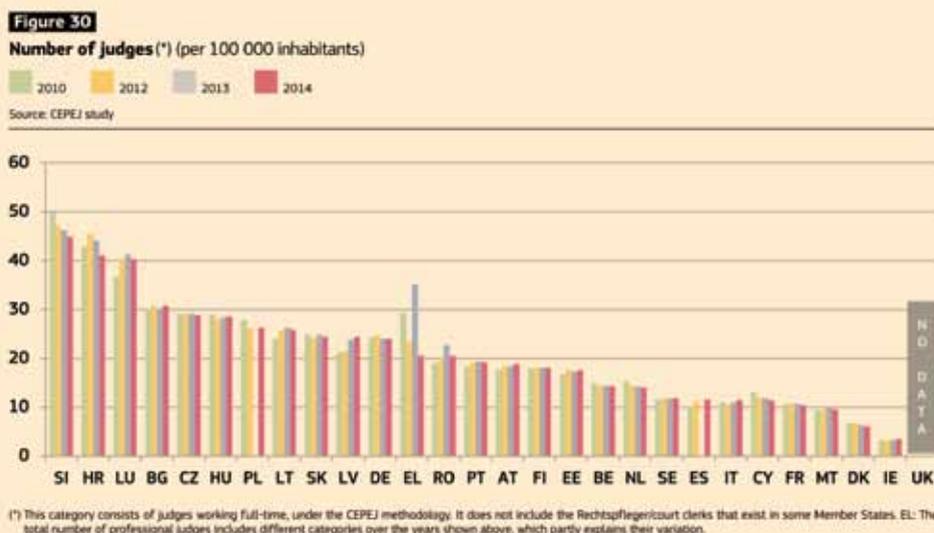
2011 2012 2013 2014

Source: Eurostat



(*) Data for ES, LT, LU, NL and SK are provisional.

The shortcomings and malfunctions identified in the functioning of the Courts are also relevant to another indicator. Cyprus also occupies one of the last places in the number of judges per 100,000 inhabitants. While, for example, in Slovenia, Croatia, Luxembourg and Belgium, the number of judges per 100,000 inhabitants is between 40-50, in Cyprus the number is 12, in other words about four times lower than the highest number and far below the average in the EU, which is about 20 judges per 100,000 inhabitants. Table 30 is also relevant.



Whereas in 23 EU countries the training of judges is mandatory, Cyprus is among the four countries in which judicial training is not required, while the percentage of Cypriot judges who participate in training programs is amongst the lowest in Europe; as a result, Cyprus is 4th from the bottom. Tables 34 and 35, presented in the Judicial Training section of this Report (page 47), are relevant. The Supreme Court has, both with the Pikis and the Kramvis Reports, made recommendations for improving the justice administration system. Unfortunately, we observe that few of these recommendations have been implemented and these over the course of many years. Since our last Report, the only recommendation that has



been implemented, albeit with some delay, is the establishment in January 2016 of the First Instance Administrative Court, which will greatly assist the Supreme Court not only in reducing its backlog but also in improving the quality of its judgments.

Despite the meager resources provided to the Judiciary to carry out its duties, it has maintained its high standards, particularly during the crisis period. All judges, despite the tremendous increase in their workload, try to cope, on many occasions with personal sacrifice, in their spare time.

But the current situation with so many delays cannot be allowed to continue, as the system may collapse at some stage, if prompt action is not taken.

Therefore, within the framework of promoting the needs of the Judiciary, the Supreme Court decided on 26.11.2015 to update the 2012 Kramvis Report in order for current and future needs to emerge, particularly following the economic crisis, which has drastically changed the situation. The appointed Committee is comprised of Supreme Court Judges G. Erotocritou, D. Michaelidou and A. Liatsos.

As we pointed out in our last report, it seems that the problems which bedevil the courts do not rank highly in the State's list of priorities, with the result that the Courts are put on the back burner, something which creates feelings of bewilderment, disappointment and at the same time deep concern regarding the future of Justice in our country. We hope, even at this stage, to awaken everyone involved to the situation, so that justice in Cyprus will continue to stand high. As regards the lasting value of Justice in a well-governed state, we repeat the following quote from the Pikis Report: -

“Aristotle notes that however great his wisdom, man cannot rid himself of the perverse effect of passion. It is necessary to have an impartial Authority to determine the rights and define the obligations of citizens. The law is that impartial Authority which bestows on Justice an impersonal character, free of human passions. The impartial nature of the law is personified, within the framework of the social system, by the Judiciary. The mission of the Courts is to apply the Law in order to settle disputes between citizens and every entity having rights and subject to obligations. The existence of the Courts prevents divisions which coupled with determination would undoubtedly lead to conflicts of interest and, more generally, differences between citizens and society, it establishes law and order and ensures the peaceful coexistence of people in society.

Law is part of the core of Society and the Judiciary is the foundation of the organization of society. Quality of life is directly dependent on the proper functioning of the Courts which is related to the prevalence of the Rule of Law and the smooth functioning of a democratic regime. Success in the law’s mission will be associated with the achievement of economic or financial targets, although the proper operation of the Courts can contribute to the achievement of a number of economic objectives. The unhindered administration of Justice is inseparable from quality of life and the certainty instilled in man by the knowledge that his legal rights are secured by Justice. However rich in content human rights conferred by law may be, their existence is intertwined with the mechanisms provided by the State to effectively claim them. When the mechanisms are inadequate, the rights are weakened.



The dysfunction of the Courts may even lead to the extinction of civil rights. As proclaimed by Lord Hardwicke two and a half centuries ago, "there cannot be anything of greater consequence than to keep the streams of justice clear and pure that parties may proceed with safety both to themselves and their character" »[St. James Financial Post Case (1742) 2 Atkins, 469, 472]."

As in the past, this Report, prior to its release, will be given to His Excellency the President of the Republic of Cyprus, the Honourable Speaker of the House of Representatives, and the Heads of Parliamentary Parties, the Honourable Attorney General, the Honourable Ministers of Justice and Finance, the Cyprus Judges Association, to all judges throughout Cyprus, and the Cyprus Bar Association, in the expectation that they will all cooperate in order to find appropriate solutions to the serious problems facing the Courts and which inevitably affect not only civil society, but also the economy of our country, without which there can be no prosperity.

2. CONSTITUTIONAL REQUIREMENTS

The Constitutional provisions relating to the Judiciary and its relationship with the other two Powers, have been summarized in our previous reports and are reiterated for the sake of completeness. The Constitution provides for:

- “(i) the separation of state functions,
- (ii) the autonomy of each State Power which is guaranteed by the exercise of powers and jurisdictions by entities which are integrated into the institutional framework of each Power,
- (iii) the unified hierarchical structure of the Judiciary under the Supreme Court, and the uniformity of Judges’ conditions of service ensuring their independence,
- (iv) the pursuing of identical objectives by each Court that are summarized in the speedy, impartial and effective administration of Justice. ”

The Pikis Report further explains that:

“Article 158.2 of the Constitution specifically states that a law must provide for the establishment of a sufficient number of Courts to ensure the undelayed administration of justice, and to secure, within the limits of the competence of the Courts, the faithful implementation of fundamental human rights and freedoms.”



3. INDEPENDENCE OF JUDICIARY AND THE RULE OF LAW

Judicial independence is something that Cyprus should be proud of. As noted in our previous Report, the Supreme Council of Judicature, consisting of the President and Judges of the Supreme Court, as provided by the Constitution (Article 157.2), has exclusive power to appoint, promote, transfer, terminate the appointment, dismiss and take disciplinary action against Judges of the District Courts and of the other Courts of First Instance.

The above constitutional provision constitutes an institutional guarantee of the independence of Judges which is complemented by the constitutional provision that the “remuneration and other conditions of service of any such judge may not be altered to his disadvantage after his appointment.

The President of the Republic is, under the Constitution, solely responsible for appointing Supreme Court Judges. According to established practice, before appointing a Judge of the Supreme Court, the President of the Republic seeks and as a rule follows the recommendation of the Supreme Court, with only one exception in the past.

It is clear that under no circumstances is the involvement or participation of any person, authority or body allowed in any proceedings relating to a judicial appointment nor are any changes allowed in the remuneration or other conditions of service of judges if this is to their detriment. Any act to the contrary, regardless of cause or origin, may amount to an attempt to influence justice, contrary to the institutional consolidation of the independence of judges.

Such institutional safeguard which is recognized at national level is also recognized at the European level. [See Recommendation No. CM/Rec (2010) 12 and Explanatory Memorandum on the Independence, Efficiency and Responsibilities of Judges of the Committee of Ministers of the Council of Europe, European Charter on the Statute for Judges, Opinion No. 1 of the Consultative Council of European Judges and Magna Carta of Judges (2010) of the Council of Europe].

Regretfully, the Supreme Court recently observed, for the first time, violations of the principle of the separation of powers by passing bills or law proposals regarding the Judiciary, without prior consultation and in some cases bypassing the objections of the Judiciary. Hopefully, such phenomena that undermine the independence of the Judiciary and, as a consequence, the Rule of Law, will not be repeated.

Different legal systems may exist in the EU, but the common denominator is that justice is the cornerstone of the Rule of Law and, therefore, the independence of the Judiciary is of vital importance in a democratic society. The EU also considers it part of the basic right of every citizen to have an "effective remedy" before an "impartial Court", a right guaranteed by Article 47 of the EU Charter of Fundamental Rights. This is why it is accepted today that a reduction of expenditure in the justice sector must not be permitted as it essentially undermines the Rule of Law (See Opinion No. 2 of 2001 of the Consultative Council of European Judges).



(A) Budget of the Judiciary

The time is ripe for the Judiciary to be given the amount to which it is entitled and to leave it alone to formulate its own budget, as it deems most appropriate. The State, of course, will retain the right of supervision so that the Judiciary not only does not exceed its budget, but also ensuring that there are satisfactory controls on how it spends public money.

(B) Wages and Benefits

Judicial remuneration is included in this section because it is directly related to the independence of judges, the administration of justice, and the Rule of Law.

Historically the State, through the President of the Republic in office at the time, adopted the position that the remuneration and benefits of members of the Judiciary should not be compared and matched with those of employees in the Public Service, but should be dealt with separately in view of the particularities of the judicial function. It is noted, regrettably, that there have recently been efforts to change this long standing policy which is applied in most developed countries.

Although judges' remuneration and benefits was the outcome of many consultations with the respective governments, the economic crisis disturbed the balance which had been in force for decades and led to the removal of judicial rights, with the result that newcomers to the Judiciary no longer have the right to a lump sum on retirement. We would like to remind that many of the benefits were given in lieu of a pay rise so that balances in the Public Service would not be disturbed. Today, however, these rights of newcomers to the judiciary have been revoked without regard to the reasons why they were originally granted.

We do not intend to list the revoked benefits because that is not within the scope of this Report. We would warn, however, that in all EU countries the salaries and benefits of judges are directly linked to the independence of judges, the quality of justice and by extension with the Rule of the Law. Judges are appointed from members of the Bar, and by minimizing benefits and pensions for new entrants, it will no longer be feasible for the Bench to attract the most able lawyers. With great regret we are forced to draw the painful conclusion that if the package of financial benefits for newcomers to the Judiciary does not improve, then any changes made in the justice sector will have no prospect of success, as the workforce will not be suited to what is required of a judge. In such a case the effects for Cyprus would be devastating. The restoration of the financial package for newcomers is a *sine qua non* for upgrading the quality of justice administered in Cyprus.

It would be an omission if we did not mention in conclusion that in crises, Cypriot judges, sensing the need to contribute, have always contributed. They did so not only in 1974, but also during the recent financial crisis in 2013 when they contributed on a voluntary basis the corresponding amount deducted from other population groups, despite the fact that the Law concerning cuts was considered unconstitutional in the case of judges.



4. DELAYS

Perhaps the biggest problem the courts in Cyprus have to face is delays; this is a continuous problem, not only in Cyprus, but also in many other European Union countries.

There is no doubt that delays are greatly due to the rapid increase in the number of cases filed, without a corresponding increase in the courts' budget by the State which would allow a concomitant increase in the number of judges and court staff. A classic example is that the number of Criminal Courts currently operating, four in number, has remained the same, while the number of serious cases recently filed as a result of the economic crisis and corruption has tripled.

For some years, the Supreme Court has been using a litigation monitoring system for cases pending in the District Courts and occasionally takes corrective action to the extent permitted by existing manpower. As observed in our previous Report, the vast majority of our judges work conscientiously and devote a large part of their free time studying cases and preparing judgments. This often has an impact both on themselves and their families.

As is known, judges are on duty on a rotation basis 24 hours a day, during weekends and holidays for the issuing of warrants of arrest, search warrants, orders for compulsory psychiatric hospitalization, etc. without receiving an allowance, as is usually the case in other sectors of the state machine. But it would be an omission not to mention that the consistently increasing workload of judges creates excessive pressure, which in recent years is ongoing, resulting in harm to their health. We note that a similar problem has been noted in other countries, which have already proceeded with the installation of round-the-clock "hotlines" to assist judicial officers in coping with the different temporal problems which they face as a result of overwork and the stress which is generated.

Delayed cases will only be reduced if the State decides to deal with the area of justice and increase funds for the operation of the courts, which will allow not only for the modernization of the judicial system, but also for an increase in the number of judges. The recommendations below regarding the Supreme Court and the District Courts, will undoubtedly contribute to the gradual reduction of delays.





5. SUPREME COURT

The Supreme Court functions, with minor changes, in the same manner as it did at the time of the merger of the Supreme Constitutional Court and the Supreme Court in 1963. Since then, the only important change has been an increase in the number of judges of the Supreme Court and the establishment of a new appeal hearing process (skeleton addresses). For several years, these reforms were sufficient to stem the increase in the backlog of cases. But in view of the rapid increase in the number of appeals, these limited reforms have proved insufficient to prevent the gradual increase in the time required to dispose of an appeal, which currently stands at five years for civil appeals and 1-2 years for criminal appeals. For example, in order to show the magnitude of the problem, we would mention that in the last 10 years while the number of civil and criminal appeals filed increased by approximately 75 percent, the number of Supreme Court judges has remained the same. The recent establishment of the Administrative Court of First Instance will certainly help to improve the situation. The Supreme Court has already appointed a special Committee to change the schedule of the Court of Appeal as from the new judicial year. At the same time, further measures are also urgently needed.

(A) Reform Committee of Experts for restructuring the Supreme Court

To address these problems comprehensively, the Committee suggests considering the possibility of engaging the services of expert(s) to prepare a Report on the complete restructuring of the Supreme Court in order to make it more efficient and able to meet the current needs of society and the economy. This was also the recommendation of the Technical Committee of the Troika. The Report could also include the District Courts. The Supreme Court with its current judicial workload cannot exclusively undertake the preparation of such a Report.

(B) Other suggestions and thoughts

However, until the Committee is appointed, which might take years to issue its Report, the following recommendations should be examined immediately:

(a) Creation of a Second-tier Court of Appeal, so that the Supreme Court becomes a Third-tier Court

It seems that the time has come for creating a Second-tier Appellate Court that will bring Cyprus in line with what happens in most countries of the world. The absence of a Third-tier Court does not contribute to legal certainty.

Establishing a Second-tier Appellate Court, which will hear appeals from Courts of First Instance, will mean that the Supreme Court as a Third-tier Court will hear a limited number of appeals on a leave basis, mainly on legal points or on legal matters of significant public interest.

(b) Establishing Court Divisions

Within the context of the speedier administration of justice, specialization can be a useful tool. Therefore, the establishment of permanent divisions should be examined for the trial of (a) criminal appeals, (b) civil appeals (which, following relevant legislation, could include appeals currently examined by the Appellate Family Court), and (c) administrative law appeals.

(c) Reduction in the number of Appeals

Until the implementation of the previous recommendation allowing the establishment of a Second-tier Court of Appeal, immediate steps should be taken to drastically reduce the number of appeals filed. The process is already under way for limiting the right of appeal from interlocutory judgments, not definitively affecting the interests of the parties.



The right to appeal only on obtaining leave, should also be seriously considered for specific cases in which the disputed amount is small. Leave may be granted on the basis of specific strict criteria. In addition, the possibility of setting minimum monetary conditions, as is the case in Germany, in order to allow the filing of an appeal to the Supreme Court can also be examined. The Committee's opinion is that for the right of access to a court to be effective, it must not be unlimited, and thus susceptible to exploitation by vexatious litigants or other deft individuals who want to gain time or have other interests in perpetuating a legal dispute to the detriment of precious judicial time.

Furthermore, the possibility of increasing the current very low fees should be examined, which will help reduce frivolous or manifestly unfounded appeals.

The issue was recently discussed by the Presidents of the Supreme Judicial Courts of the Member States of the European Union, during the November 2015 Dublin Conference. The relative Network of Presidents Report entitled "The Filtering of Appeals to the Supreme Court" is a very helpful document for those wishing to delve deeper into the subject.

Whichever method is adopted, it must necessarily be in line with European case law concerning the right of access to courts.

(d) Establishing a fast track appeal process

A process for separating appeals to be dealt with expeditiously must be established, which would take into consideration the seriousness of the disputed issues and the amount in issue. It is not possible to continue the present system in which an appeal concerning property worth millions of Euros receives the same priority as another appeal concerning a very small amount, which would not even have secured leave to appeal, had there been criteria for leave. There are of course other appeals which by their nature necessitate urgent litigation, e.g. those relating to interim orders, appeals arising from decisions of Arbitrators pursuant to the 1987 International Commercial Arbitration Law, etc.

(e) Establishing management infrastructure to assist the administration work of the Supreme Court

The Judicial Service has expanded to some extent the number of judges and staff. However, the obligations of the Supreme Court at the national, european, and international level have proliferated. Thus it is necessary for it to be supported in its work by professional personnel. For the proper operation of the Supreme Court's supervisory role, establishing the following Departments should be considered:

(i) Human Resources Management and Reform Department. There must be appointed, as head of the Administration Department, a Director specializing in public administration. The Director will take over part of the Chief Registrar's responsibilities concerning the administration of the Courts, so that the Chief Registrar remains responsible for purely legal matters. The Administration Department will deal with management issues, improving the efficiency of human resources, better utilization of resources, limiting expenses by adopting new technologies, etc.

This Department can include the Public Relations Department, which would inform the public about the work and the judgments of the Court, and manage the international obligations of the Supreme Court. The final decision will always be taken by the Supreme Court which will also have an advisory role.

(ii) Training Department

(iii) Department for the Supervision of the Functioning of the District Courts. The judiciary has almost doubled in the last 50 years, thus its supervision by the Judges of the Supreme Court alone is no longer possible. This requires a specialized Department staffed with professional personnel.



(iv) Department of Rapporteurs. With the transfer of administrative law cases to the Administrative Court, Legal Officers should be assigned new tasks. A recommendation currently prepared by Judge P. Panayi suggests establishing a Department of Rapporteurs in which existing Legal Officers can be included.

(v) Department of Research, Statistics, European Law and Publications.

(f) Transfer of Admiralty Court cases to the District Courts

It must be examined whether there are still grounds for maintaining the original jurisdiction of the Supreme Court as an Admiralty Court or the time has come to transfer the jurisdiction to the District Courts.

6. DISTRICT COURTS AND OTHER SPECIAL JURISDICTION COURTS

(A) Increasing the number of judges

Article 158 of the Constitution provides for a sufficient number of courts and judges to ensure the effective administration of justice without delay. The fulfillment of the above constitutional requirement does not apply in a way which ensures the fundamental rights of citizens to the required extent. As we pointed out in our previous Report of 2012:

“The numerical insufficiency of judges who make up the District Courts and other Courts of First Instance is a factor directly related to the issue of delays in the trial of cases, while simultaneously affecting the quality of judicial work and in general the effectiveness of the judicial function.

The Cyprus Courts of First Instance are currently understaffed. The upsurge in crime, the increase of cases (criminal and civil), including intermediate applications and the high degree of difficulty usually associated with most cases brought before the Court are indicative of the heavy workload and the resultant need to increase the number of judges.”

Since then, thousands of cases have been added as a consequence of the economic crisis; for example, the “haircut” of deposits (bail-in), bank shares cases, securities, etc. It is expected that a large number of originating applications will soon be filed on the basis of legislation regarding the insolvency of legal and natural persons. There has also been an increase in the number of complex criminal cases filed, against various public and other persons in connection with bribes regarding the sewerage systems, the sanitary landfill, the waste landfill, as well as events in the economy and in relation to both major banks in Cyprus.



We have already pointed out in the introductory part of the Report that the ratio of the number of judges per 100,000 inhabitants is the lowest in Europe and should be increased.

It is estimated that in order to cover short-term needs, at least thirty (30) new judges should be appointed immediately with a proportional increase of the existing permanent positions at all levels, so that the Cyprus ratio of judges per 100,000 inhabitants changes from 12 to 15. Even with this increase, Cyprus with 15 judges per 100,000 inhabitants is far below the average in the EU which is about 20 judges per 100,000 inhabitants.

It should be kept in mind that three judges are immediately required to compose the fifth permanent Assize Court, while three other judges will be needed to make up the sixth permanent Assize Court, in about a year from now, in view of serious criminal cases that have accumulated and those expected to be filed shortly in relation to the economy, and which are predicted to be complicated and time-consuming.

In a comprehensive effort to tackle the heavy workload of the Criminal Jurisdiction, the Supreme Court will also discuss other ways of alleviating the problem.

As we pointed out in our last Report:

“.... It is obvious that any increase in the number of judges involves, inter alia, the construction of new court rooms and offices and the placement of relevant staff. The present state of the buildings offers few possibilities for covering the specific needs. Given the above finding, one must put one’s finger on the problem, and the State, after considering all factors, must decide on the justice it wants and of which this nation is deserving. If the aim is for justice to remain qualitative, speedy and effective then the right decisions regarding vital issues concerning the present and future state of the

country's courts must be made without further ado. Laments regarding delays do not solve the problem. What is required is correct decision-making for the modernization of the institution of justice. If, per-chance, things are left as they are, the situation will not easily be reversible with whatever consequences that entails.

Increasing the number of judges is the primary step that will contribute decisively to the speedier administration of justice and its qualitative upgrading.”

The immediate increase in the number of judges will contribute greatly to the improvement in the time required to administer justice and will help Cyprus rise above the last position it now occupies in the “Scoreboard 2016” Table of the European Commission.

To avoid frequent amendments of the law regarding the increase of the number of judges, the Committee proposes that the number of positions must be increased by 30 and, after consultation with the Executive on the economic aspects of the matter, the Judiciary must be left to fill them according to its needs from time to time. The system of filling positions as required is successfully used in several countries. For example, positions are left vacant following retirements, when there are no suitable candidates to fill them, or when there is a decrease in the number of cases filed.

(B) Increasing the staff of District Courts and interchangeability

The Courts have been understaffed for a number of years. Our efforts to increase court personnel have been fruitless. However, the Courts have received temporary staff. The Courts tried to train them so that they could cope with the specialized work they are required to accomplish. Recently, however,



much of this temporary staff was transferred, due to the application of the principle of interchangeability to the Courts as well. This has resulted in the manifestation of enormous problems in the functioning of the courts, until new staff is trained. Interchangeability is a problem in itself for the courts and appropriate solutions must be found.

The economic crisis has put restrictions on employing new staff, resulting in the undermining of the courts to a great extent and, in many instances, existing staff not being able to fulfill their duties. After our calls, a small number of positions were released, but the following positions are still vacant: two stenographers, nine judicial bailiffs, one senior registrar, three primary court stenographers, two higher stenographers, two first bailiffs, and five senior bailiffs.

Data collected by the Presidents and Registrars of District Courts show that to cover short-term needs the above positions must be filled as soon as possible, so that the Courts can start to function normally.

(C) Limiting the number of cases filed in the courts

We must find ways to reduce the number of lawsuits filed in the civil courts by encouraging the parties to use alternative dispute resolution, such as arbitration, mediation, etc. For some small differences, arbitration or mediation should be compulsory.

In criminal cases, the authority given to the police to issue out court fines for a larger category of offences, contributed substantially to the reduction of criminal cases filed and it is expected that the list of cases will be expanded, as recently announced by the Minister of Justice, Mr. Ionas Nikolaou.

(D) Establishing a model Commercial Court

This Court may adopt simplified court procedures and administer justice within a given deadline. Ireland set a 9-12 week period for a final decision. It is now accepted that the administration of justice must be immediately modernized with regard to commercial matters, in which huge sums and assets may be tied -up, thus affecting investment and the economy of our country. Simplified Court procedures may also serve as a model to be adopted by other Courts of the Republic.

At the same time, the establishment of an International Court of Commercial Affairs is also being contemplated, which will help promote Cyprus as a centre for the provision of high quality services.

Judges K. Stamatiou and Y. Yiasemis have already prepared a Preliminary Recommendation which they will present to the Supreme Court before communicating it to the Minister of Justice who will start consultations with the agencies involved.

(E) Establishing a Reform Committee of Experts on the reorganization of jurisdictions and functioning of the District Courts

The Committee may be the same Committee that will undertake the corresponding project for the Supreme Court. The Committee should be established along the standards of the Piki Committee. There are several foreign experts and Cypriot judges, active or retired, who may assist the Committee in its work, as well as lawyers and academics of our Universities. The revision of all District Court procedures will be required in view of the upcoming computerization of the courts and the introduction of e-Justice in 2018 which will allow the electronic filing of lawsuits.



7. ADMINISTRATIVE COURT

The Court commenced its operation in January 2016 and assumed the originating jurisdiction assigned to the Supreme Court by Article 146 of the Constitution. Initially, five judges were appointed although the needs were greater. This was mainly due to the economic crisis and the lack of available courtrooms to accommodate them. But it is imperative that the number of administrative court judges gradually increases by two, with a parallel increase in support personnel (stenographers, clerks and secretarial staff).

Furthermore, permanent arrangements must be made to house the Administrative Court. But this topic is covered in Section 9 below.

8. CIVIL PROCEDURE RULES OF COURT

It was acknowledged in 1989, by the Pikis Report that there is a need for radical amendment of the Civil Procedure Rules in order to expedite the administration of justice. Since then, there have been several attempts without success. The Stavrinakis recommendation was not accepted by the Supreme Court.

Subsequently, a small group of judges prepared another recommendation which addressed the issue to a limited extent only. As explained in the Kramvis Report (2012), "Several sessions were held by the Supreme Court for the drafting and finalization of the text. However, the results were meager and these attempts were discontinued. As has become clear, the methodology for the review and modernization of the rules so as to become useful tools of process, without clashing with other legislative or procedural provisions, is the main cause of the difficulties encountered. It has become apparent that the legal-technical drafting of the texts in order to make them consistent with and/or so as not to clash with other legislation requires more time than the Supreme Court can dedicate because of the time required for purely judicial work."

In order not to relinquish the attempt completely, the Supreme Court, adopting a recommendation of the current President of the Supreme Court M. M. Nikolatos, commissioned Judge St. Nathaniel, to prepare an amendment of the important Orders 25 and 30. After marathon consultations with the Cyprus Bar Association, the amendments were published in September 2014, but





their implementation was temporarily suspended because of strong reactions from members of the Bar Association. Finally, the amendments became fully effective on January 1, 2016. Reservations have been expressed on various aspects of the new provisions. At the same time, a Supreme Court Committee is currently working on the general remodelling of the Rules with targeted amendments, wherever they are deemed necessary, including amendments to the new O.25 and O.30.

The Committee considers that the ambitious project of a fundamental revision and modernization of the Rules should be entrusted to a foreign expert, preferably an English judge who has a profound knowledge of the procedural changes made in England to submit a comprehensive proposal based on the English rules with necessary modifications in order to comply with the special conditions prevailing in Cyprus.

For the implementation of the project, technical assistance may be requested within the implementation framework of the Memorandum of Understanding. The IMF has already expressed its readiness to help financially.

Alternatively, assistance could be drawn from the Stavrinakis recommendation, viewed in the light of current factors.

If no decision is made soon, the justice system will not be able to cope with the current needs of the economy nor will it be able to assist in the effort to promote Cyprus as a par excellence centre for the provision of high-quality services.

9. BUILDING FACILITIES

There are serious deficiencies in building facilities. The reason is that the implementation of projects is delayed to such an extent that any forecasts for future needs are surpassed before construction even starts. A classic example is the Nicosia District Court which, for the last 25 years, has been at the planning stage but has yet to be erected. Another example is the construction of a second floor to the Paphos Court. Projections for future needs were made in 2004, plans prepared in 2007, but the project never materialized mainly because of the interim economic crisis. In 2014-2015, the previous plan was canceled and it was decided to extend the building next to the existing one. If construction finally starts in 2016, a small-scale construction project will have taken 12 years.

The [operational state of] building facilities is directly associated with the observed delays. Without available space no new judges and staff can be appointed, resulting in the malfunction of the system. Nor is it possible for the Courts to have technological support. The Committee considers that with the growing workload and associated increase in delays, the State cannot afford to wait for the construction of new buildings before it appoints new judges. Until building needs are sufficient, the operation of the courts in the afternoon may be considered as an emergency measure. Such an arrangement was adopted in the past by the Ministry of Education, when there were temporary shortages in school facilities. If adopted, it will be possible to implement immediately the increase of the number of judges by 30, who together with the respective administrative staff will work in the afternoon only.

Below we present the specific building needs of the various District Courts and Courts of Special Jurisdiction.



(A) Nicosia District Court

As we mentioned in our previous report (Kramvis 2012):

“The insufficiency of building facilities makes the operation of the Nicosia District Court difficult with negative effects on the services provided. Since the mid-1990s we have suggested that “office space availability for Judges and staff remains far below the minimum acceptable standard; poor building facilities and working conditions at the Nicosia District Court stigmatize our culture.”

Since then, the Judiciary has continued to raise the issue every year. Although 25 years have elapsed since the need arose to build a new courthouse for the Nicosia District Court and despite the many promises by each and every government, the project has yet to materialize. For its part, the Judiciary has re-submitted the needs of the courts and it is expected that an invitation for architectural tenders for the construction of the building will be announced. We know that the Minister of Justice Mr. Ionas Nikolaou has shown great interest in the project, but we are generally disappointed with the slowness with which things are moving. We estimate that the Nicosia District Court will not have a new building before 2025. But by then it is expected that serious malfunctions will appear which will inevitably contribute to the prolongation of the delays even further and will damage the prestige of the judicial system and public confidence in the courts, particularly regarding the trial of serious cases.

(B) Limassol District Court

In 2005, a new building was erected next to the existing one, which was built around 1974 and is currently in an awful state. Furthermore, additional needs (four courtrooms) have already been identified and planning for expansion should start immediately. This can be done either by demolishing the old building and constructing a modern multi-story building that will meet the future needs of the Court of Limassol for the next 50 years, or by adding an extension in the parking area, next to the PASYDY building, which has been reserved for the future development of the Limassol District Court.

(C) Famagusta District Court

After the [Turkish] invasion, the seat of the Famagusta Court was temporarily transferred to Larnaca. However, for a number of years now, a Court for small, mainly criminal cases has been operating in Paralimni, Famagusta District, serving the needs of the local population. The Court is housed in rented apartments in an apartment block. There is consensus that these premises are not the most respectable. Past efforts to relocate the Court were not successful. Recently the government announced its intention to construct a new building to house the Famagusta Court on privately owned land in Paralimni. There have been some thoughts that the Court should also try civil law cases, but this requires further study and consultation with all bodies involved, including the Cyprus Bar Association. We hope that in the next 1-2 years at the latest, the government will implement its announcement to relocate the Famagusta Court, at least the section dealing with criminal cases, to a more appropriate and respectable building.



(D) Larnaca District Court

A few years ago, an extra floor was added to the Larnaca District Court building. However, in the event of new judicial appointments, it will not be able to accommodate the new judges. There is already a need for two additional courtrooms. Therefore, we recommend that planning begins to extend the building towards the parking area which, in turn, can be converted to underground parking, as in the case of the Limassol District Court.

(E) Paphos District Court

We have already mentioned the problems of the Paphos Court extension. The problem is acute (lack of nine court rooms); however, construction of a new building next to the existing one is expected to begin in 2016. For the time being, some Judges are compelled to hold sessions in their chambers rather than in court rooms.

For several years now, the Paphos Court has been having problems with its air conditioning system. Despite requests by the Chief Registrar, nothing has been done to alleviate the problem, with resultant discomfort both to employees and visitors particularly during the summer months.

(F) Old Supreme Court Building

As is known, this building housed the Family Court of Nicosia and the Industrial Disputes Tribunal. After the building was declared dangerous, the above courts relocated to premises rented by the government on Diagoras Avenue. This temporary arrangement is troublesome both for judges and lawyers who are compelled to travel from the District Court of Nicosia compound with consequential loss of working time. Moreover, this arrangement costs the state tens of thousands of euros in rent every year.

Despite the promises of the Minister of Justice that restoration work on the building will commence soon, regrettably, the relevant studies have not yet been completed.

(G) Administrative Court

The recently established Administrative Court of First Instance is temporarily housed in the Supreme Court building. However, conditions are not ideal and it will soon be necessary to find other suitable premises. The Administrative Court is currently composed of five Judges, but it is expected that very soon, this number will have to be increased due to the volume of cases filed. Therefore, at least 7-9 courtrooms and additional office space for the Registrar, stenographers and other personnel will be required.

The needs of the Administrative Court should be taken into account when planning the construction of the new court building to be erected in Nicosia.

(H) Storage Facilities

All Courts, without exception, including the Supreme Court, have severe shortages of storage facilities, resulting in the loss or inability to track files.



10. INTRODUCTION OF MODERN TECHNOLOGY, MEDIA AND SECURITY

(A) E-Justice

Registries still operate with the same antiquated system that was in place before Cyprus gained its independence. We have identified the difficulties created by this obsolete system. Cases which are filed are still recorded manually by Court Officials in the various registers, while nothing has changed in the manner of case archiving and the safekeeping of files. As a result, difficulties are generated on a daily basis in the operation of the Registries, which can no longer cope with the demands of the times. One of the serious negative effects of the existing system is that the Registry is unable to extract from the registers the necessary statistical information required by the Supreme Court, the Ministry of Justice and in particular by the bodies of the European Union entrusted with the task of controlling and monitoring the national administration of justice systems. Because of these difficulties, Cyprus is among the few countries that do not release an Annual Report. The EU Commission in its Report on justice “Scoreboard 2016” records the failure of Cyprus to systematically monitor case handling time, the number of adjourned cases, the lack of institutional criteria and quality control of judgments and other services offered, the lack of frequent monitoring and evaluation of the system of administering justice, etc.

The above shortcomings are only some of those resulting from the lack of an Electronic Data Processing System. These deficiencies are listed in Figures 38, 39, 40 and 41. Figure 42 of the “Scoreboard 2016” in particular lists 25 criteria for monitoring the administration of justice system, and Cyprus is the only country which uses only one of these criteria.

Finally the state has been convinced of the necessity of introducing an Electronic Data Processing System and the Minister of Justice, Mr. Ionas Nikolaou announced that the system will be implemented within two years at the latest. The Supreme Court is aware that the necessary procedures for awarding the contract are in progress.

(B) Keeping of Court Minutes – Court Reporting

The minutes of court proceedings are generally taken in shorthand by a court stenographer. Due to the length of time required to transcribe the minutes, the State in recent years has been purchasing stenotype services from the private sector. Following action on the part of the Minister of Justice Mr. Ionas Nikolaou, the use of stenotype services has increased over the past two years, to overcome the difficulties involved in finding competent stenographers.

Having used the stenotype method in the courts for 2-3 years, it has proven a very useful tool in accelerating the administration of justice and improving the quality of judgments, since both judges and lawyers can have the transcript within days of the actual trial. The state, therefore, intends to introduce an integrated stenotype system following the gradual training of stenographers in the new system. All Assize Courts and several other courts, particularly criminal courts, are already using stenotype services with great success.

With the universal introduction of the system, it is expected that the Supreme Court will find ways for the hearing of appeals to be fixed more quickly, since a transcript of the proceedings before the court of first instance will be available in a very short time. However, if no ways are found for expediting the adjudication of appeals, it is expected that the introduction of the stenotype system will increase the number of appeals ready for trial, and will result in a sharp increase in the number of pending appeals.



(C) Electronic Hardware Upgrade

Most computers, printers, photocopiers, scanners, etc., even in the Supreme Court, are outdated and are often problematic. There is an urgent need to upgrade them.

(D) Internet Connection

The connection speed with the State server is very slow, which means that valuable judicial and staff user time is wasted. Therefore, Internet connection speed should be upgraded immediately.

(E) Videoconference Systems Upgrade

Installed about fifteen years ago, the existing systems are already outdated and need to be replaced by new technology to meet current requirements.

(F) Security System

Since our last report in 2012, nothing has changed [in the Court Security System]. Thus, we must repeat that the installation of security doors, metal detectors, etc. in Court premises is urgently needed. The installation and operation of the aforementioned security systems will help prevent and deter malicious or terrorist activities.

(G) Deficiencies in Offender and Detainee Detention Spaces

Many of the detention areas in the courts are in poor condition, a fact often adversely commented on by foreign delegations visiting Court premises for purposes of inspection.

11. JUDICIAL TRAINING

Continuous training of judges is not only considered part of the EU acquis, but is also a matter of utmost importance for the professional development of human resources in the administration of justice. It is perhaps the most important tool for maintaining and improving the quality of the administration of justice. In recent years and particularly after Cyprus joined the European Union, the Law has developed and has become complex. Today it is very difficult for lawyers to practice their profession without some kind of specialization in specific law areas. The same should apply to judges, if they are to cope with the demands of the 21st century.

For over 20 years, the EU institutions have highlighted the need for judicial training in all Member States. Cyprus is, once again, the only country in the European Union that has yet to install a system for the continuous training of judges. Figures 34 and 35 of the EU "Scoreboard 2016" show the current status.

Figure 34

Compulsory training for judges (*)



Source: COPEJ study (**)



(*) The following Member States do not offer training in certain categories: MT (initial training); DK (specialised functions); EL, IE, MT, ES (management functions); BG, EE, MT (use of computer facilities). In all other cases, training may be provided but it is optional.

Figure 35

Judges participating in continuous training activities in EU law or in the law of another Member State (*) (as a percentage of total number of judges)

Source: European Commission, European Judicial Training 2015 (*)



(*) In a few cases reported by Member States the ratio of participants to existing members of a legal profession exceeds 100%, meaning that participants took part in more than one training activity on EU law.

In Europe, developments in the field of judicial training are rapid and expected to dramatically accelerate in the future. In 2011, the European Commission described in detail the new EU policy on judicial training. In its Communication COM (2011) 551, dated September 13, 2011, the EU stated that improvement of judicial education and training is crucial in building a unified European judiciary area. In its Report the Commission concludes that: -

“Strong commitment is needed to ensure that judicial training reaches the level of excellence required for a true European judicial culture. The European Commission calls upon all actors to take appropriate action: budgets must be allocated; time must be made available, incentives developed and clear commitments taken.”

Welcoming this announcement, in its Conclusions 2011/C361/ of October 27, 2011, the Council stated:

“11. The Council encourages candidate and potential candidate countries to sign Memorandums of understanding to take part in the European Union’s financial programmes in the field of justice, according to the conditions set in those programmes, in order to ensure their effective participation in European judicial training projects.”

To implement this policy, the European Parliament and the Council of the European Union with a Joint Proposal filed on November 15, 2011, proposed the introduction of a Regulation for the adoption of the strategic plan called “Justice Program 2014-2020” 2011/0369 (COD). The proposal was finally adopted. This program aimed to finance all justice-related programs, from structural funds for the next seven years. The financial envelope for the implementation of the program amounts to € 472 million. Inter alia, the program aims to enable all European judges and 50 percent of all European lawyers, about 700,000 people, to take part in judicial or legal training programs planned up to 2020, at national or European level.

In 2012, in response to a call by the European institutions, the Supreme Court of Cyprus prepared a detailed Report on the necessity of creating a National Strategic Plan for 2012-2020 on judicial training.



It proposed the establishment of a Department or a Judicial Academy at the Supreme Court to undertake judicial training. Due to the economic crisis in 2013, the implementation of the recommendation has been delayed. The Minister of Justice Mr. Ionas Nikolaou is a strong supporter of the recommendation, and the government is ready to provide some funds for establishing the Academy, which will also be responsible for lawyer training. As for lawyers, the EU aims to establish a minimum number of training hours before each lawyer has his/her license renewed.

Unfortunately, due to the existing delay, Cyprus may not implement the goals set in the “2014-2020 Justice Program” for the training of all judges, court officials and half the number of lawyers by 2020. Most European countries have already issued two annual reports (2014, 2015), explaining what they have achieved in order to comply with the “Justice Program 2014-2020”.

The EU’s requirement is not only for “initial training” but also for “continuous training”, particularly in the fields of European law, judicial time management and the manner in which trials are conducted. The EU’s motto is “judges who are not well trained should not be allowed to administer justice.” It is obvious that the emphasis from now on is not only on the number of judges trained, but also on the quality of training received.

The reason the EU insists on the quality of judicial training, is to ensure that any judgment issued in any EU Member State which is directly and immediately enforceable in all other Member States, is of the same high standard, something which is considered as enhancing the mutual trust between Member States in the common European area.

If the efforts for the establishment of a Training Academy begin in January 2017, the Academy will take at least 6-12 months to become operational. During the first year of setting up the Academy, the areas of training and the curriculum must be selected, the trainers must be found, educational methods adopted, success criteria of each program established, strategic partnerships with other Member States created, and many other tasks, which require time and a budget.

During the first year of operation (2018) and after the Academy's personnel is being trained, efforts will be made to find European funding for the organization of joint training programs in Cyprus, in cooperation with other countries.

Simultaneously with the establishment of a Training Academy, a National Council for Judicial and Legal Training must also be set up, which should include Supreme Court judges, representatives from the Judges Association, the Cyprus Bar Association, the Ministry of Justice, the Ministry of Finance and academics. It is proposed that the Council should only have an advisory role on training.



SUPREME COURT

ΑΝΩΤΑΤΟ ΔΙΚΑΣΤΗΡΙΟ

YÜKSEK MAHKEME

12. OTHER ISSUES RELATING TO JUSTICE AND COURT OPERATION

(A) Establishing Permanent Committees for Annually Monitoring the Operation of the Civil Procedure Rules and the Law

There should be two Committees: one for the Civil Procedure Rules and one for the Law. The Committees must be set up along the standards of the “Permanent Law Commissions” that operate successfully in many foreign countries. The two committees will be entrusted with the task of continuously monitoring, not only the operation of the courts, but also the Civil and Criminal Procedure Rules and the Law, and in an Annual Report will recommend ways to improve them so as to swiftly resolve problems identified in the previous year. The ultimate goal would be the modernization of the justice administration system, year by year, so that it meets the demands of the times. In order to facilitate the establishment of the Committees, retired judges with extensive experience can be employed. Assisted by other experts, e.g. lawyers, academics, etc., they can contribute substantially and on a yearly basis to the modernization of the law and court procedure.

(B) Republishing the Annual Report of the Supreme Court

Several years ago, the Supreme Court used to publish an Annual Report, which was the Judiciary’s report on the operation of the courts during the previous year. At some stage, the publication of the Annual Report ceased for reasons which cannot be traced in the Archives of the Supreme Court.





The Committee recommends that the reinstatement of the Annual Report will greatly enhance the monitoring of the operation of the courts and the publication of malfunctions and problems. At the same time, more comprehensive information will be provided to the public and to those otherwise interested in the operation of the courts and, in general, it will contribute significantly to promoting the work of the courts.

(C) Establishing Performance Evaluation Criteria for District and Other Judges

Parallel to increasing the number of judges, a number of criteria must be introduced for the objective evaluation, as much as possible, of the work undertaken by District and other judges, so that the most worthy and able are not treated unfairly. This is a serious and complex issue that needs the contribution of experts on the subject. The experience of other EU member States will certainly be helpful.

(D) Supreme Council of Judicature

The establishment of the Supreme Council of Judicature is directly related to the independence of the Judiciary. Recently, however, several European bodies, e.g. Greco, commented on the concentration of many competences in the Supreme Council of Judicature, which is composed of the same people that make up the Supreme Court. The issue is complex and therefore requires careful study. The Supreme Court has taken serious account of these comments, and will proceed first with an internal study of how the Supreme Council of Judicature operates and the need for possible review.

(E) Reassessment of the Functionality of Special Jurisdiction Courts

It is common knowledge that the institution of courts of special jurisdiction has not operated to the extent which was expected. There have already been thoughts on whether some of the courts of special jurisdiction are needed in their current form or whether the time is ripe for reform or to integrate them in some form into the District Courts.

(i) Rent Control Court

There have already been thoughts of converting the Rent Control Tribunal to a Court of Immovable Property and Rent and integrating it into the District Court.

(ii) Military Court

Another consideration is the abolition of the Military Court and the transfer of its jurisdiction to District Judges who will be able to spend a few days each month dealing with Military Cases.

(F) State Protocol

An issue related to the parity of the three Powers, is the State Protocol. Nothing has changed since we submitted our previous Report, which is why we reiterate that:

“Despite the fact that the independence and parity of the judiciary is institutionally and universally recognized, the known “distortion” regarding the protocol, continues, unfortunately, to be maintained. The President of the Republic and his predecessors acknowledged that legislation regulating the Protocol does not comply with the constitutional order and European norms and that there is a need for rectification by amending the 1996 Law on the Protocol of the Republic of Cyprus (Domestic Etiquette).

Maintaining the above abnormality in no way honours the constituent state powers that tolerate the perpetuation of the situation.”

SUMMARY

The needs identified in this Report are not new. If, however, we want to maintain a high level of justice in Cyprus and reduce case trial time, we must take the following actions immediately:

1. Court Budget Increase: The funds required to meet the above needs should be granted to the Courts. A percentage of the Gross National Product approaching that of other European countries, which on the average is about 0.3 percent of GNP, should be allocated.

2. Independence of Judges and Remuneration: To maintain the independence of judges and the high quality of the administration of justice, the salaries and benefits of judges, particularly new entrants, must be ensured so that the judicial service can attract and appoint the most able lawyers.

3. Significant Increase in the Number of Judges: The number of judges should be eventually increased to the average of other EU Member States, i.e., there should be at least 20 judges per 100,000 inhabitants.

4. Delay Reduction: Currently, both the constitutional provisions and those of the EU Charter and the European Convention for the Protection of Human Rights for the diagnosing of civil rights of every citizen or any criminal charge against him “within reasonable time” are largely not met, particularly in proceedings before the Supreme Court. Hence, the entire court system must be modernized, to reduce delays to the shortest possible. The aim is to not have civil cases in the courts for more than two years and criminal cases for more than one year.

5. Supreme Court Operation Restructuring: The restructuring could start with the establishment of a special Committee of Experts. However, the establishment of the Second-tier Court of Appeal and the other proposals expressed in the relevant sections, such as the establishment of Divisions, reducing the number of appeals, creating speedy appeal trials, creating new administrative structures, and the transfer of Admiralty Court cases to the District Courts must be examined immediately. These measures will contribute directly to the release of Supreme Court judges from spending too much of their time on administrative and managerial issues to the detriment of their judicial duties.

6. District and other Courts Operation Restructuring: To tackle the problems, as in the case of the Supreme Court, a special Committee of Experts should be appointed to examine any operational problems. Until this particular recommendation is implemented, both the number of judges and staff should be increased immediately, the application of the interchangeability principle to the Courts should be put on hold, and a Commercial Court should be established to accelerate the trial of cases that have a commercial or economic structure.

7. Simplification of Procedures and other Court Processes: To do this, expert committees must be established which, after exploring each and every court procedure, especially the Civil and Criminal Procedure Rules, will propose solutions to modernize the whole system. In this respect, technical assistance can be requested from the EU, the Troika, and the IMF.





8. Improvement of Building Facilities: All districts require expansion or improvement of their building facilities. It is important to speed up procedures for the construction of the new building of the District Court of Nicosia. At the same time, the expansion of all other District Court buildings must be scheduled.

9. Introduction of Modern Technologies: The introduction of e-Justice, stenotyping, recording procedures etc. will contribute to the improvement of the speed and quality of the administration of justice.

10. Training of Human Resources: - Judges, Legal Officers, Registrars and other court personnel should receive continuous and targeted training to ensure quality of justice. To meet this obligation, there is an urgent need to establish and operate a Training Division as soon as possible.

11. Other issues: - Correction of the constitutional distortion created by the provisions of the State Protocol, which requires revision.

EPILOGUE

This Report records and prioritizes the present and future needs of the courts and the failures and problems at all judicial levels. The Report highlights the major and most immediate shortcomings of the courts and sounds a note of warning regarding the dire consequences.

At the same time, the Committee deemed appropriate to include in the Report specific suggestions and thoughts for modernizing the entire court system. Some of these may not currently have universal support, but members of the Committee thought it appropriate to have them on record to provide food for thought for future plans.

We hope that the State will change its approach regarding the courts and justice and will support the Supreme Court in its efforts to enhance the quality of justice, eliminate delays and modernize our judicial system.





SUPREME COURT

Charalambos Mouskos str., 1404 - Nicosia, Cyprus

Phone: (+357) 22865741, Fax: (+ 357) 22304500

Email address: chief.reg@sc.judicial.gov.cy