

JuWiLi - Justice Without Litigation



# JuWiLi - Justice Without Litigation

Economic Analysis

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# 1 Objectives of the Study

Legal certainty, an implicit feature of a well-functioning socio-economic environment, is ensured via a well-defined legal framework as well as execution of the law by the legal professionals. Non-litigious legal proceedings that are usually determined within the existing legal structure constitute an important aspect of Civil Law legal systems. Usually, the Courts and Judges play the role of the impartial executer of the Law of the Land. How this work is done, and the efficiency of this process defines the level of Legal Certainty in an economy.

In Hexagonale countries (except Slovenia), the Civil Law Notaries (Notaries) perform duties as Court Commissioners in case of Succession cases as well as in some non-litigious cases. From an economic point of view, this can be seen as outsourcing certain duties of the court, or in other words saving public resources in certain private transactions.

Law being the basis of civilisation, it is extremely important to see whether this outsourcing results in efficiency gains without affecting the level of Legal Certainty. Thus, this project begins the vital task of examining the situation in terms of available data as well as the existing legal framework in the six Hexagonale countries to develop a structure that can contribute to the measurement of efficiency, accessibility and quality parameters for the outsourced areas of law.

The main objective of the project was to study the non-contentious legal procedures and processes that are in place in the Hexagonale countries and the role of the Notaries in these procedures. The economic section of the project focused its attention specifically on the socio-economic impact of Civil Law Notaries carrying out some of the court functions in the countries under observation. As it is well known, the traditional role of Civil law Notaries in non-contentious legal process can be summarised as follows:

- Draft legal instruments that simultaneously take into account the intention of the concerned individual or individuals (entities) as well as the legal requirements for the specific purpose.
- Authenticate legal instruments after making sure the legality of the document, which then becomes legally enforceable.
- The civil law notary also acts as a public repository of legal instruments and document that he or she authenticates.

The specific characteristics of neutrality and enforceability again reinforces the view that the Civil Law Notaries have the legal authority to execute non-contentious legal proceedings in an orderly manner. In this sense, the role of the Notaries in Austria, Czechia, Croatia, Hungary and Slovakia as court commissioner emphasizes the importance of the Notaries in non-contentious proceedings. However, there has been no study carried out, so far, to specifically measure the impact of outsourcing court functions to Notaries in non-contentious legal proceedings.

The JuWili project, conceptualized and executed through collaboration between professionals and academics from a multidisciplinary background has endeavoured to fill this vacuum. Since the project partners are the Hexagonale countries with extensive legal transaction between them, and with one country, namely Slovenia being the only one where notaries don't act as court commissioners, it was decided early on to use Slovenia as a benchmark for assessing the socio-economic impact of outsourcing some court functions to Notaries.

It should be noted here that since succession proceedings are one of the most common cases among the Hexagonale countries where data was available and Notaries (except in Slovenia) acted as court commissioners, we will pay special attention to the succession cases. Furthermore, keeping in mind that even among the Hexagonale countries there exists many differences in terms of income, legal network etc. we proceeded to examine the characteristics of legal services network in European nations and the relative place the Hexagonale countries occupied within the European scene.

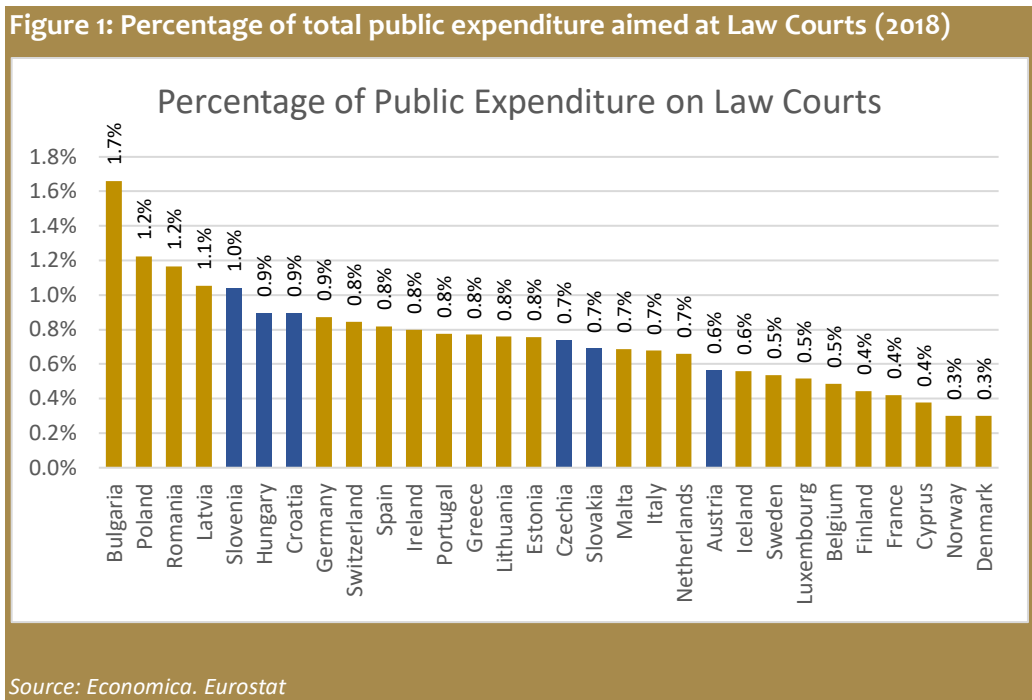
## 2 Legal infrastructure

In this chapter, we will present an overview of the existing legal infrastructure in some European countries in terms of public and private expenditure on legal services as well as the supply of legal services. Expenditure on Law Courts from the government determines the state of public legal services that depends on the number of legal and non-legal staff in courts and their competency, the equipment at their disposal and the network of physical court houses at the disposal of the citizens. This analysis will enable us to have a comprehensive overview of the existing structure from a financial as well as a logistical point of view.

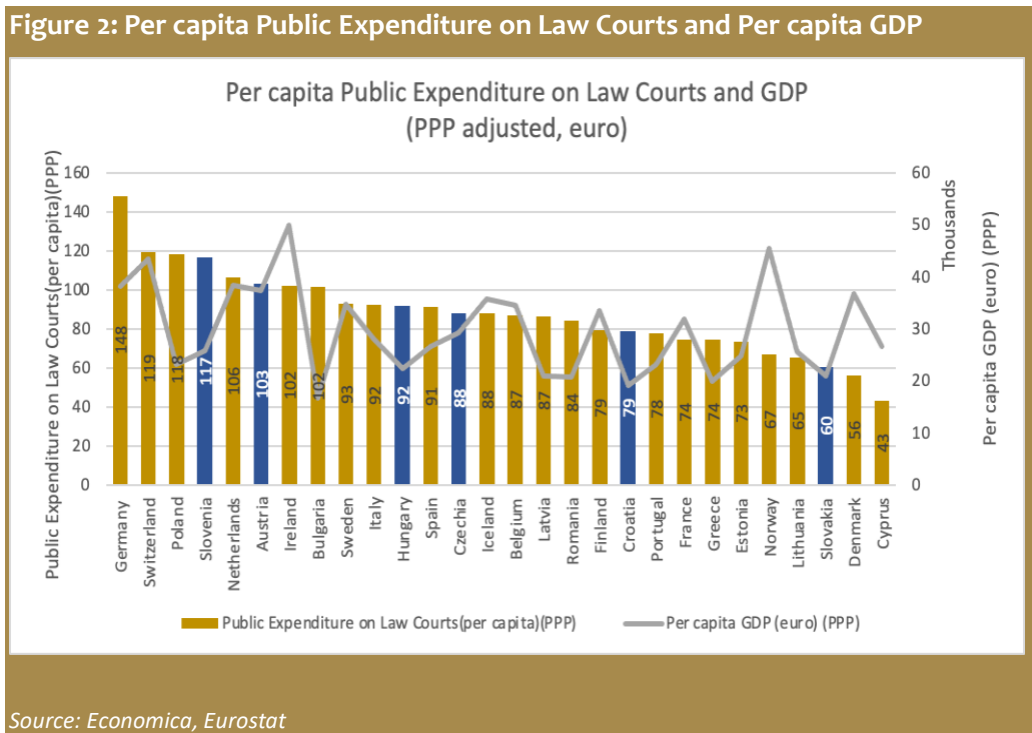
Private expenditure on legal services (in this case, turnover of the private enterprises that provide legal services), on the other hand, can be also used to assess the degree of legal certainty. However, it must be noted here that a higher level of private expenditure in a country can also be caused by the presence of international law firms or many socio-economic transactions requiring legal verification. The only way to exactly link private legal expenditure to legal certainty would be possible if the expenditure on litigious legal processes can be distinguished from expenditure on non-contentious legal processes.

### 2.1 Public and Private Expenditure on Legal Services

Figure 1 presents the expenditure on Law courts (including salaries, construction and equipment) as a share of total Government expenditure. The share in Hexagonale countries (marked blue) relative to many other European countries highlights the fact that in Slovenia, Hungary and Croatia, a relatively high percentage of public expenditure is directed towards the provision of public legal services. Austria presents the lowest share among the Hexagonale countries. It should be noted here that the Hexagonale countries do not present any common feature in this context and that they are distributed in the middle of the range that varies between 0.3% to 1.7%. Slovenia has the highest share within the Hexagonale countries.



However, in view of the fact that purchasing power, as well as population among the countries shown above, varies widely, it is necessary to have the GDP, as well as public expenditure on Law Courts (public legal expenditure), be converted according to Purchasing Power Parity and expressed in per capita terms. Figure 2 depicts per capita public legal expenditure (PPP adjusted) on the primary axis and GDP per capita (PPP adjusted) on the secondary axis. It is evident from the diagram that purchasing power parity adjusted per capita public legal expenditure is distributed between 148 euros in Germany and 43 euros in Cyprus, exhibiting a wide variation among many European countries again. The Hexagonal countries are presented in blue, Slovenia, once again exhibiting the highest value (117 euro) and Slovakia the lowest (60) among the Hexagonal countries. When one takes into consideration the GDP per capita, one observes that a high per capita GDP does not necessarily imply higher public legal expenditure. The public legal expenditure levels seem to reflect structural and institutional priorities of the economies rather than levels of per capita GDP.



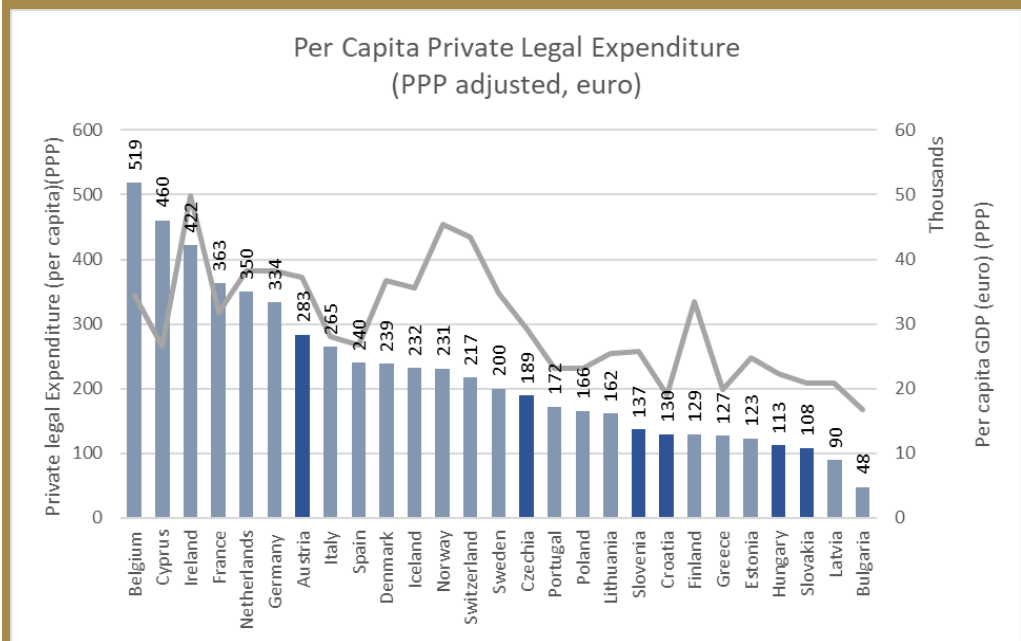
Additionally, it should be noted here that Ireland, Norway, and Denmark seem to spend a relatively lower amount on public legal services, and Slovenia seems to spend a rather higher amount on the same.

So far, Figure 1 and Figure 2 have described public legal expenditure in terms of the share of total public expenditure as well as of the per capita GDP of the country. The argument behind presenting the public legal expenditure in terms of per capita GDP is to capture a broad picture of tax amount directed towards expenditure on a public legal infrastructure that is essential for access to neutral and non-discriminatory legal services.

Here it should be noted that in the countries with codified civil law systems, the notaries execute and authenticate significant shares of non-contentious legal transactions that are by nature neutral and non-discriminatory. However, the services provided by the notaries are covered mostly under private expenditure. The data on private expenditure on legal services does not distinguish between the payment to the notaries or lawyers. The data presented here is derived from enterprise statistics of Eurostat that presents the total turnover of the enterprises specialising in legal services. We have used this as the private legal expenditure of a country. Figure 3 presents per capita private expenditure on legal services. Here we can see that the Nordic countries, as well as Ireland, Switzerland and Cyprus, have different legal systems and show a different kind of dynamics

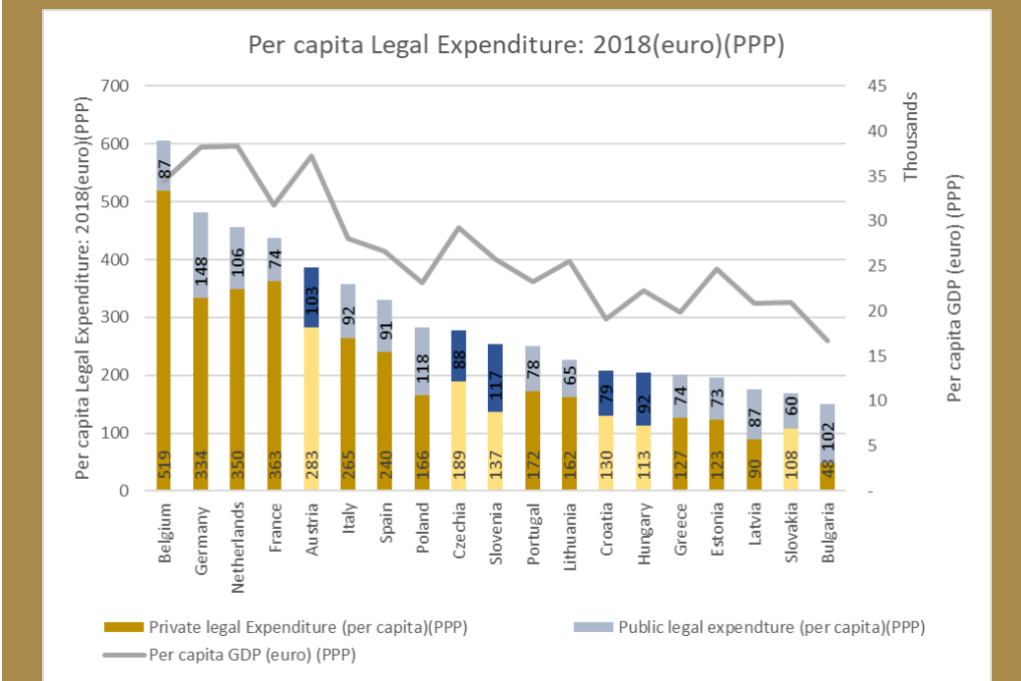
between GDP and private legal expenditure. We will carry out further analysis without these countries for the sake of uniformity in legal structure.

Figure 3: Private Expenditure on Legal Services (2018)



Source: Economica, Eurostat

Figure 4: Total Per capita Expenditure on Legal Services (2018)

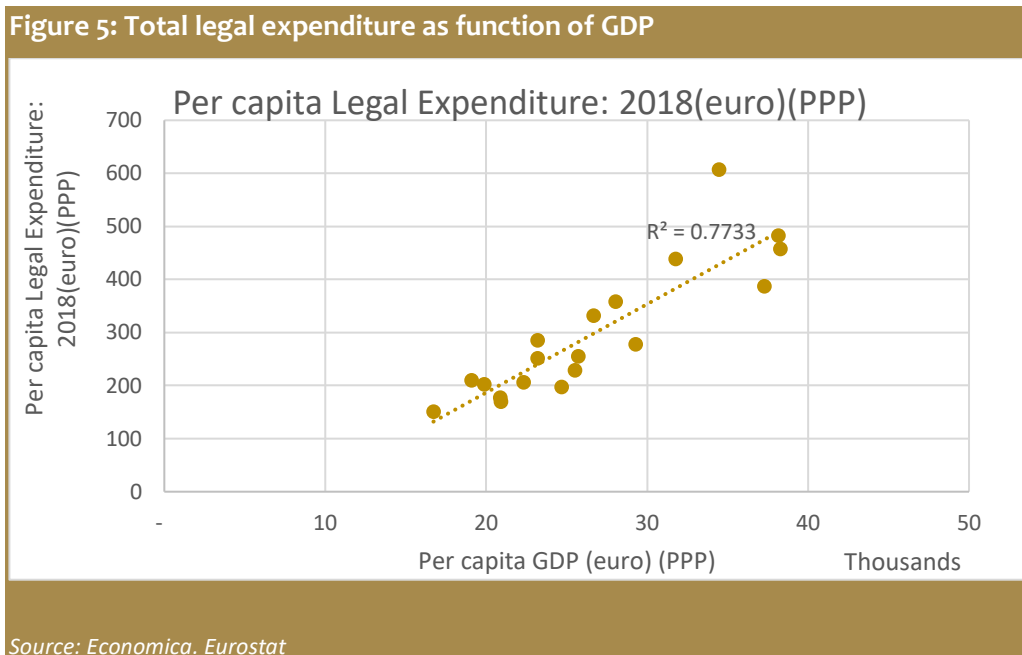


Source: Economica, Eurostat

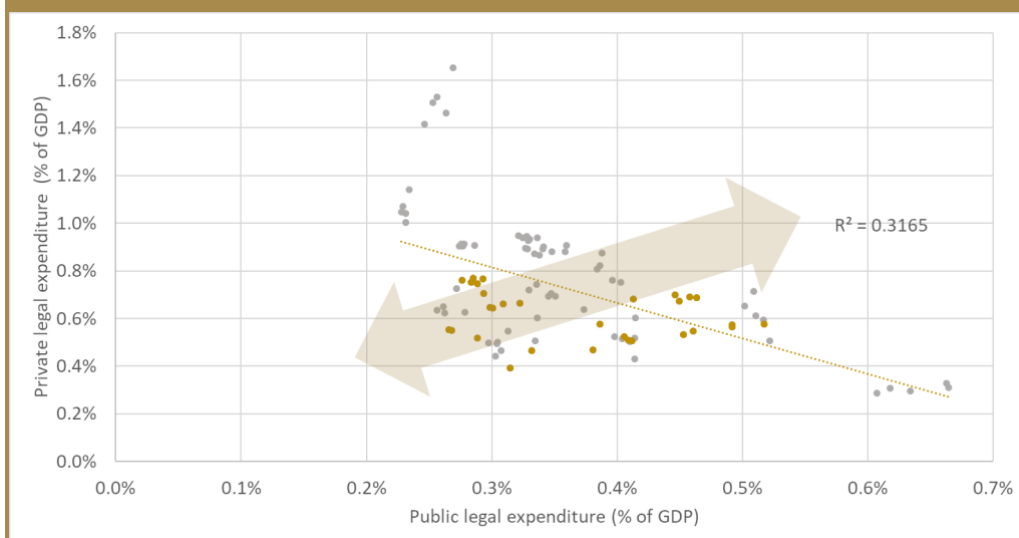


Figure 4 shows the total per capita expenditure on legal services (private + public) as well as the per capita GDP. It can be seen clearly here that total per capita legal expenditure is positively related to per capita GDP.

Figure 5 plots total per capita legal expenditure against per capita GDP, where this positive relationship between the two variables can be seen clearly. This indicates that not all legal expenditure can be attributed to litigating nature of an economy, but it can also be attributed to higher GDP.



On the other hand, the relationship between private and public legal expenditure is less clear-cut. In theory, we would expect a complementary relationship, meaning that either the public or the private sector is more involved in ensuring legal security in a state. This theory is supported when we look at Figure 6, where a trade-off between public and private legal expenditures in relation to the gross domestic product is given and confirmed by simple linear regression. In-/efficiency in this context means to move from/in direction to the origin shown by the arrow.

**Figure 6: Private legal expenditure (%GDP) vs. Public legal expenditure (%GDP)**

Source: *Economica*. Eurostat

When we replicate this analysis using the variable public / private legal expenditure per capita (adjusted by purchasing power parities), we receive an apparently contrary picture. In Figure 7, it looks like a higher value of public legal expenditures is accompanied by a higher value of private legal expenditures. Although the individual country values are adjusted by purchasing power parities and are given per capita, the different levels of the economy are not considered. High-income countries show a higher absolute demand for legal services. Taking this fact into account, we grouped the countries according to their economic power shown in the second Figure. By doing so, we receive homogeneous groups of countries, and a simple regression within these three clusters gives the same result, namely that there is a trade-off between public and private legal expenditures.

Figure 7: Relationship between Public and Private Legal Expenditure 2018 (per capita, PPP-adjusted) / 1 and 2



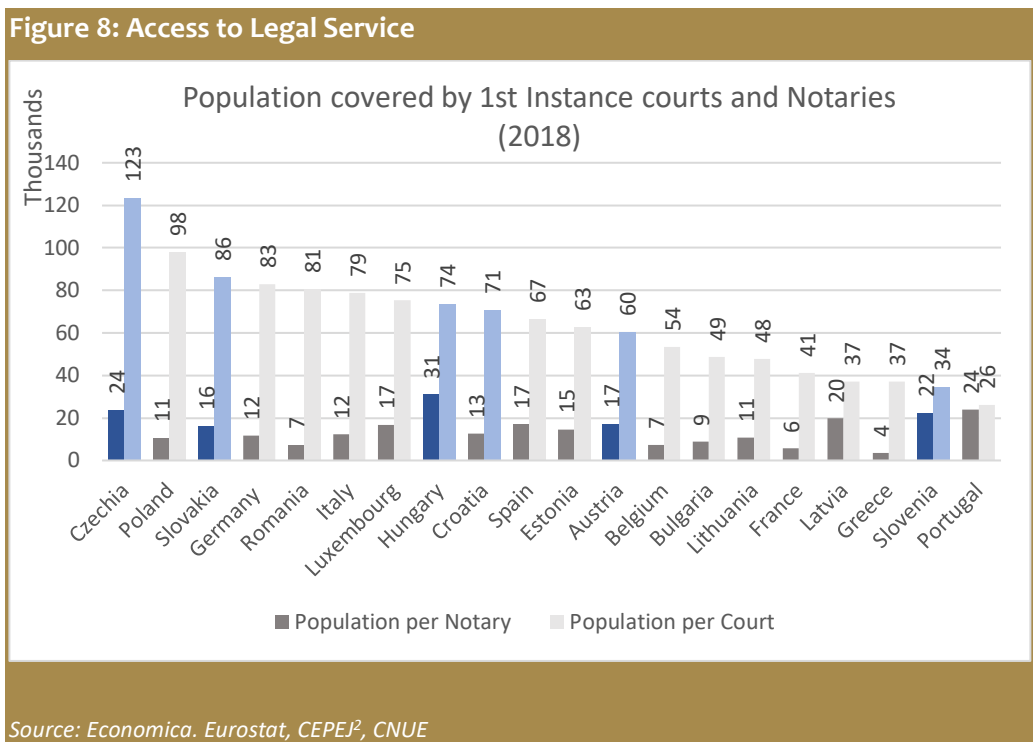
Source: Economica, Eurostat

## 2.2 Numbers of Courts and Notaries

In this section, we will present the access to unbiased legal services in terms of the number of inhabitants per first instance courts and notary offices across Europe. As one can see from Figure 8, the coverage provided by a network of first instance courts in terms of the number of inhabitants, on average, per first instance court.<sup>1</sup> It can be clearly seen here that this number varies widely among

<sup>1</sup> The definition of 1<sup>st</sup> instance courts we have taken number of first instance and specialized courts together wherever the remarks

the countries, and Hexagonale countries are no exception with 123,000 inhabitants per court in Czechia to 34,000 inhabitants per court in Slovenia. However, the number of courts used for this purpose is from the CEPEJ database, and the individual answers from countries are dependent on respective definitions. In this report, we have tried to incorporate the definitions to derive the numbers to the best of our knowledge.



The Figure also presents the network of Notaries where the number of inhabitants per Notary office varies between 31,000 in Hungary and 4,000 in Greece. The outreach of notaries and courts represents additional access to a neutral legal process. Both numbers provide an overall supply-side estimate of unbiased legal services available in a country. It can be seen that the Hexagonale countries are distributed across the range.

The data concerning the number of cases in courts and with the notaries is rather difficult to assess as the classification and definition of cases varies from country to country and is usually not within the scope of the task of the analysts. However, the number of civil cases (defined as other than criminal cases

<sup>2</sup> Numbers of first instance courts from CEPEJ public data (disclaimer at the end of the report)

(OTC)<sup>3</sup> provides a glimpse into the demand for legal service in non-criminal areas. In order to account for variations over time, we have taken the average of over 5 observations (years). As it can be seen here, the number of OTC per 100 inhabitants varies widely, with numbers in Austria and Slovenia being the highest among the Hexagonale countries and among the countries depicted in the Figure. The secondary axis presents the average disposition time as defined by CEPEJ<sup>4</sup>. The disposition time developed by CEPEJ as one of the most prominent indicators of efficiency of legal systems indicates whether the legal infrastructure in any particular country is capable of handling the legal transaction load presented by the legal framework of that country.

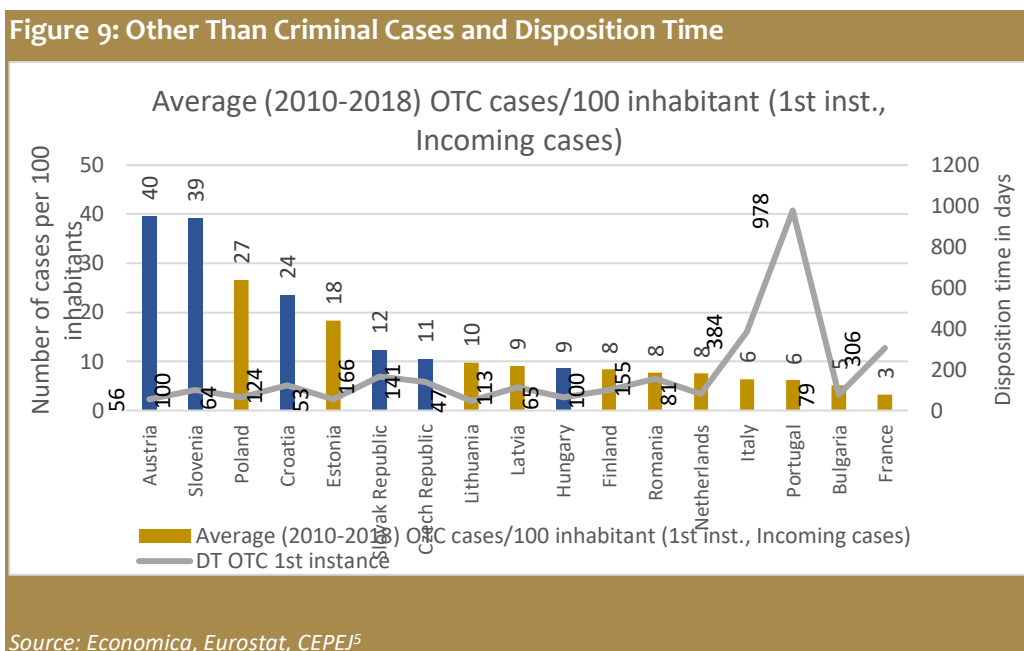


Figure 9 shows that, apart from Italy and Portugal, all other countries have a disposition time of less than half a year. This, in turn, suggests that even though the number of OTC per capita varies among countries, in most cases, the legal systems can handle the caseload.

<sup>3</sup> Definition CEPEJ (disclaimer at the end of the report)

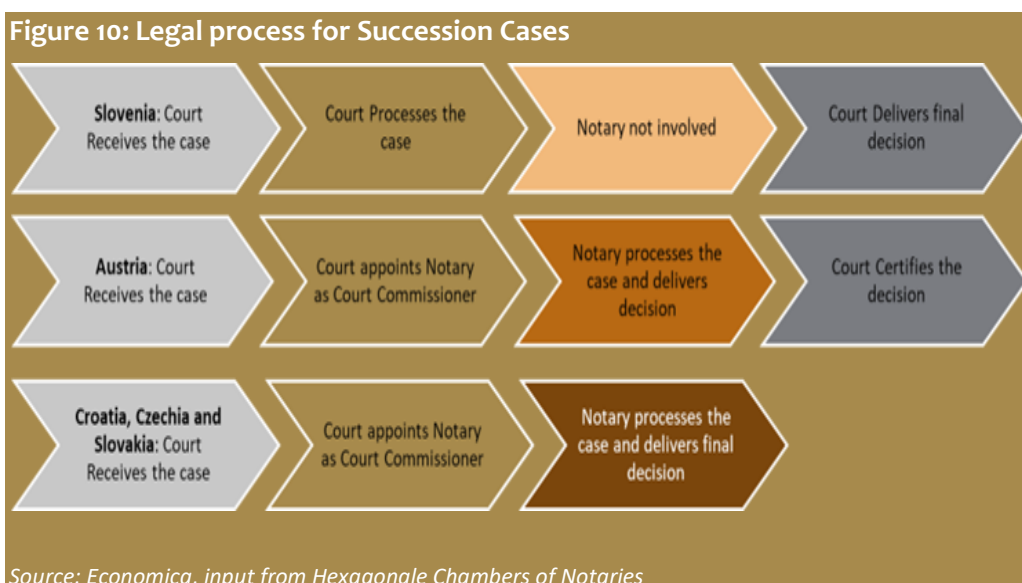
<sup>4</sup> Disposition time = (Number of pending cases/Number of resolved cases) \*368

<sup>5</sup> Number of OTC from CEPEJ public database. (Disclaimer at the end of the report)

### 3 Overview of the Existing Legal Structure: Hexagonale Countries

The aim of providing an overall view of the European scene in this chapter was to highlight the supply and demand aspects of the legal service sector, and the relative place that the Hexagonale countries occupy among other European countries. We also examined expenditure incurred in a range of European countries (where civil law notaries operate) both from the public as well as private sources. As far as legal expenditure is concerned, the Hexagonale countries have not shown any outlier properties. In the case of the number of inhabitants covered by a network of courts and notaries as well as the number of OTC, once again, the Hexagonale countries range from one of the highest to one of the lowest in the series.

Thus, we can proceed from here with the assumption that in the Hexagonale countries, the legal network, supply of legal services and disposition time for the legal process in non-criminal areas does not show any extraordinary traits. As we have mentioned before, the main difference between the other civil law countries and the Hexagonale countries (except Slovenia) is that Notaries act as court commissioners in various non-contentious cases. Succession cases, being the most significant, the following diagram presents the process for dealing with non-contentious cases where civil law notaries play an important role.



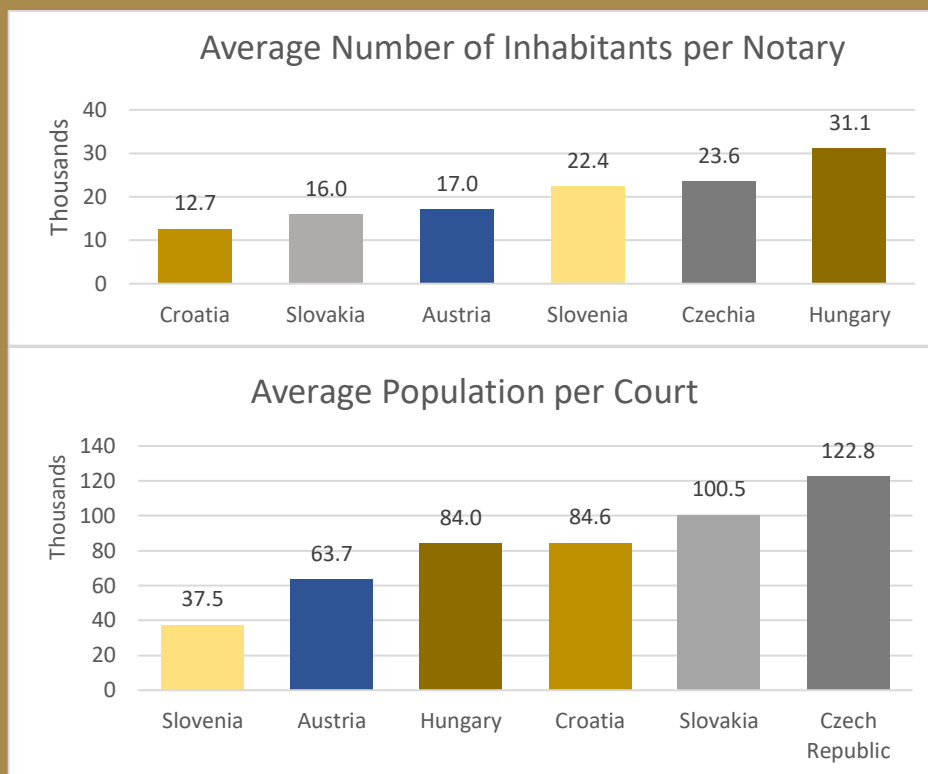
We will proceed to examine the data pertaining to the activities carried out by the courts as well as the Notaries in the Hexagonal countries only so that we

can focus on the publicly available data from the CEPEJ database, geographical location data of the Notary offices and the courts along with the data collected through the questionnaire (developed by the JuWili team) to present a comparative analysis of the case flow situation in the Hexagonale countries.

Since the countries under observation are different in terms of population, GDP, per capita number of Courts and Notaries, as well as the number of cases filed per 100 inhabitants, we will begin by presenting an overview of the legal scene in the concerned countries.

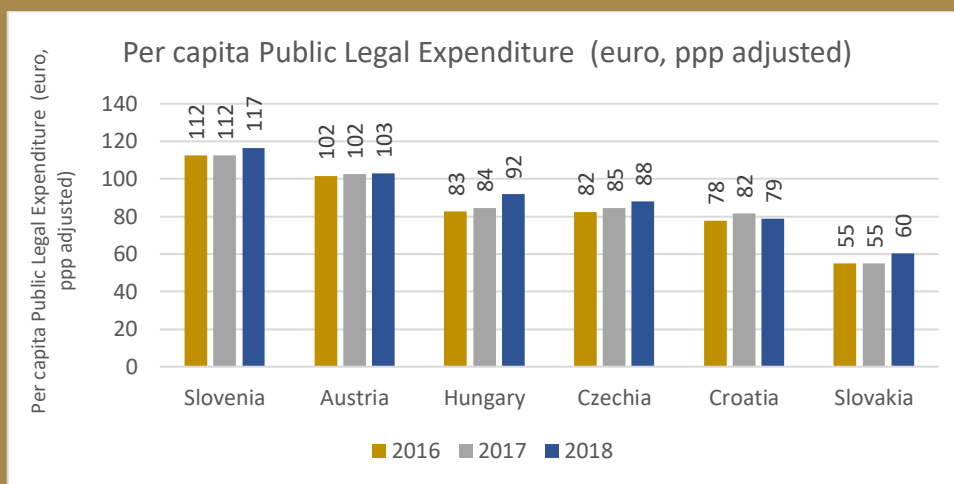
First of all, access to the courts and notaries presented in Figure 11 highlights very clearly the fact that even among the hexagonal countries, there exist wide variations in the average number of inhabitants served by notary offices and first instance courts. Slovenia, with its highest rate of public legal expenditure (Figure 12), has the densest network of courts, and this is one exception among the Hexagonale countries where the Notaries do not act as court commissioners.

Figure 11: Access to Law (average 2016, 2018)



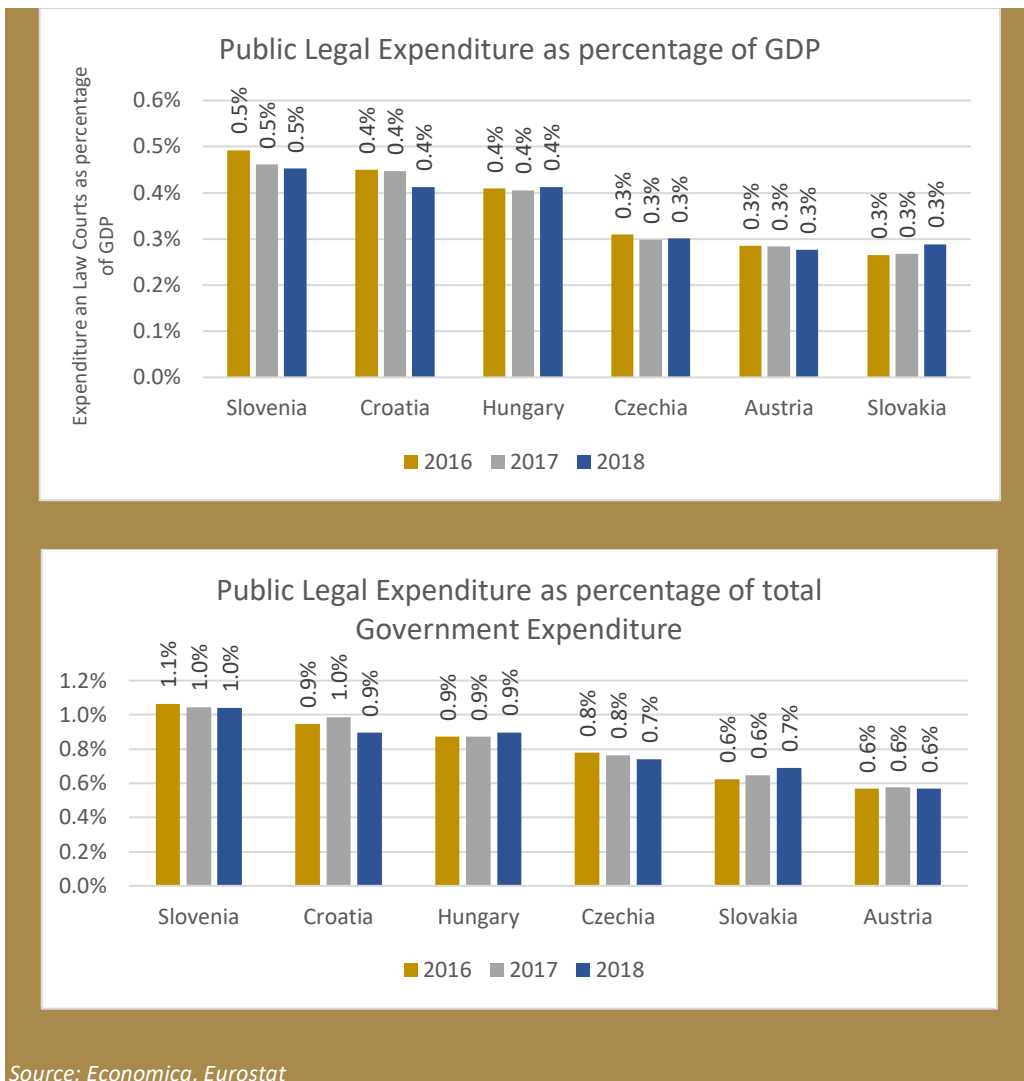
Source: *Economica, Economica, CEPEJ<sup>6</sup>, Eurostat, input from Hexagonale Chambers of Notaries*

Figure 12: Judicial System Budget



<sup>6</sup> Number of first instance courts and specialized courts were obtained from CEPEJ public database (disclaimer at the end of the report)

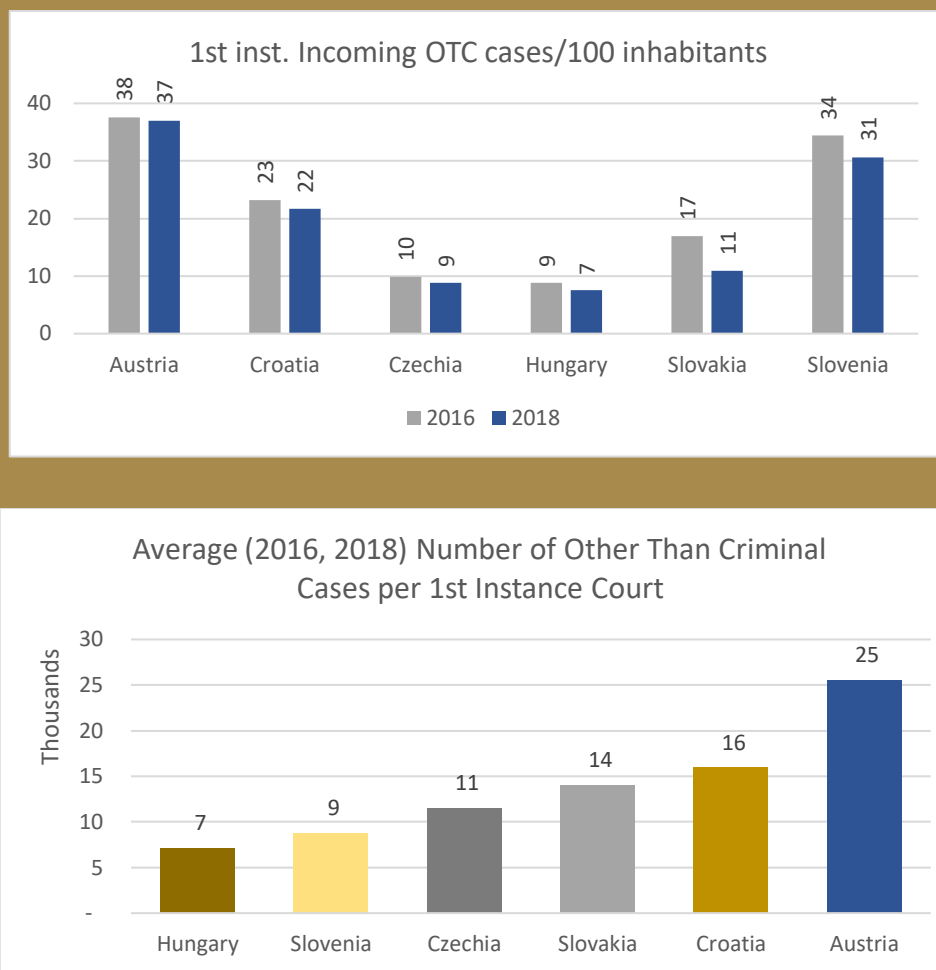




As mentioned at the beginning of the study, non-contentious legal proceedings, often characterised as pillars of legal certainty, are treated differently under different legal structures, and the discrepancy in the definition is reflected in the available data.

Since it was difficult even to synchronise the data available in the CEPEJ databases and the underlying definitions of litigious and non-litigious cases across the countries, we have taken data on general cases, namely, other than criminal cases to be used as a baseline for further analysis. From the diagrams presented below, it is clear that the case load of different legal systems varies widely across the Hexagonale countries ranging from 7 in Hungary to 25 OTC per 100 inhabitants in Austria.

Figure 13: Other Than Criminal (OTC) Cases



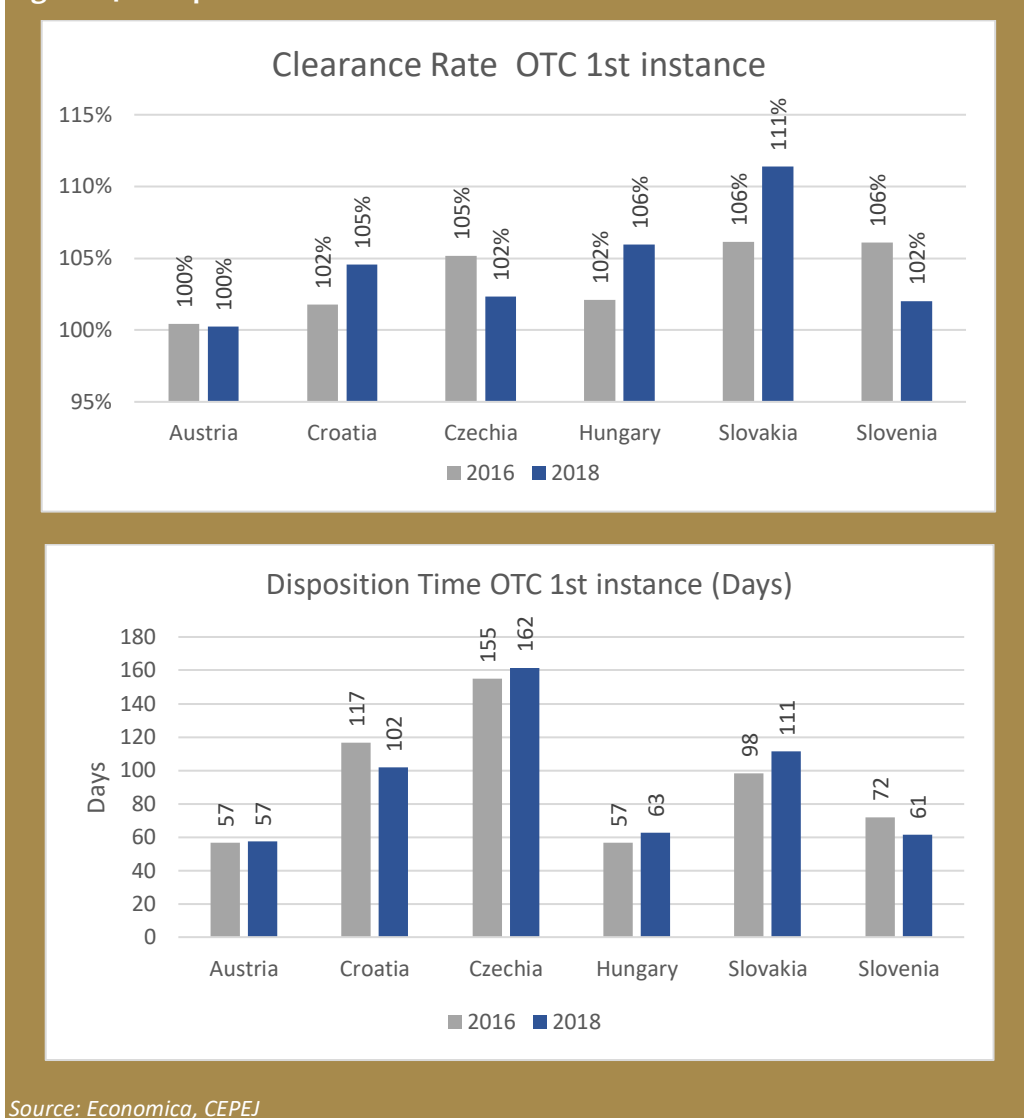
Source: *Economica.CEPEJ*

At which rate the case load is resolved depends not only on the number of cases coming into the system but also on the type of cases and the number of employees that are entrusted to resolve these cases. For example, if a high proportion of cases in court are registry cases, (as in Austria: 10.64, Croatia: 15.51 and Slovenia 13.14 per hundred inhabitants)<sup>7</sup>, with rather fast processing time, are compared against process efficiency in countries such as Hungary, Slovakia and Czechia where the land registry is not handled by the courts, we face the problem of inconsistency in measuring relative efficiency again. It has also been mentioned in the comment section of the OTC data table of the CEPEJ database that there have been changes in methodology for counting in various countries, including Czechia and Slovakia. Thus, even though we use the OTC numbers for lack of other comparable data, we should observe the

<sup>7</sup> CEPEJ Q091, publicly available data. (Disclaimer at the end of the report)

relative efficiency indicators, the disposition time (DT)<sup>8</sup> and clearance rate (CR)<sup>9</sup> simultaneously. The former focusing on overall process delays, and the later on turnover of incoming cases each year in order to assess the relative efficiency of the legal systems.

Figure 14: Comparative Case flow



The legal system, in this case, includes types of cases that are handled in the courts, as well as the speed at which they are resolved. As mentioned at the beginning of the study, non-contentious legal proceedings, often characterised as pillars of legal certainty, are treated differently under different legal structures, and the discrepancy in the definition is reflected in the available data. In As mentioned at the beginning of the study, non-contentious legal

<sup>8</sup> CEPEJ: Disposition Time (DT) = (pending cases/resolved cases) \*365

<sup>9</sup> CEPEJ: Clearance Rate (CR) = (Resolved cases/Incoming cases) \*100

proceedings, often characterised as pillars of legal certainty, are treated differently under different legal structures, and the discrepancy in the definition is reflected in the available data.

Since it was difficult even to synchronise the data available in the CEPEJ databases and the underlying definitions of litigious and non-litigious cases across the countries, we have taken data on general cases, namely, other than criminal cases to be used as a baseline for further analysis. From the diagrams presented below, it is clear that the case load of different legal systems varies widely across the Hexagonale countries ranging from 7 in Hungary to 25 OTC per 100 inhabitants in Austria.

Figure 13, one can observe the variations in both DT and CR among the Hexagonal countries. It can be seen that the clearance rate in all countries is at more than 100 per cent signifying the fact that the legal systems are well-equipped to process all incoming cases and make a dent in backlog cases. On the other hand, disposition time is based on the number of cases pending at the end of the year, which may include long-pending cases. In Austria, even with a high caseload, the disposition time is the lowest among the Hexagonal countries, and the clearance rate is 100 percent signifying an efficient legal system.

In order to be able to compare and rank the efficiency of different legal systems, it is imperative that the data fulfils at least the following requirements:

- *The type of cases should be the same and should be well defined;*
- *The pending cases should be divided into cases pending from the incoming cases of the year under consideration, and those from previous years.*

## 4 Survey Data Analysis

The main objective of the study was to analyse the role of Notaries in the execution of non-contentious legal proceedings and the socio-economic impact of outsourcing court roles to the Notaries in the Hexagonale countries. In order to have a solid foundation for the statistical analysis of legal systems, it was necessary to develop the methodology in consultation with the Chamber of Notaries of the Legal Working group. In this section, we will describe the data collection process, individual country data analysis and then a comparative picture of the Hexagonale countries.

### 4.1 Data Collection

The Economic Working Group held several meetings prior to formulating a questionnaire to assess the efficiency, accessibility and quality aspects of Notaries performing the task of Court Commissioners. Since innovation can contribute to enhancing all the three aspects mentioned above, it was also decided to add an appropriate innovation section to the questionnaire. In the beginning, in addition to the inputs and recommendations from the Economic Working group, suggestions were sought from Prof. Lurger and Prof. Stoeger from the Legal Working Group for the formulation of the questions that can appropriately answer data-related questions concerning notary activities in the legal system of Hexagonale countries. The questionnaire was then finalised in April 2021. It was also agreed to collect the location data of the Notary offices and the 1st instance courts to be able to calculate the depth and breadth of the legal coverage in each Hexagonale country. The finalised questionnaire, as well as the excel file containing a list of all the districts and respective areas and populations of each Hexagonale country, was sent to the participants. For clarity, a few filled-out districts detail for Austria was also included in the excel file.

Follow-up meetings were set up with the participants for further clarification and explanation regarding several points in the questionnaire so that there would be no discrepancy in the definition of each question among the participants. After receiving the response from the participants, several separate meetings with each participant were set up to clarify and recalibrate the responses so as to have a uniform basis for further analysis. The data collection process was complicated due to interlinking of two very different disciplines, namely

Economics/Statistics and Law, but the very successful cooperation has led to an outcome that is based on ground realities.

The following sections will present a brief synopsis of the data collected in this process.

## 4.2 AUSTRIA

In Austria, the data constituted individual responses from some Notary offices and data from the Ministry of Justice. In this section, we will present both. The electronic survey carried out by the Austrian Chamber of Notaries provided some interesting insights into the importance of the duties that the Notaries carry out as court commissioners.

**Table 1: Austrian Notaries as Court Commissioners**

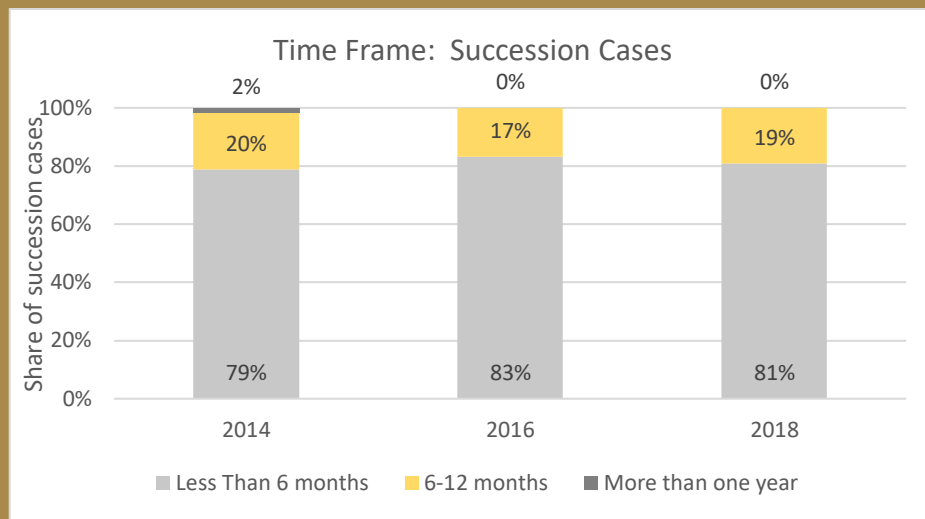
	2014	2016	2018
Percentage of time spent by Notaries on Non-Contentious cases	29.38%	30.31%	35.06%
Percentage of turnover from non-contentious cases for Notaries	19.74%	20.22%	23.73%
Percentage of cost associated with non-contentious cases for Notaries	24.05%	24.6%	28.5%

*Source: Economica. Questionnaire: Austrian Chamber of Notaries (survey)*

The data presented in Table 1 is derived from the survey filled out by the Notaries. In this case, it can be seen that the notaries spend more than one-third of their time as court commissioners and around a quarter of their turnover as well as costs are accounted for in this role.

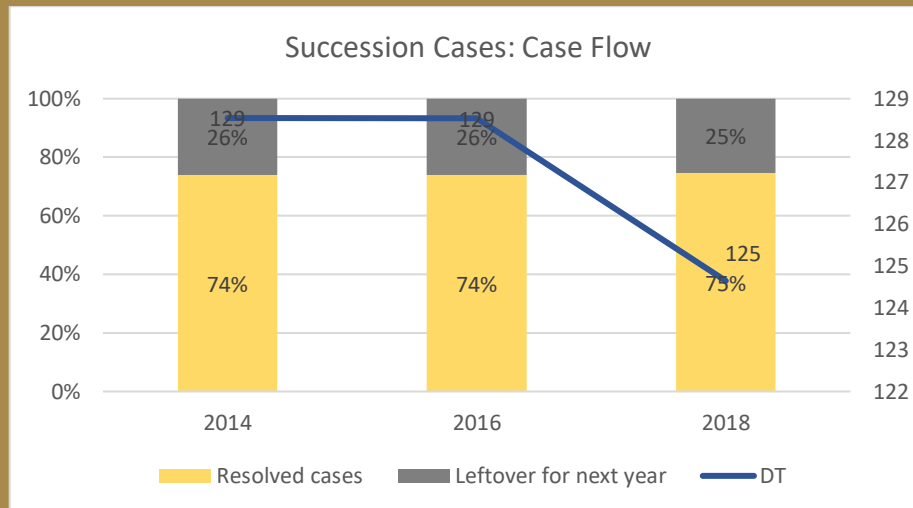
Figure 15 describes the time to process succession cases according to the data derived from the questionnaire, whereas the data from the Ministry of Justice is represented in Figure 16. As it can be seen from the survey data, more than 80 % of cases were resolved within 6 months in 2016 and 2018 with 0% of cases staying unresolved for more than one year.

Figure 15: Average time frame for resolution of succession cases (Austria)



Source: Economica. Questionnaire Austrian Chamber of Notaries (survey)

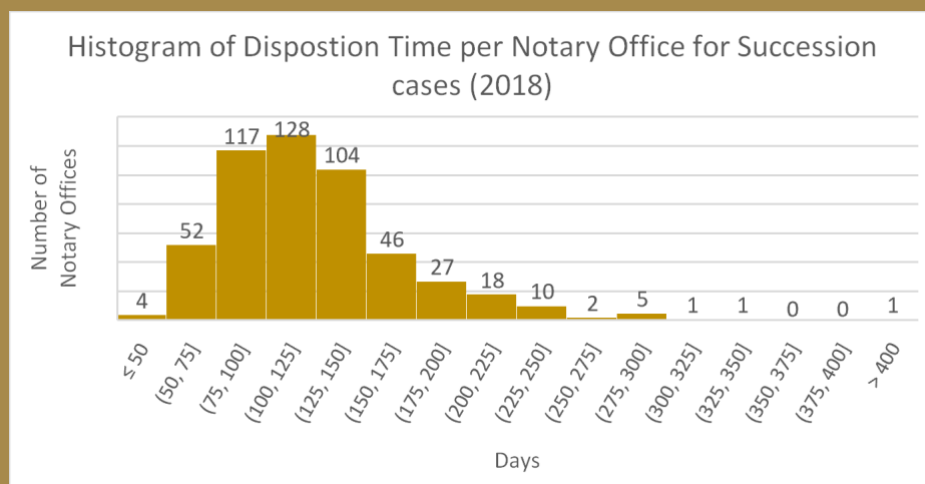
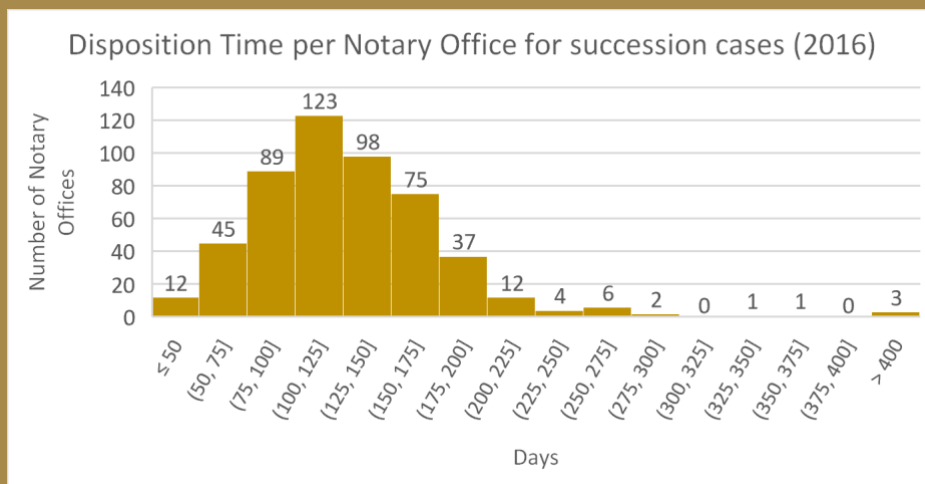
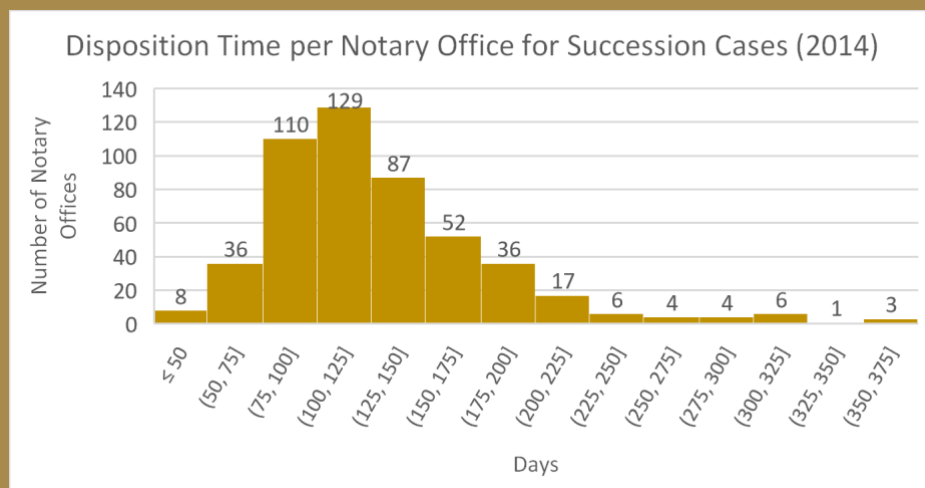
Figure 16: Incoming and pending succession cases within calendar year.



Source: Economica. Austria Ministry of Justice

The data from the Ministry presented in Figure 16 and Figure 17 provide a more detailed picture of the case-flow situation. The disposition time for succession cases, derived from the data provided by the Ministry, puts the average time frame for resolution of succession cases at lower than 5 months.

Figure 17: Individual Disposition Time (AUSTRIA)



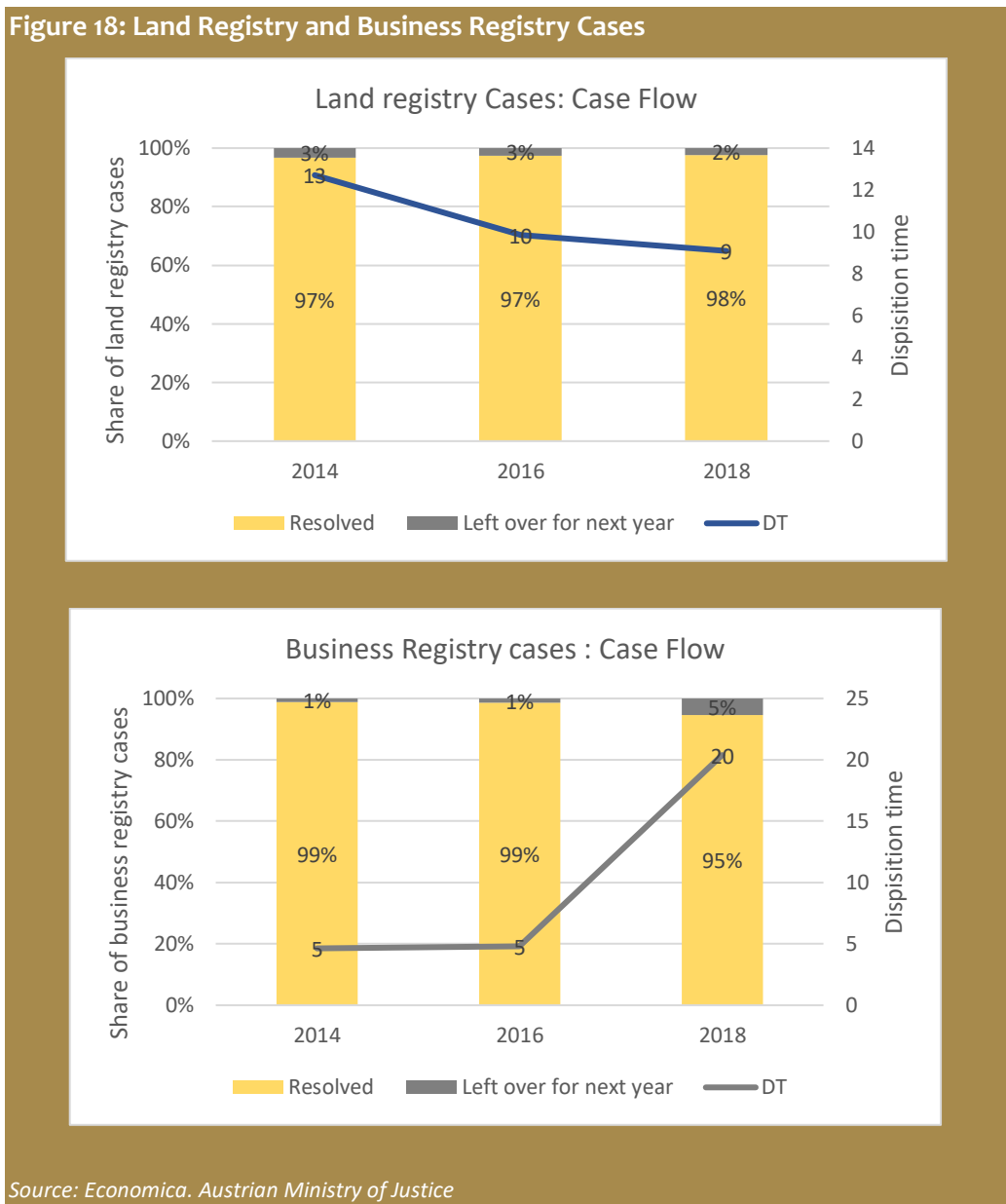
Source: *Economica*. Austrian Ministry of Justice

The detailed numbers presenting disposition time of succession cases in individual Notary offices are depicted in Figure 17. These diagrams confirm the fact that in more than 80% of cases, the process is completed within 6 months. And the histograms' skew towards the left is an indicator that the disposition



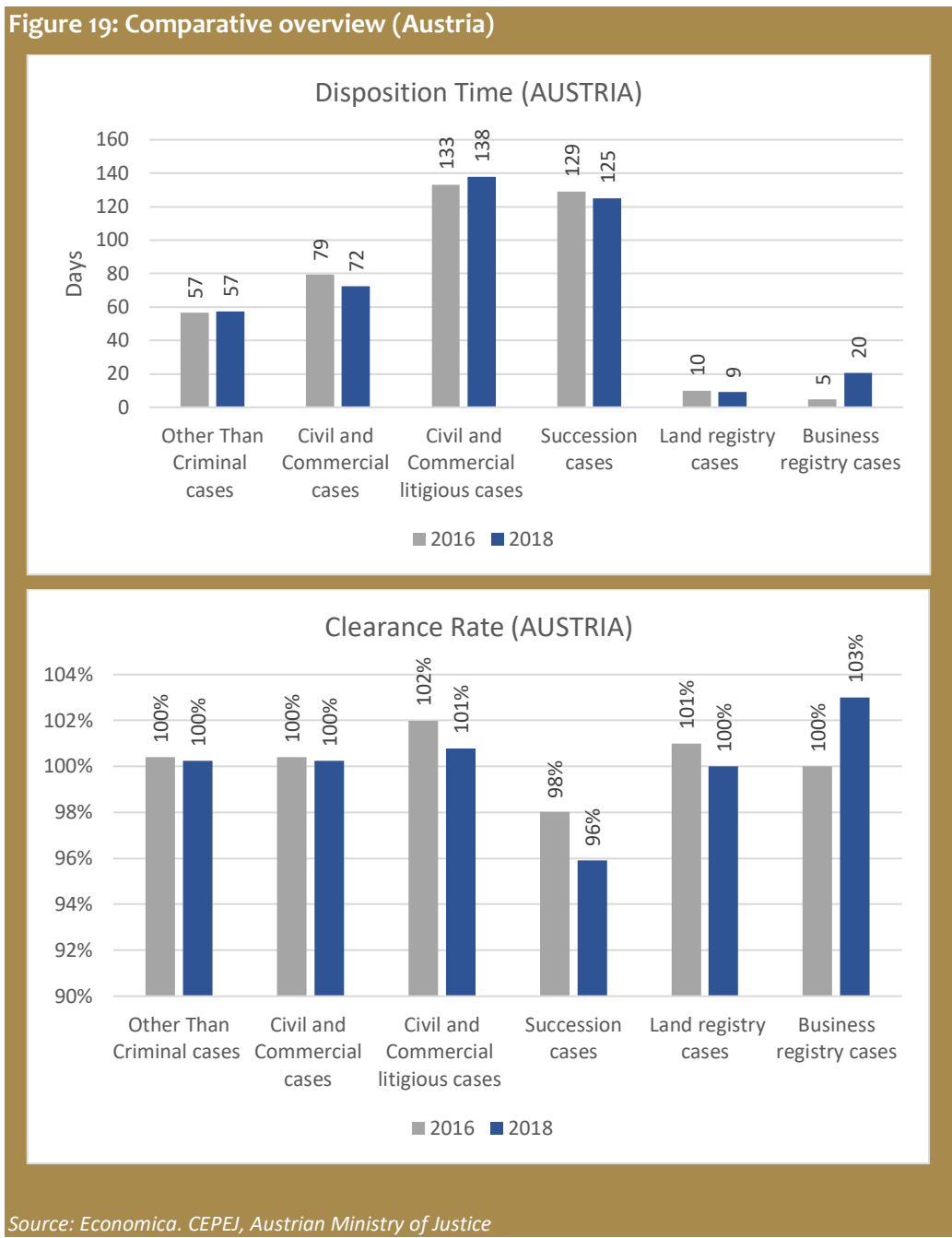
time presented in Figure 16 does represent a fair picture of the time frame to resolve succession cases in Austria.

Next, we move to the registry cases that the Austrian Notaries are involved in. However, the data presented here also includes the registry cases carried out by other administrative units. The increase in disposition time for Business registry cases is due to a sudden change in procedure.



We will now proceed to analyse the disposition time and clearance rate of the succession cases in the context of the legal system that is prevalent in Austria. The data regarding “other than criminal cases” and civil and commercial cases

is taken from publicly available CEPEJ<sup>10</sup> data. The definition of this data was clarified by the Austrian Ministry of Justice<sup>11</sup>.



According to definitions that the Ministry used to describe the data, the most accurate process to be used as a reference for succession cases is litigious civil and commercial cases, since the non-litigious cases in the data referred to civil

<sup>10</sup> Disclaimer for CEPEJ data at the end of the report.

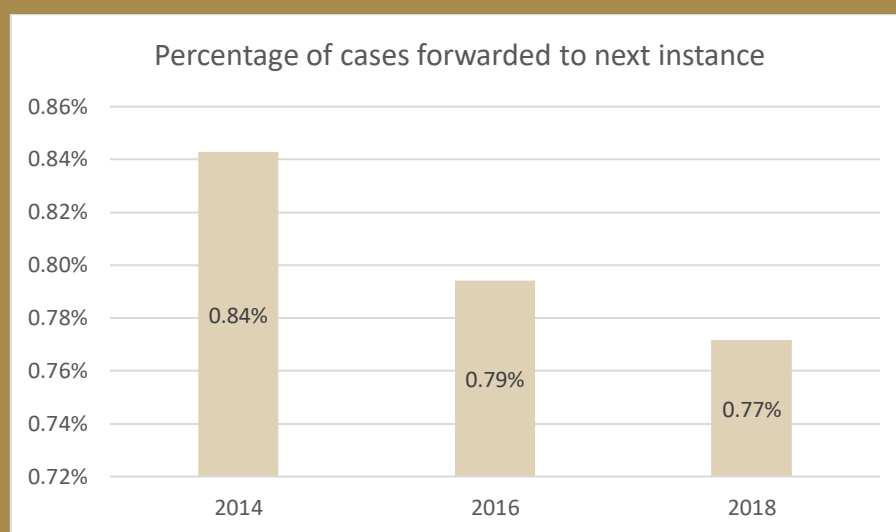
<sup>11</sup> We would like to acknowledge the input and insight provided by Alexander Strobl (LL.M., BA) Richter and Referent (Bundesministerium Fur Justiz)

cases that were solved in one court hearing. (succession cases always take up more than one court hearing)

As we can see from the Figure 19 the succession cases where the Notaries act as court commissioners are resolved in a shorter time span compared to other similar cases handled by the court.

Another important fact that affects the quality of legal services is determined by how many verdicts are appealed and are resolved in the next instance court.

**Figure 20: Appeal rate**



Source: *Economica. Austrian Ministry of Justice*

In Austria, the rate of appeal in succession cases stood at 0.77% in 2018, whereas the average ratio between the number of OTC in second instance courts and first instant courts was recorded to be 0.88%. Given the fact that the majority of OTC in Austria have one court hearing, the appeal rate in succession cases seems to indicate distinctively higher diligence on the part of the Notaries.

## 4.3 CROATIA

### 4.3.1 Non-Litigious Cases when Notaries act as Court Commissioners

Table 2 shows that the Notaries in Croatia spend more than one-third of their time acting as court commissioners. This role also accounts for more than one-quarter of the Croatian Notaries' turnover as well as costs.

**Table 2: Notaries as Court Commissioners in Croatia**

	2014	2016	2018
Percentage of time spent by Notaries on Non-Contentious cases	32.82%	34.44%	36.63%
Percentage of turnover from non-contentious cases for Notaries	25.47%	26.58%	28.76%
Percentage of cost associated with non-contentious cases for Notaries	22.21%	24.57%	26.74%

Source: *Economica. Questionnaire: Croatian Chamber of Notaries*



Source: *Economica. Questionnaire: Croatian Chamber of Notaries*

The data concerning the time frame of succession cases in Figure 21 is derived from the questionnaire filled out by the Chamber of Croatian Notaries.

As the time frame figure shows, more than half of succession cases in Croatia were resolved in less than 6 months in 2014, 2016 and 2018. Almost 90 percent of cases are resolved within one year. In all three years, less than one percent of succession cases got appealed.

The case flow figure shows that disposition time for succession cases is gradually increasing from only 88 days in 2014 to 111 days in 2018. There is also an increase in the percentage of cases that are left for the following year from 19 percent in 2014 to 23 percent in 2018.

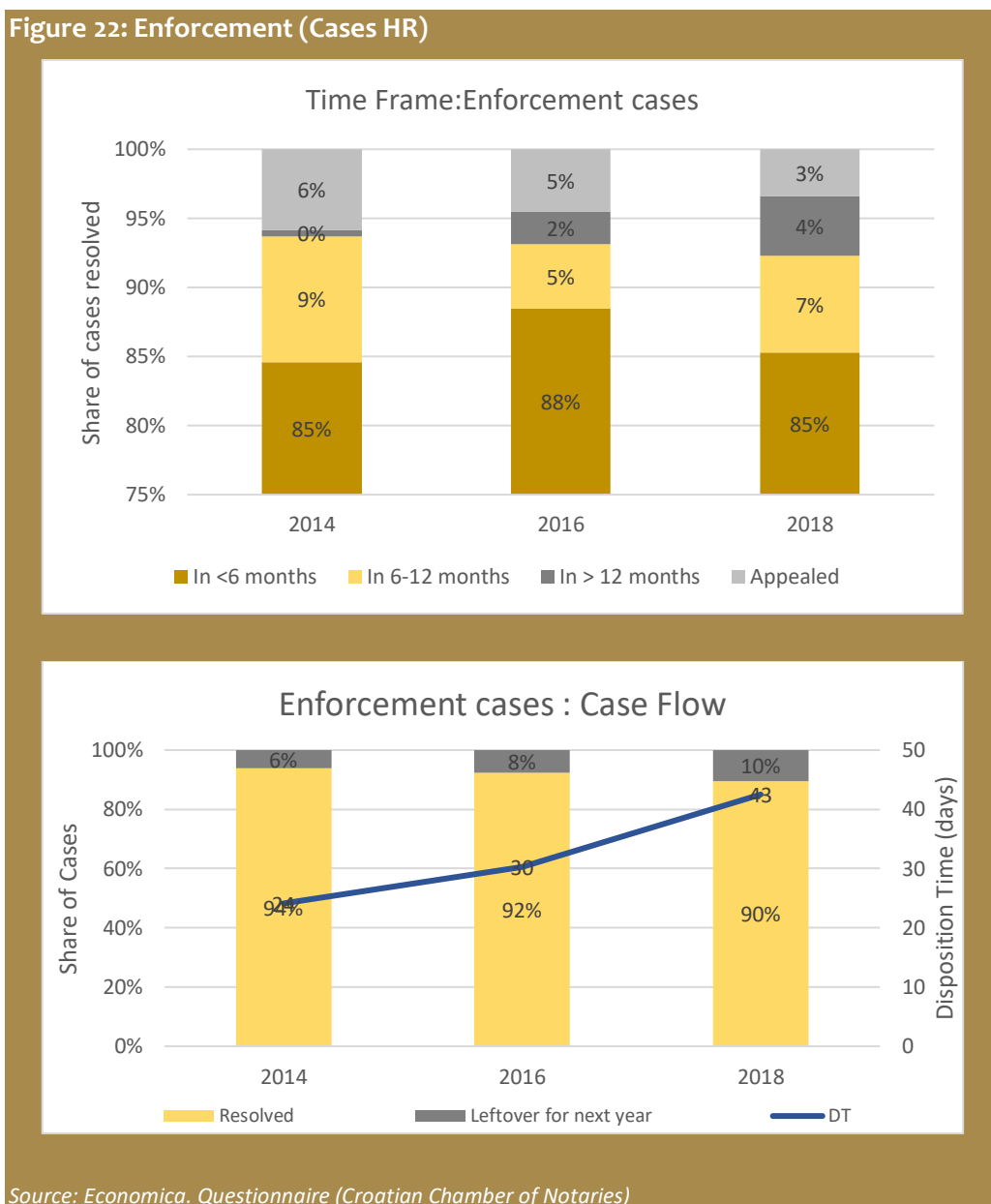


Figure 22 shows the time frame and case flow of enforcement cases. In 2014, 2016 and 2018, more than 80 percent of cases in Croatia got resolved within 6 months and over 90 percent within one year. With 6 percent in 2014 and only 3

percent in 2018, the rate of appealed enforcement cases is declining; however, it is still much higher than for succession cases.

The case flow figure for enforcement cases shows a steep increase in disposition time from 24 days in 2014 to 43 in 2018. This results in only 6 percent of enforcement cases being left for the next year in 2014, increasing to 10 percent in 2018.



Figure 23 shows the disposition time and clearance rate of cases in 2016 and 2018 in the context of the legal system in Croatia.

According to the data, the disposition time of succession cases and enforcement cases, where Notaries act as court commissioners, is far lower

than that of other types of cases (data from the CEPEJ publicly available database<sup>12</sup>) that are also carried out by the court.

**Table 3: Processing Time (HR)**

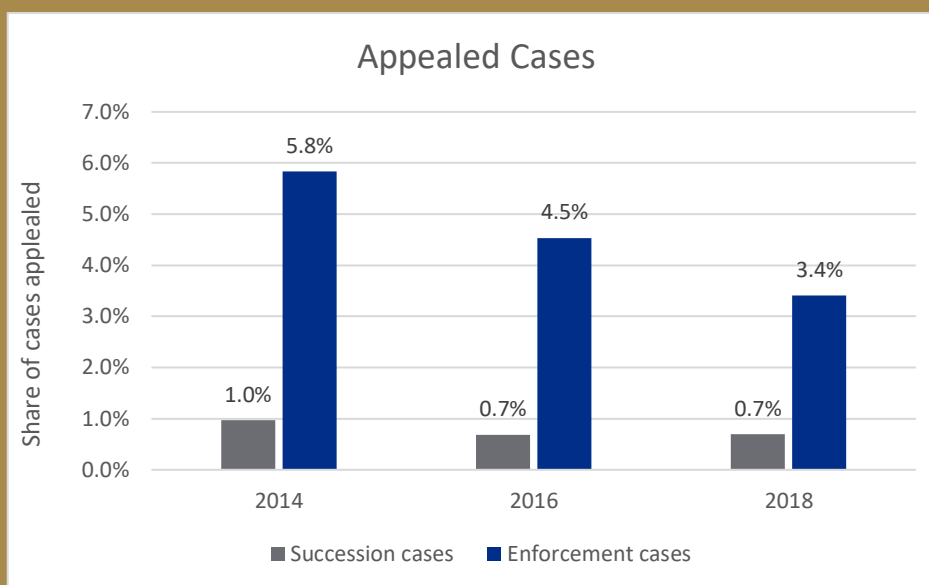
Cases	Scenario	< 3 months	6-12 months
Succession	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>
Land Registry	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>
Business Registry	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>
Enforcement	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>

Source: *Economica*.

It is clear from Table 3 that in case of all four types of reported cases in Croatia where the notaries act as court commissioners, and when there are no challenges to the notaries' decisions, the total processing time takes less than 3 months. In case of challenges, the timeline lengthens considerably to more than 6 months.

<sup>12</sup> OTC, Civil and Commercial cases data was extracted from publicly available CEPEJ data (disclaimer at the end of the report)

Figure 24: Appeal Rate (HR)



Source: *Economica. Croatian Chamber of Notaries*

Another important point to note here ( Figure 24) is that the percentage of cases that are appealed and/or where the notary's decision is challenged is continuously decreasing from 2014 and stood at 0.7% and 3.4% for succession and enforcement cases respectively in 2018. In contrast, data from CEPEJ shows that in the case of OTC, the ratio between average second instance cases and average (2010, 2012, 2014, 2016, 2018) first instance cases is 11.4%. This ratio once again highlights the quality aspect of the procedures carried out by the Notaries.

#### 4.3.2 Digitalisation and Standardisation

In order to be able to assess the digital presence of the Notaries, the questionnaire included questions regarding process digitalisation. As can be seen from Table 4, in Croatia, most procedures are available in digital format. Only the legal framework needs to be worked out for the process to be fully implemented.

Table 4: Digital information (HR)

	Succession	Land registry	Business registry	Enforcement
Information regarding the procedure;	Yes	Yes	Yes	Yes
Registration of the first step of filing;	Yes	Yes	Yes	Yes
Other	Yes	Yes	Yes	Yes

Source: *Economica. Questionnaire: Croatian Chamber of Notaries*



1. Can cross border procedures be carried out via digital means?  Yes  No
  - a. If answer is yes, then please provide type of cases where it is possible
  - b. If answer is no, then is it because:
    - Lack of secure platform;
    - In person and paper-based process that cannot be digitalized;
    - Lack of digital proficiency;
    - Lack of legal framework.

As to the digital means available for cross-border legal cases, a lack of secure platform and a lack of digital proficiency present additional hurdles.

## 4.4 CZECHIA

### 4.4.1 Non-Litigious Cases Handled by Notaries

The data in Table 5: shows Notaries in Czechia spend almost three-quarters of their time as court commissioners. This role accounts for almost two-thirds of their turnover. Therefore, the role of court commissioner takes up a much bigger part of Czechian Notaries' time and turnover than in Austria or Croatia.

**Table 5: Data on Time Usage of Notaries in Czechia**

	2014	2016	2018
Total time spent by Notaries on Non-Contentious cases (percentage)	72%	72%	72%
Percentage of turnover from non-contentious cases for Notaries	64%	64%	64%

Source: *Economica. Questionnaire: Czech Chamber of Notaries*

## Succession Cases

In 2018, Czech Notaries handled 133,257 succession cases as court commissioners down from 159,784 cases in 2014.

**Table 6: Data on Succession Cases**

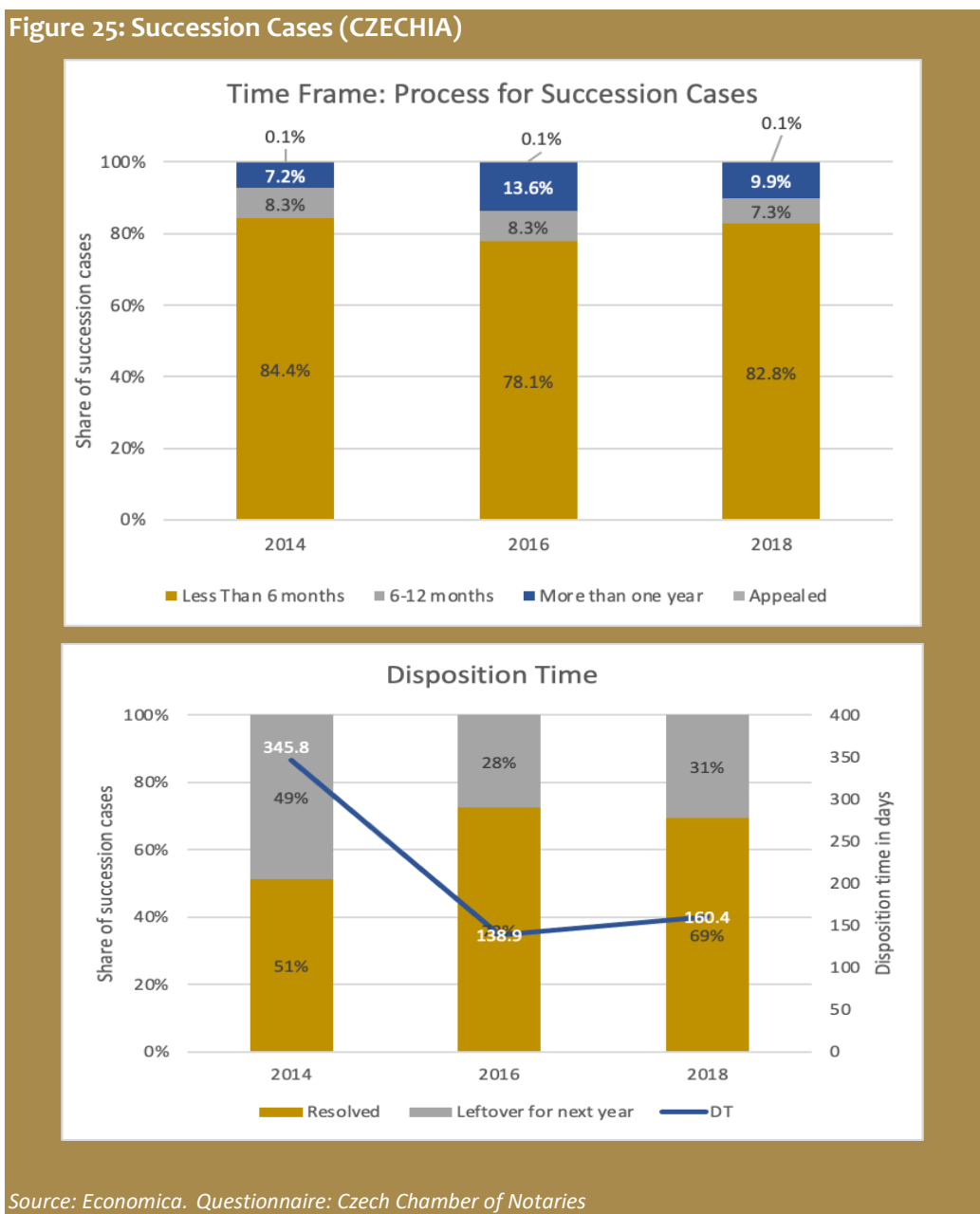
Succession cases: Case flow	2014	2016	2018
Pending from last year	24920	13887	11595
Incoming	134864	120064	121662
Resolved	82052	97025	92579
Leftover for next year	77732	36926	40678
Disposition Time	346	139	160
Clearance Rate	61%	81%	76%

Source: *Economica. Questionnaire: Czech Chamber of Notaries*

Figure 25 depicts the time frame and the case flow for succession cases in Czechia. In 2014 and 2018 more than 80 percent of succession cases were

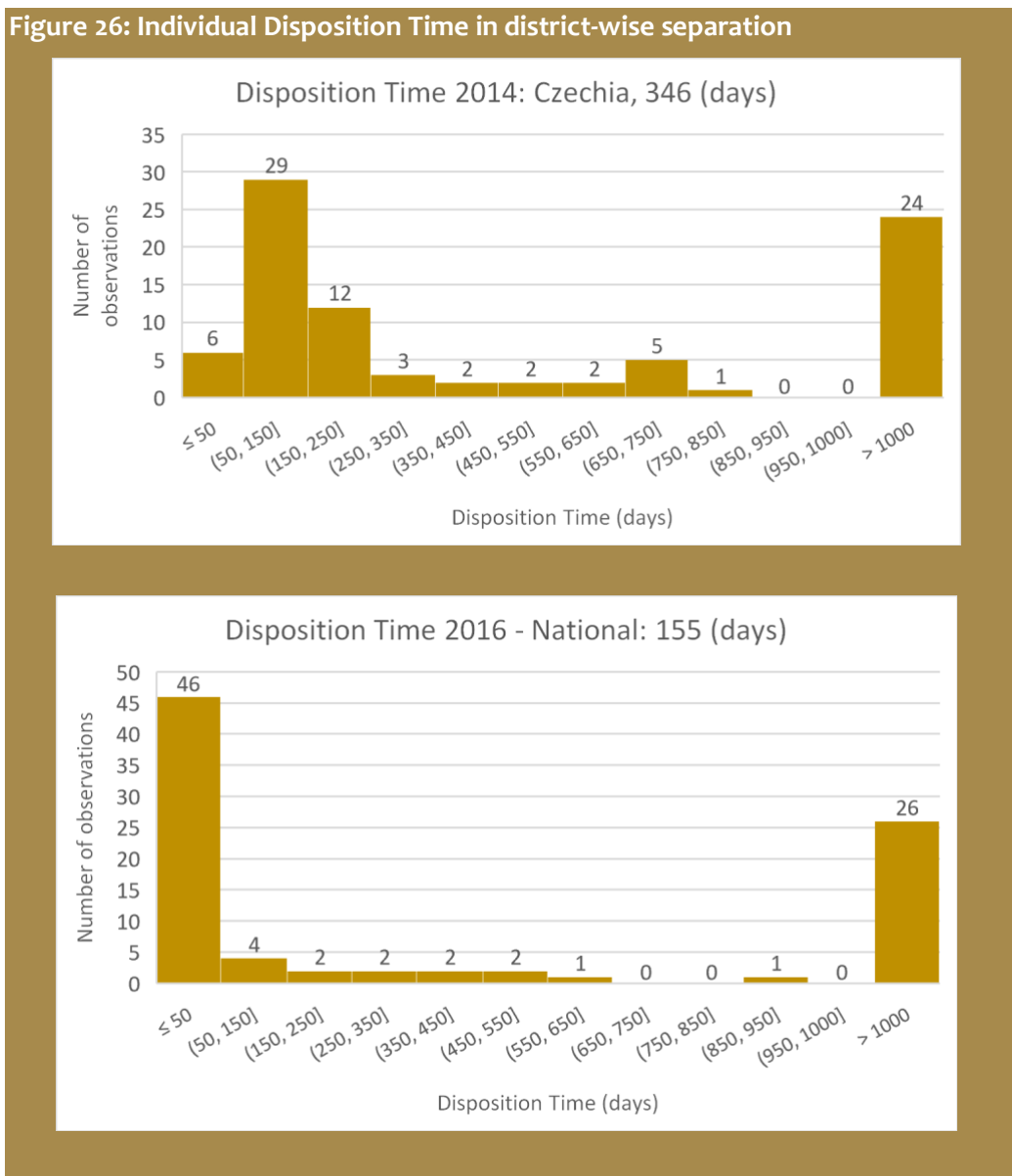
resolved within 6 months and over 90 percent within one year. In all three years only 0.1% of succession cases were appealed.

The disposition time decreased rapidly between 2014 and 2016, namely from 345.8 to 138.9 days. It slightly increased again to 160.4 days in 2018. Compared to Austria and Croatia, Czechia’s rate of succession cases that are left for the following year is rather high, with almost half of the cases in 2014 and still almost a third of cases in 2018. In 2014, a completely new codification of succession law (both substantive and procedural) came into effect, which can explain this development.



At this juncture, we must scrutinise the data on succession cases very carefully, as shown in Figure 25, along with the following figures. The table shows a recurring inconsistency between the number of pending cases from the previous year and the number of cases left for the next year.

The data from 2015 and 2017 show the same pattern. This would indicate a number of stock of cases that are pending for years is always included in the data for 'left over for next year '. Detailed statistics are provided by the Czech Chamber of Notaries (presented in Figure 26).



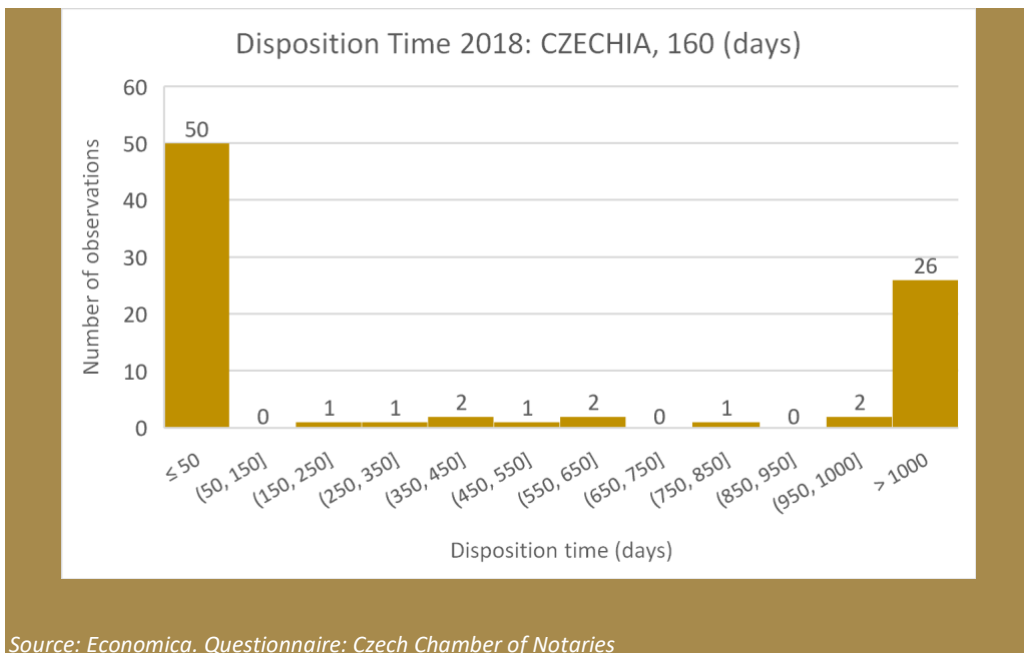
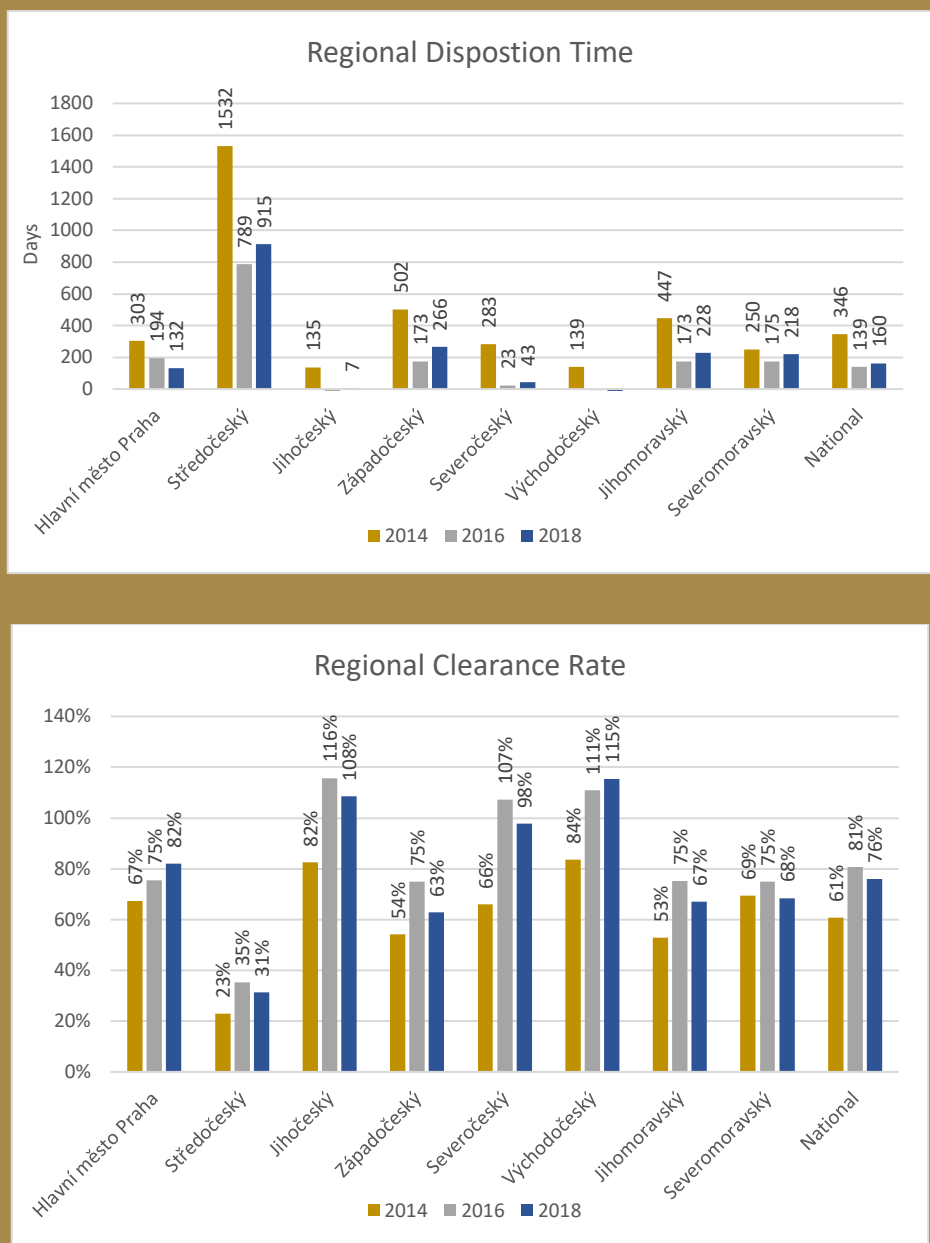


Figure 26 provides detailed information about the disposition time for succession cases for all three years separately. Especially the figures for the years 2016 and 2018 show that the disposition time of 155 or 160 days is not very representative of the real disposition time as more than a quarter of the data points indicate a minimum of 1000 days disposition time. Since we do not have access to a further break down of the data, we cannot calculate the disposition time for succession cases in Czechia, but we can safely say that the actual disposition time for succession cases is much lower than what is shown in Figure 25.

Figure 27 depicts the disposition time and clearance rate in 2014, 2016 and 2018 of succession cases for Czech regions. The highest disposition times for succession cases are found in the region Středočeský, which results in the lowest clearance rate.

Figure 27: District-wise Overview

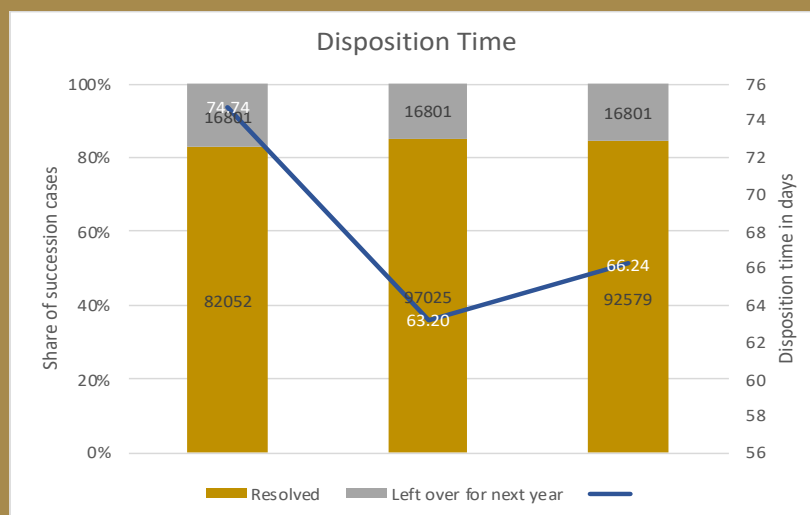


Source: Economica.Czech Chamber of Notaries

**Special Note**

*It is important to note that if we consider the average of pending cases as left over for next year (explained in Table 6), the disposition time for succession cases goes down to 66.24 in 2018.)*

Figure 28: Disposition Time (II, Czechia)



Source: *Economica.Czech Chamber of Notaries*

### Business registry Cases

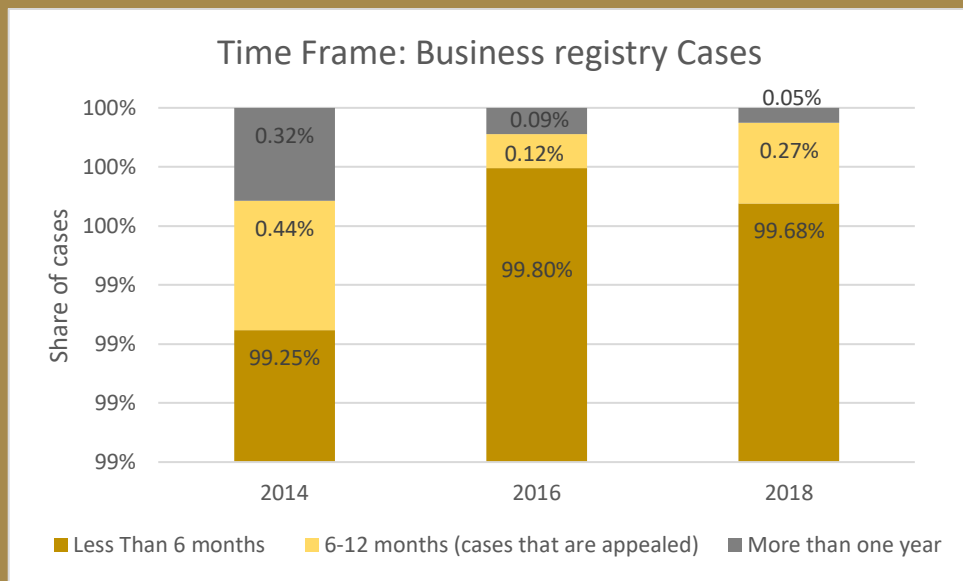
“As of 1 May 2015, the entries in public registers can be made both by court and notaries. Notaries are not acting as court commissioners in this case. The public registers do not include only the Business Register but also five other registers: Register of Associations, Register of Foundations, Register of Institutes, Register of Associations of Unit Owners, and Register of Publicly Beneficial Associations. However, the Business Register is the most important one in practice. The registration shall be made within **5 days**; there are no statistics concerning its duration. Very rarely, it happens that accompanying operations cause that the registration cannot be made within 5 days.”<sup>13</sup>

According to CEPEJ data, the disposition time for Business registry cases was 20, 16, 16 days in 2014, 2016, and 2018 respectively.

Figure 29 shows the time frame for business registry cases in Czechia. With over 99 percent of cases being resolved within 6 months, business registry cases have a far shorter disposition time than succession cases in Czechia.

<sup>13</sup> Note: Questionnaire response- Czech Chamber of Notaries

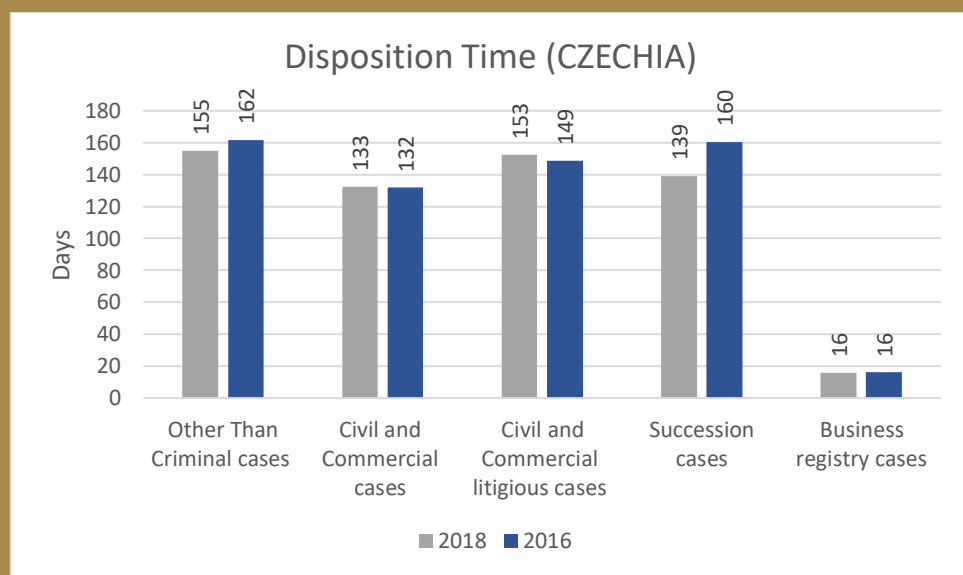
Figure 29: Business Registry Cases

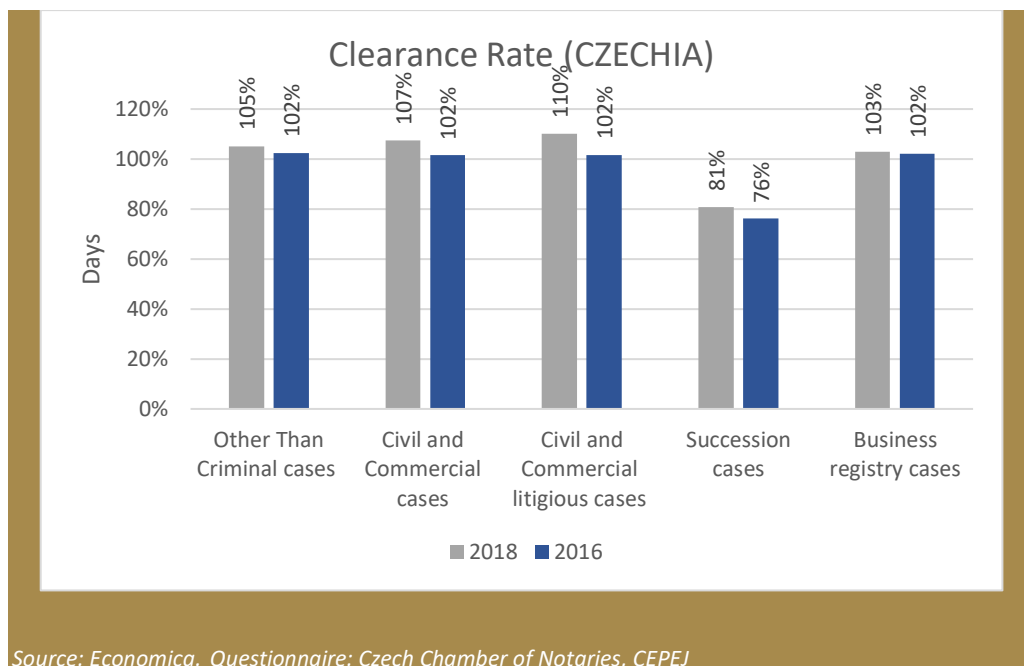


Source: *Economica. Questionnaire: Czech Chamber of Notaries*

This is also shown in Figure 30, where business registry cases only have a disposition time of 16 days while all other forms of cases have a disposition time of at least 130 days. Business registry cases also have a much higher clearance rate with 103 percent in 2018, compared to succession cases with only 81 percent (probable reason explained by Table 6).

Figure 30: Comparative Overview (CZ)





### Process details

“The competent notary is in the same district as the residence of the decedent. The fees are stipulated by a decree. The court intervenes only in more difficult situations, e.g. in case of cross-border taking of evidence. The client cannot choose the notary: the notary is nominated by the court based on a schedule based on the decedent’s place of residence, date of birth and/or date of death. The final decision is issued by the notary without an approval of the court. However, it is archived by the court.

As regards electronic filing, the heirs can communicate with the notary also electronically (e-mail, qualified electronic signature or a secured data box, which is mandatory for public bodies and voluntary for citizens). The hearing is held in the physical presence of the heirs.

Communication between the court and notaries is based on the physical circulation of files. In basic cases, there is no need for extra communication; only the paper file is handed over. If issues requiring specific communication between the court and notary occur, the use of data boxes shall prevail. This can happen, for instance, in case of requests for cross-border taking of evidence.”<sup>14</sup>

<sup>14</sup> Note, Chamber of Notaries, Czechia



**Table 7: Process Information**

Cases	Scenario	< 3 months	More than one year
Succession	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>
Business Registry	Local (Court or Notary) decision is not appealed	<input checked="" type="checkbox"/>	
	Local (Court or Notary) decision appealed against/ challenged		<input checked="" type="checkbox"/>

Source: *Economica. Chamber of Notaries, Czechia*

### *Digitalisation and Standardisation*

*The website of the Notarial Chamber of the Czech Republic includes information regarding all the covered procedures. Further, the section of the citizen information portal, including information on succession and registry proceedings is currently being developed.*

*In all areas of non-contentious justice, the parties may communicate with the court or notary via a secured databox.*

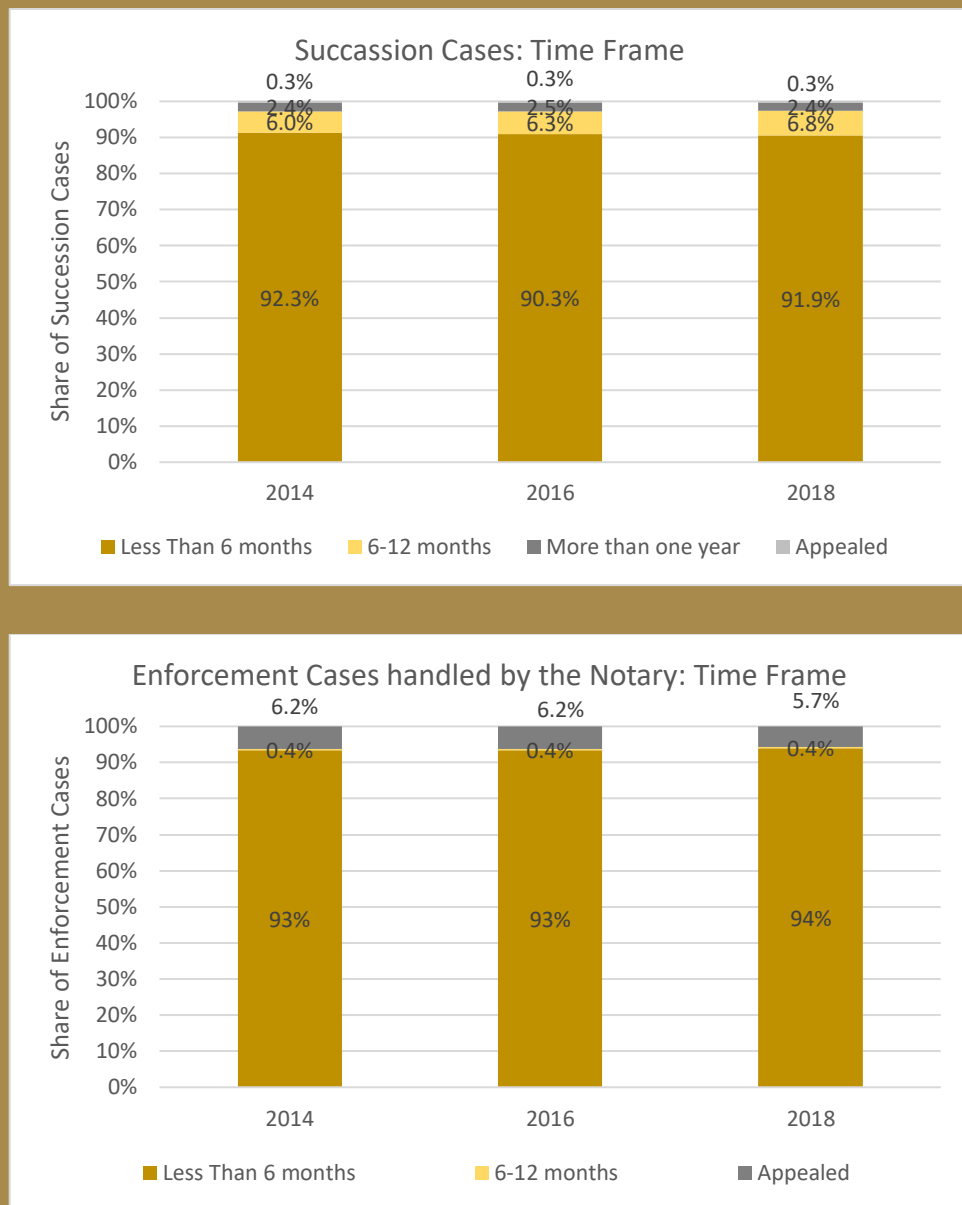
*Public registers are fully available online ([www.justice.cz](http://www.justice.cz)) and the register procedure can be completely held in electronic form. As of 1<sup>st</sup> September 2021, also a wide range of notarial deeds posing the basis for the register proceedings can be drawn up electronically and without physical presence of the parties.*

## **4.5 HUNGARY**

### *4.5.1 Cases Handled by Hungarian Notaries as Court Commissioners.*

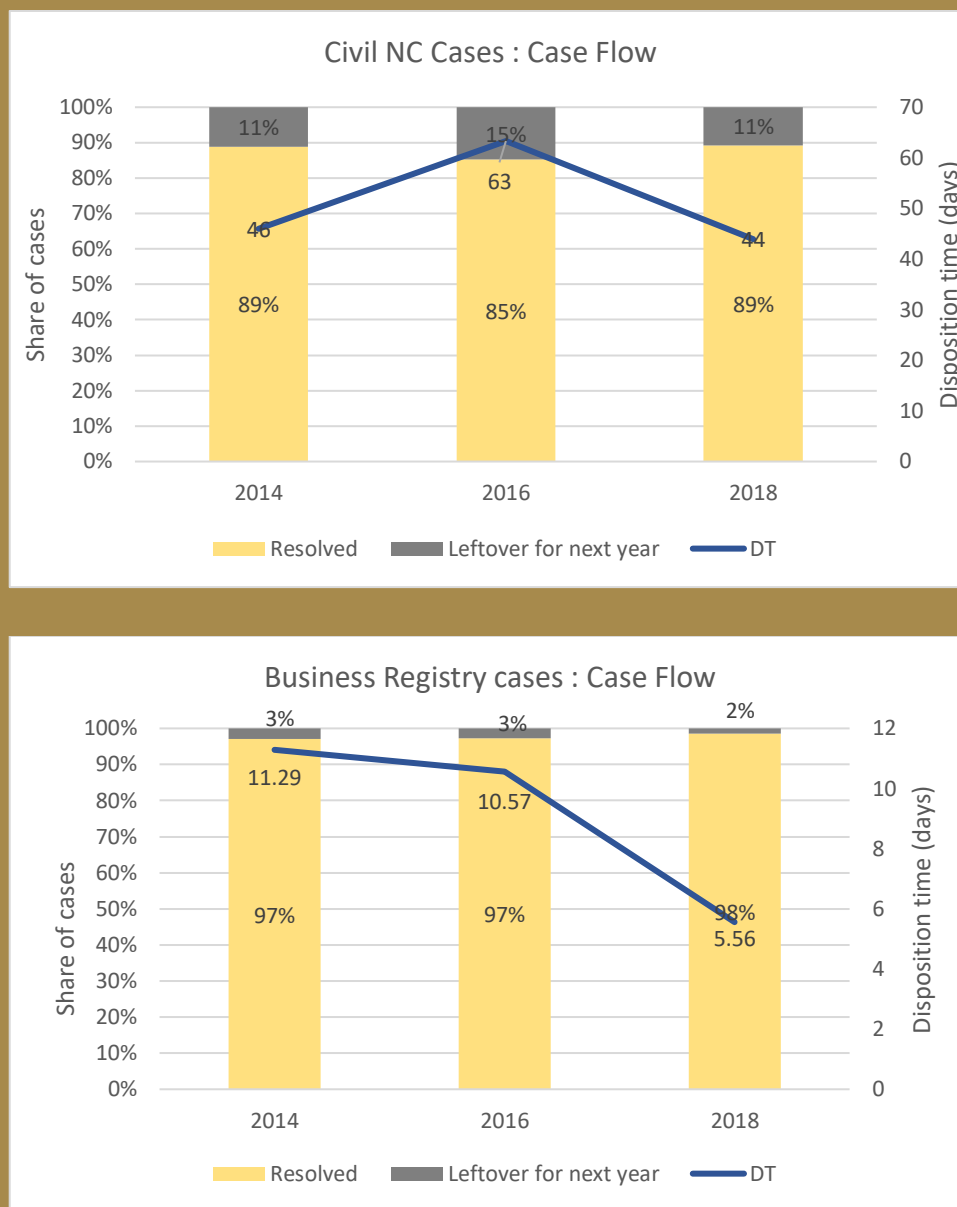
The data from Hungary included the time frame for the succession cases and enforcement cases. But case flow data distinguishing between pending and resolved cases which is used for calculating disposition time, was not available. The following figures describe the Hungarian Notarial activities only based on the questionnaire response.

Figure 31: Succession and Enforcement Cases



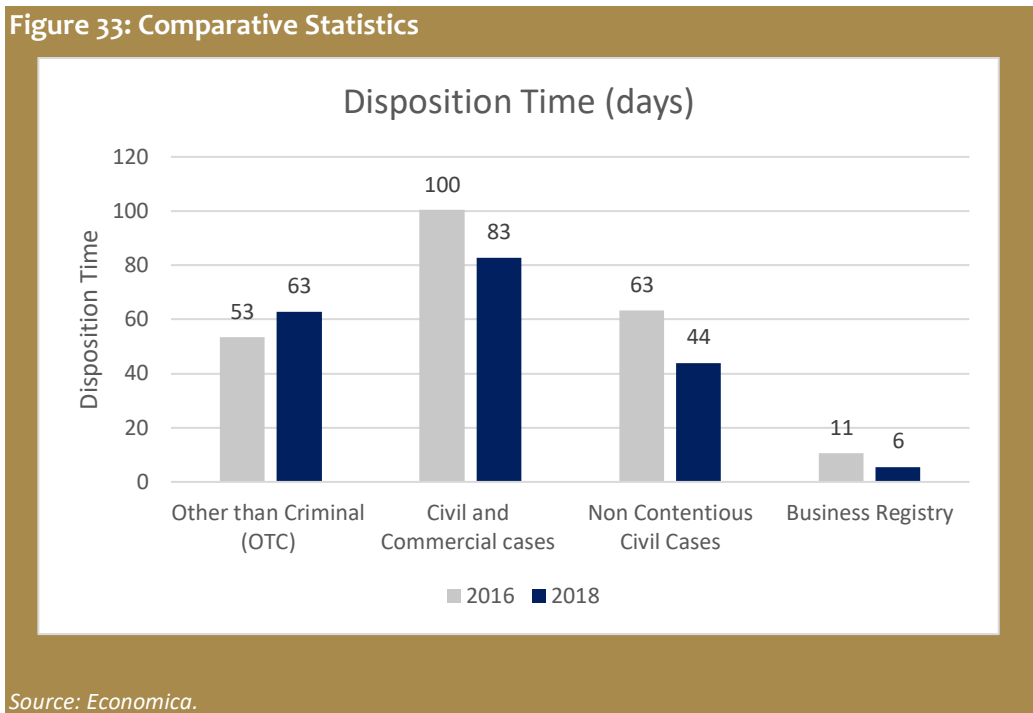
Source: Economica. Questionnaire: Hungarian Chamber of Notaries,

Figure 32: Case Flow in Non-contentious Civil Cases and Business Registry cases



Source: Economica. Questionnaire: Hungarian Chamber of Notaries,

The exact case flow data regarding enforcement cases handled by the Notaries and business registry cases were provided, so that we could derive disposition time in these cases. As it can be seen in the Figure below, in both cases, the disposition time is considerably lower than OTC cases and Civil and commercial cases.



#### 4.5.2 Standardisation and Digitalisation

Is there a national standardised method for dealing with specific types of cases? (steps to be followed are exactly same for all citizens, and this information is available to the citizens)

Non-Contentious Case

- Yes       No

Digitalisation in Succession, Divorce, Family Court, Land Registry, Business Registry:

- Information regarding the procedure;
- Registration of the first step of filing;

There is no digital procedure for cross border-cases due to a lack of a legal framework.

#### 4.6 SLOVAKIA

Table 8 represents the Slovakian Chamber of Notaries’ answers to the questionnaire with regards to the time spent on non-contentious cases and the turnover rate. From 2014 and 2016 the reported time spent on non-contentious cases increased from 45% to 50% in 2018. Over the same time frame, the share of turnover from those cases remained constant at 50%.

**Table 8: Slovakian Notaries as Court Commissioners**

	2014	2016	2018
Percentage of time spent by Notaries on Non-Contentious cases	45%	45%	50%
Percentage of turnover from non-contentious cases for Notaries	50%	50%	50%

Source: *Economica. Questionnaire: Slovakia Chamber of notaries*

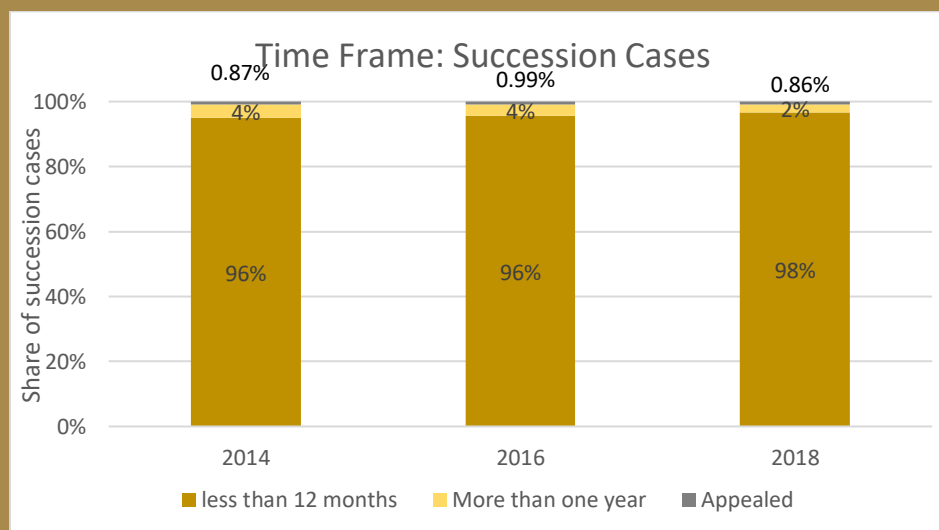
As visible in Figure 34, up to 98% of Slovakian succession cases are resolved within less than 12 months. Only a small fraction of 2% exceeds that time frame. The share of appealed cases is 1%. The shares of cases that take more than a year, or are appealed remain stable over the considered time horizon from 2014 to 2018. Furthermore, the case flows are also analysed with respect to the disposition time. Starting with 143 days in 2014, the disposition time increased to 162 in 2016 before lowering to 156 days in 2018. This increase in disposition time is, however, not reflected in the share of resolved succession cases. In all three years, the share of cases that were left over for the next year remained constant between 26% and 28%.

**Table 9: Data on Succession Cases (Slovakia)**

Succession cases: Case flow	2014	2016	2018
Pending from last year	27080	30742	35870
Incoming	72074	66729	70150
Resolved	69198	63518	68431
Leftover for next year	27080	28206	29234
Disposition Time	143	162	156
Clearance Rate	96%	95%	98%

Source: *Economica. Questionnaire: Czech Chamber of Notaries*

As we have already noted in the case of Czechia, in Slovakia too, the number of leftover cases remains very high.

**Figure 34: Succession Cases (Slovakia)**

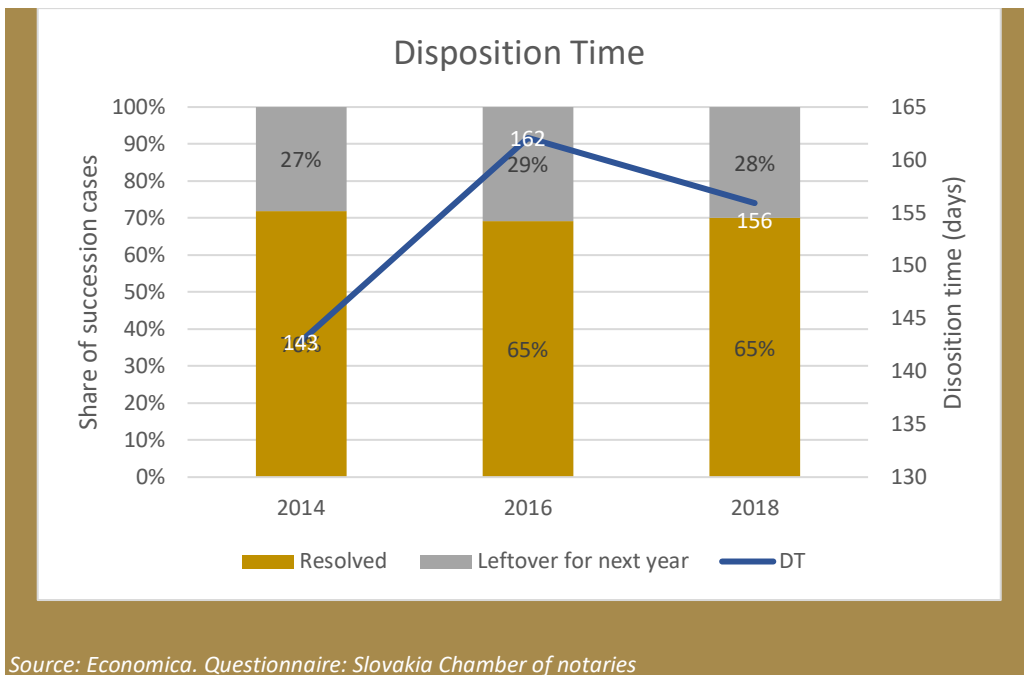
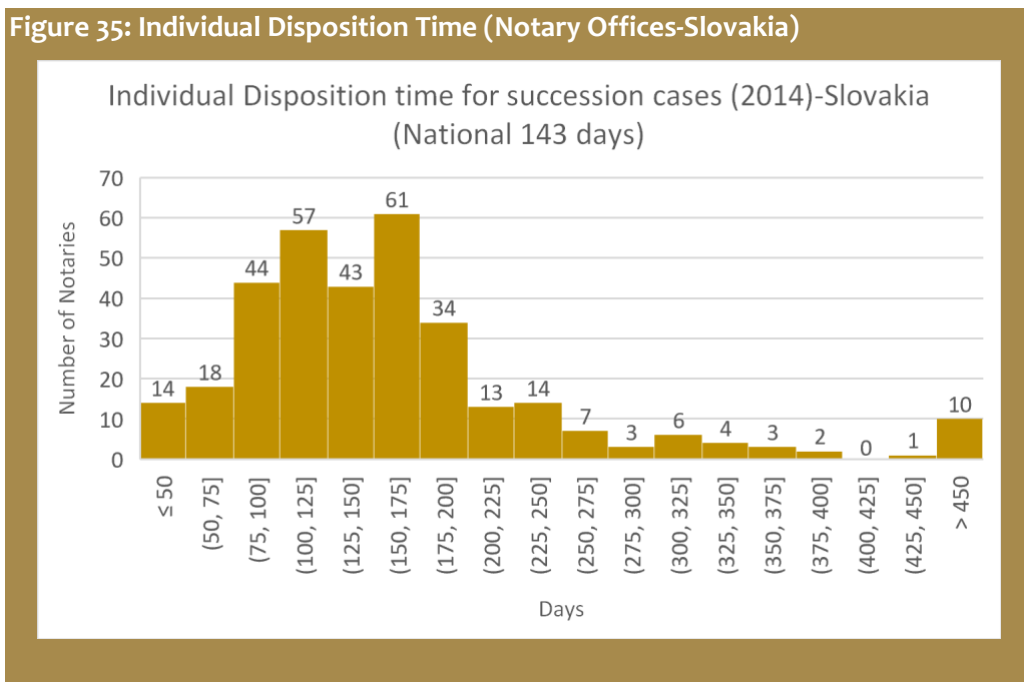
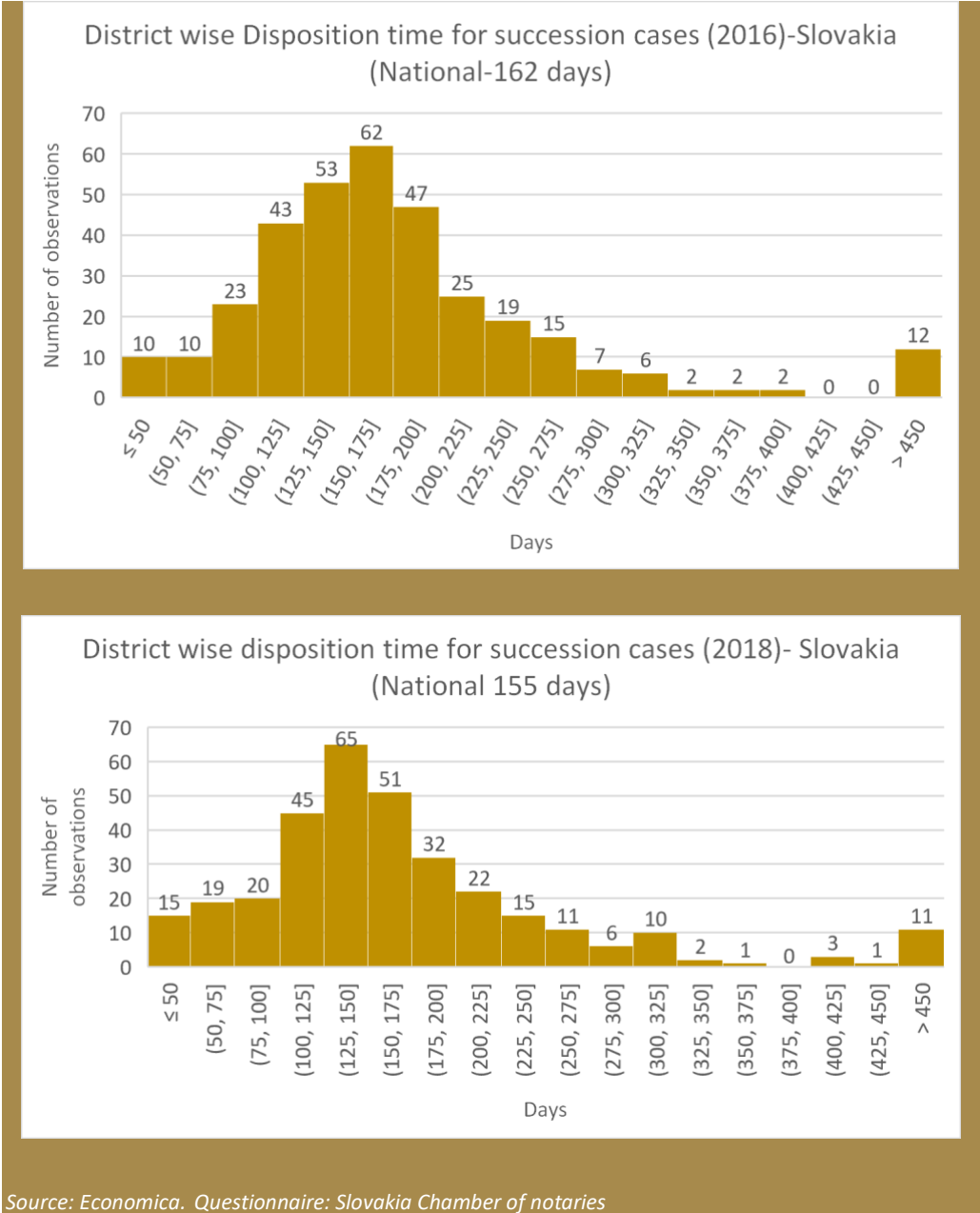


Figure 35 shows the individual disposition time for succession cases in Slovakia. The distribution is skewed to the left, with a peak around 125-175 days. The majority of cases show a disposition time of fewer than 200 days. Furthermore, it is clearly visible that very few cases fall have a disposition time of over 365 days, which are mostly constituted by outlier cases that require over 450 days.





Source: Economica. Questionnaire: Slovakia Chamber of notaries

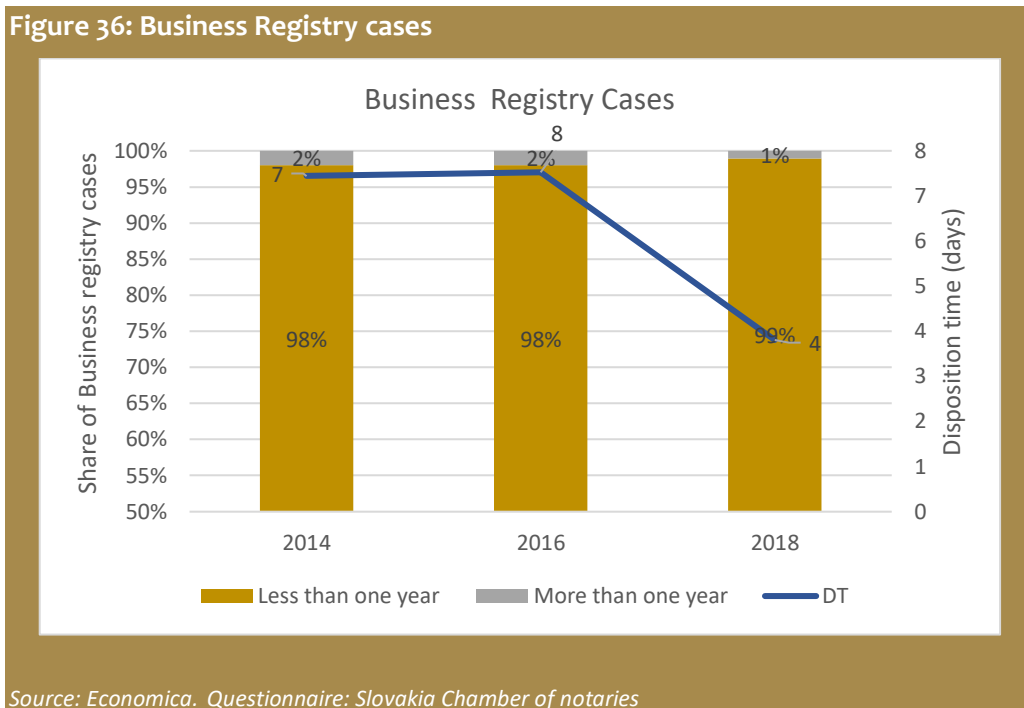
“Regarding the time required to resolve cases, court and notarial registers record only data: YEAR – INCOMING – RESOLVED (all resolved cases in a given year, this also includes cases from the previous years) – PENDING (all pending cases, also from the previous years, as of 31.12). See tab. 19-21.

So, we can use these statistics to determine approximately processing time more/less than one year. Also, appealed cases cannot be separated in terms of the duration of the proceedings (but they are listed in tab.12-18)<sup>15</sup>

<sup>15</sup> Chamber of Notaries, Slovakia

The above statement by the Slovak Chamber of Notaries lends background to our previous statement regarding the pending cases from year to year being overestimated by including the same cases that linger over for many years.

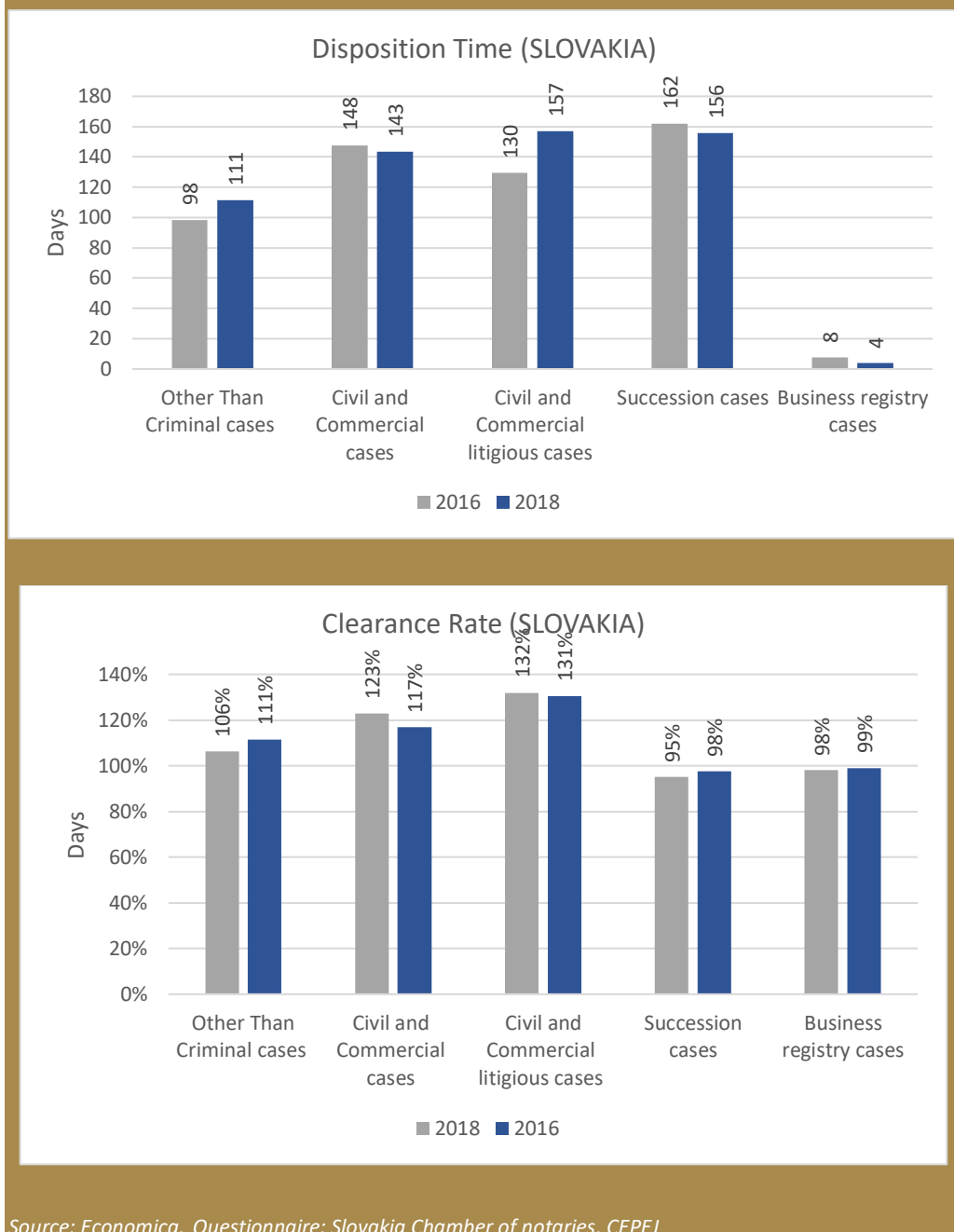
Figure 36 presents the details regarding business registry cases.



The disposition time and clearance rate for more general cases, along with the succession cases, are presented in Figure 37. Even though the data presented in this diagram shows the succession cases being a little longer time than other cases, the appeal rate of succession cases is at 1% compared to the ratio between average second instance OTC and first Instance OTC, which is 6.96%. This highlights the quality aspect of the procedure followed in the succession cases, which can contribute to a shorter process in the long run.



Figure 37: Comparative Overview (Slovakia)



#### 4.6.1 Digitalisation

Though in most cases, only the information regarding the procedure was available digitally, the following response from the Slovak Chamber of Notaries indicates that there can be advances made in digitalisation relatively fast.

- Is there a secure digital communication platform?  Yes  No
- Is there a digital presence (i.e., citizen information portal) where process information is available to the public?  Yes  No
- Can cross-border procedures be carried out via digital means?  Yes  No

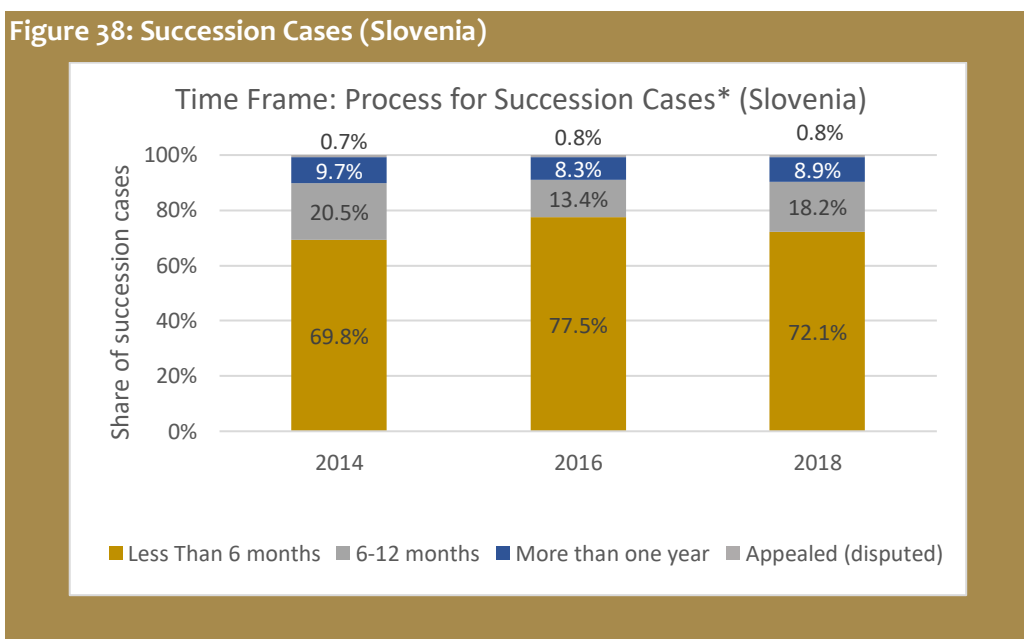
### 4.7 SLOVENIA

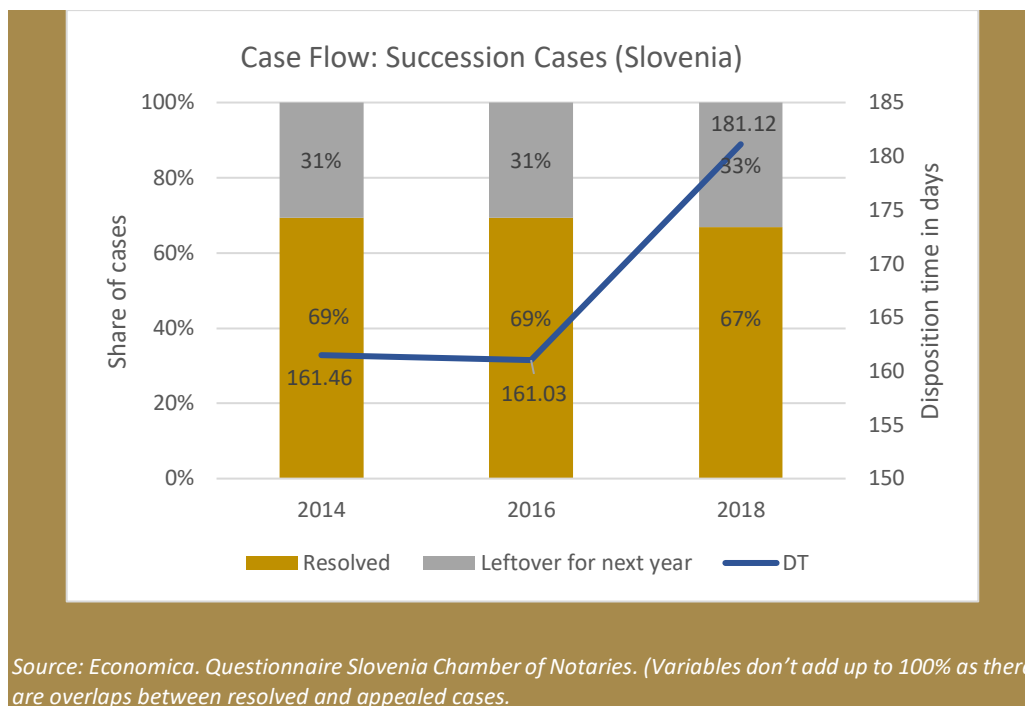
Among the Hexagonale countries, Slovenia is the only exception where the notaries do not act as court commissioners. Given the fact that the study aims to highlight the socio-economic aspect of the role of notaries as court commissioners, the process efficiency in Slovenia in case of non-contentious cases in comparison with the same in the other 5 Hexagonale countries will help us pinpoint the effect of this type of outsourcing of public legal services. We will pay specific attention to succession cases as data on succession cases was available in most instances.

It is also necessary to remember here that in recent years Slovenia has made great strides in increasing the number of courts and judges that have placed it as one of the countries with the densest network of local first instance courts. As noted in the first section, it is also one of the countries with the highest per capita public expenditure on law courts. It was also noted that higher per capita public expenditure on law courts does not necessarily result in lower private expenditure on legal services.

Whether the proximity of law courts together with a shorter legal-file transaction time increases efficiency and quality of service in non-contentious procedures is the question that we aim to be able to answer in this section.

Figure 38 represents the data that was provided by the Slovenian Chamber of Notaries. Here it can be seen that close to 10% of cases take more than one year, and around 0.8% of cases are disputed (appealed).





However, the data obtained from the Statements of mag. Damijan Florjančič, president of the Supreme Court of Republic of Slovenia during JuWiLi conference (12.05/2022) provided more details for the recent years, which point towards a rapid worsening of efficiency in terms of the number of cases resolved during the year as well as in quality with higher rate referrals to next instance courts.

- At the end of the 2021 period, there were 15.400 unresolved cases, which is 3% more unresolved cases than the year before;
- The number of resolved cases was 100% only in 2018, then smaller, in 2020 even only 82%.
- On average, only about 4% of succession cases are interrupted and referred to court litigation, in 2020 and 2021 only 3% were such cases.
- **The average length of probate proceedings was:** 2017-2019: 5.5 months, 2020: 6.8 months, and more than 7 months in 2021

The above number of recent years will be used for comparative statistics in the next section. It should be noted here once again that the succession cases in Slovenia are uniquely handled by the courts, which will enable us to clearly judge the effect of outsourcing the succession proceedings to the Notaries in the other 5 Hexagonale countries.

The other activities carried out by the notaries in Slovenia are proposals for the business registry, land registry, marriage agreements and no-fault divorce agreements of couples without children or with adult children.

Figure 39: Business Registry Cases

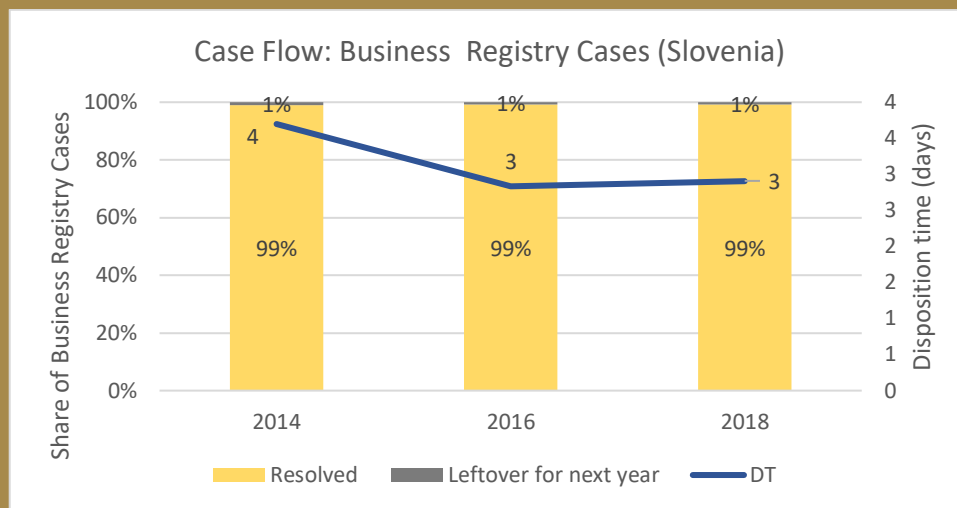
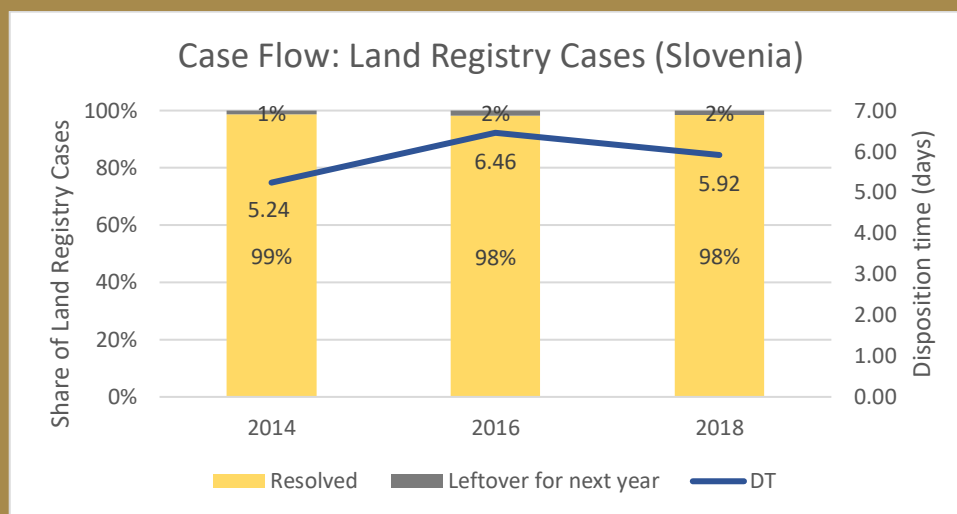


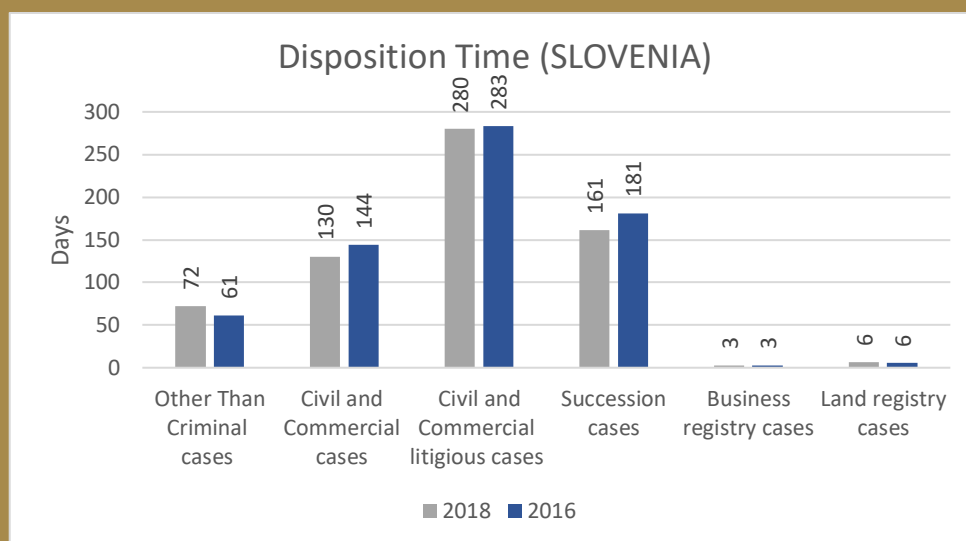
Figure 40: Land Registry Cases



Source: Economica. Questionnaire Slovenia Chamber of Notaries

A comparative view of the disposition time of different types of cases is presented by the following Figure.

Figure 41: A Comparative View



Source: *Economica, Slovenian Chamber of Notaries, CEPEJ*<sup>16</sup>

As we can see from Figure 41, the disposition time for succession cases was 181 days in 2018 which is considerably higher than the disposition time for civil and commercial cases. Furthermore, the ratio between second instance OTC and first instance OTC was 2.4% in 2018 compared to an average of 4% of succession cases that are forwarded for litigation.<sup>17</sup>

It should also be mentioned here that unlike for the succession cases, Slovenian Notaries prepare proposals for business registry, changes in business registration and land registry cases.

<sup>16</sup> Data on OTC, Civil cases (litigious and non-litigious) are obtained from publicly available CEPEJ data. (disclaimer at the end of the study)

<sup>17</sup> Statement of of Mag. Damijan Florjančič, president of Supreme Court of Republic of Slovenia during JuWiLi conference (12.05/2022)

## 5 Effect of Outsourcing Succession Cases to the Notaries in Efficiency

In Chapter 5, we focused on analysis and presentation of data collected through the survey as well as publicly available CEPEJ data. So far, we have only presented the country-by-country situation without making any comparative statements. We had extensive discussions and have made literature research in order to be able to draw conclusions regarding the socio-economic impact of outsourcing of certain court functions to the Notaries, who act as court commissioners in designated areas in 5 of 6 Hexagonale countries. Based on our research and discussions within the project partners, we will now proceed to make a comprehensive view of the existing systems and their implications in terms of efficiency, quality and accessibility in provision of legal services, when Notaries act as court commissioners.

We will only focus on the succession cases as they seem to be one of the most well-known non-contentious cases where Notary function is pivotal in many European countries.

Succession cases, in general, tend to be more tedious among civil cases since they can involve a multitude of parties and are executed often by courts as well as Notaries. Thus, the parameters involved for the handling of succession cases do not depend solely on the speed of case-flow but also on various other processes that are in place in different legal systems. In all the Hexagonale countries except Slovenia, the Notaries as Court Commissioners for processing succession cases. However, even among these countries the competence area of the notary differs significantly.

The table below (table 6 in the questionnaire) summarises the process and highlights the fact that accessibility as well as efficiency components of the process.

The four main points that emerge from the information in Table 10 are:

- In Hungary, the process is concentrated at the level of the notary;
- in Slovenia, the entire process is carried out by the court;
- in Czechia and Slovakia, after the initial transfer to the notary, the decision of the notary is accepted as the final decision;

- and in Austria, the succession case needs another step at the court before being final. The transaction time, in theory, between the court and the notaries should be zero in Slovenia and the highest in Austria. There is no specific data available with a clearly demarked time frame. Thus, while discussing efficiency we need to keep this fact under consideration.

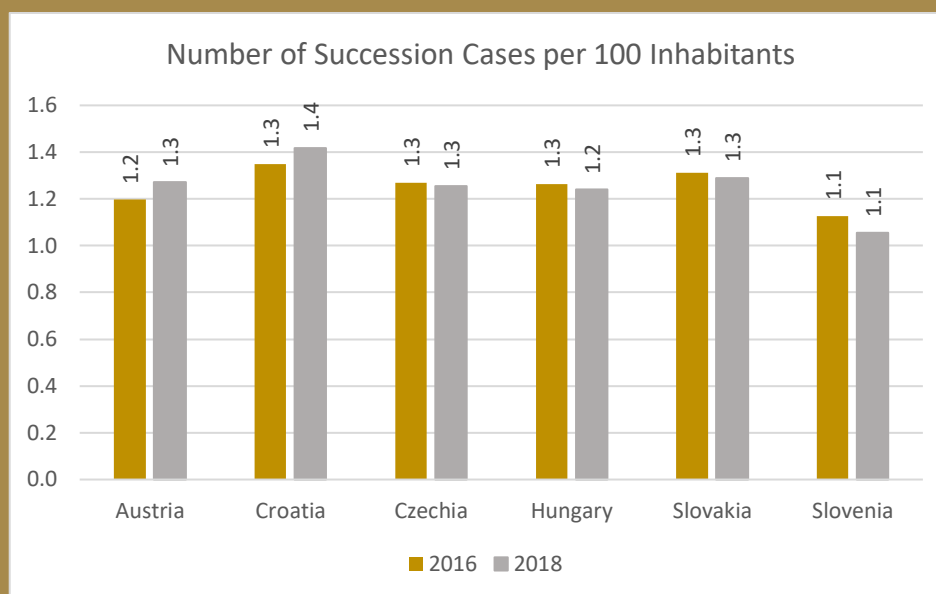
**Table 10: Process information for Succession cases**

	Austria	Croatia	Czechia	Hungary	Slovakia	Slovenia
Is it in the same district as the origin of the case?	Yes	Yes	Yes	Yes	Yes	Yes
Is there a standard published fee?		Yes	Yes	Yes	Yes	Yes
Does the case fall under the case-handling competence of the court?	No	No	No	No	No	Yes
Or the notary acts as court Commissioner?	Yes	Yes	Yes	Yes	Yes	No
Does the case fall under the case-handling competence of the notary?	Yes	Yes	Yes	Yes	Yes	No
If the case is delegated to the notary, is it the client who nominates the notary?	No	No	No	No	No	No
If the case is delegated to the notary, is it the court that nominates the notary?	Yes	Yes	Yes	No	Yes	No
Does the final decision rest with the court?	Yes	No	Yes	No	No	Yes
Is there a standardized electronic process for filing?	No	No	Yes	No	No	No
Is there an electronic communication system used for case handling between courts and notaries?	No	No	No	Yes	Yes	Yes

Source : Questionnaire Hexagonale Chamber of Notaries

The efficiency of a production system in economics is defined (most simplistically) by an optimal use of resources so that the costs for a unit of produced good are minimised. In the case of legal services, the length of time required to resolve a case can be used as a proxy for costs. The longer it takes to resolve a case, the higher is the cost to the service providers leading to a less efficient use of resources.

Figure 42: Succession cases



Source: *Economica*.

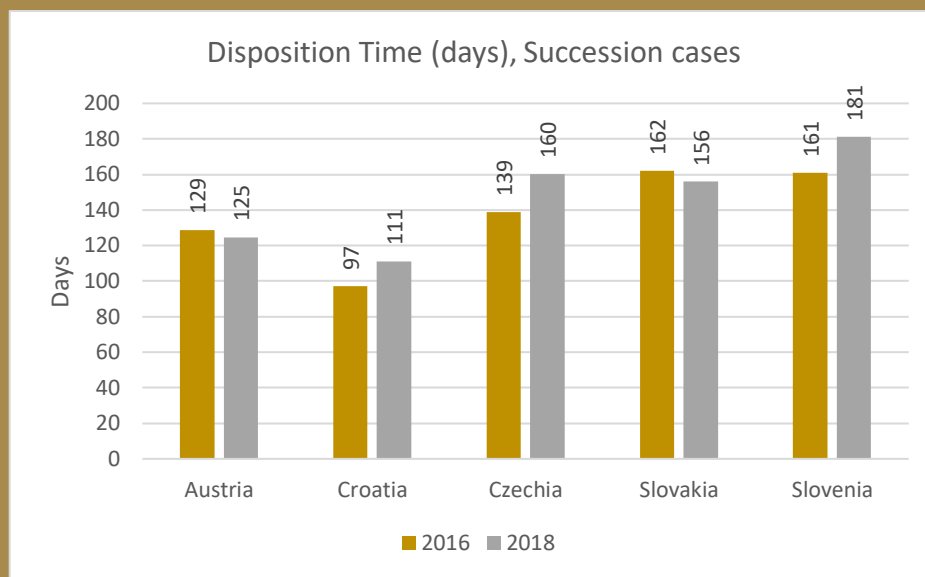
Figure 42-44 represent the number of succession cases per 100 inhabitants, the disposition time ( $(\text{number of pending cases at the end of the year} / \text{resolved cases within the year}) * 365$ ) and the clearance rate (number of resolved cases/number of incoming cases).<sup>18</sup> As we can see, the succession cases per hundred inhabitants is the highest in Croatia and the lowest in Slovenia. We are not using the number of succession cases per notary or per court since the goal is to estimate the relative efficiency of the legal system as a whole.

It is clear from Figure 43, despite the lowest level of succession cases, the disposition time in Slovenia is the highest among the Hexagonal countries. This does imply that succession cases are more quickly handled by the notaries acting as court commissioners.

<sup>18</sup> All three variable are used in CEPEJ data analysis

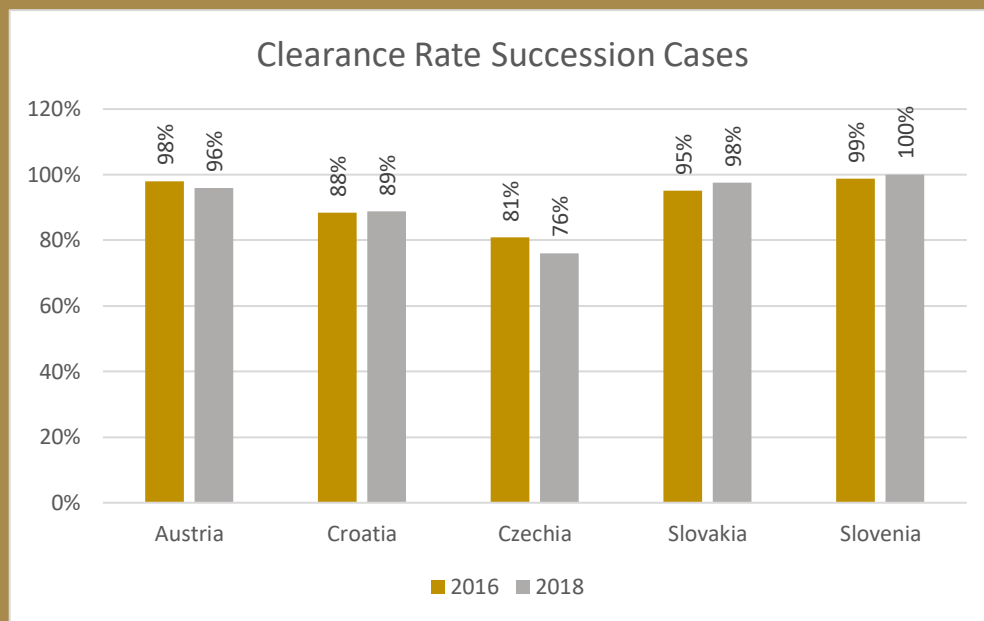


Figure 43: Disposition Time



Source: *Economica, Hexagonale Chamber of Notaries, Austrian Ministry of Justice*

Figure 44: Clearance Rate



Source: *Economica, Hexagonale Chamber of Notaries, Austrian Ministry of Justice*

The clearance rate in Croatia and Czechia are rather low compared to other countries. The data provided by Czechia shows a large number of lingering cases that could account for double counting in incoming cases statistics resulting in a lower clearance rate. The low clearance rate in Croatia taken together with a low disposition time does indicate an efficient system. However, in case of Slovenia, the recent statements and data suggest a further decline in

clearance rate which combined with high disposition time amounts to a lower level of efficiency.

Among the countries with notaries acting as court commissioners, Austria stands out with one of the lower disposition times in succession cases even though the process is not totally controlled by the notaries. It could be observed here that by expanding the responsibility of the notaries to other stages of the process may reduce the disposition time further, thus, increasing efficiency in dealing with succession cases.

## 6 Accessibility

The accessibility of notarial and legal services in this project was calculated based on information from community assignments. In detail each Local Authority Unit (LAU) is assigned to a specific court and a notary respectively, when acting as a court commissioner. In most cases the inhabitants of one notarial district are supported by more than one notary. The actual number of notaries acting within this so-called notarial district usually depends on the population size and some other key figures, determining the individual national notarial systemisation structure. In the case of court districts this argument is also applicable, since usually more judges are employed at one specific court.

### 6.1 LAU Assignment

To be able to calculate the various sizes of notarial and court assignments the participating Hexagonale countries have been requested to send a complete mapping between the LAUs in their country and the individual courts and notaries.

In “**Table 11: Example of LAU Mapping**”, an excerpt for an Austrian region is shown. In the first column, the NUTS-3 code is presented, followed by the LAU name, the population and the total area. After this basic information, the court and notarial assignment is given. For example, the first LAU Dornbirn in this table has 49,782 inhabitants and a total area of 120,928,923 square metres. The responsible court is also located in Dornbirn. There are four notaries acting as court commissioners for the population of Dornbirn, which are also all located in Dornbirn. Hohenems and Lustenau are also assigned to the Dornbirn court, where else in both communities, a separate notary is acting.

**Table 11: Example of LAU Mapping**

NUTS 3 CODE	LAU NAME NATIONAL	POPULATION	TOTAL AREA (m2)	Court (1st Instance)	Responsible Court	Notaries (number)	Notar Responsibility (Court commissioner)
AT342	Dornbirn	49.872	120.928.923	1	Dornbirn	4	Dornbirn
AT342	Hohenems	16.731	29.168.432		Dornbirn	1	Hohenems
AT342	Lustenau	23.309	22.264.721		Dornbirn	1	Lustenau
AT342	Altach	6.769	5.363.000		Feldkirch		Feldkirch
AT342	Düns	407	3.455.916		Feldkirch		Feldkirch
AT342	Dünserberg	143	5.548.664		Feldkirch		Feldkirch
AT342	Feldkirch	34.210	34.343.435	1	Feldkirch	6	Feldkirch

AT342	Frastanz	6.503	32.303.951	Feldkirch		Feldkirch
AT342	Fraxern	714	8.873.029	Feldkirch		Feldkirch
AT342	Göfis	3.324	9.067.102	Feldkirch		Feldkirch
<b>AT342</b>	<b>Götzis</b>	11.765	14.643.592	Feldkirch	1	<b>Götzis</b>
AT342	Klaus	3.100	5.247.582	Feldkirch		Feldkirch
AT342	Koblach	4.718	10.248.383	Feldkirch		Feldkirch
AT342	Laterns	666	43.787.869	Feldkirch		Feldkirch
AT342	Mäder	4.102	3.387.337	Feldkirch		Götzis
AT342	Meiningen	2.312	5.368.016	Feldkirch		Feldkirch
AT342	Rankweil	11.928	21.869.279	Feldkirch		Feldkirch
AT342	Röns	338	1.445.283	Feldkirch		Feldkirch
AT342	Röthis	2.110	2.727.657	Feldkirch		Feldkirch
AT342	Satteins	2.727	12.700.411	Feldkirch		Feldkirch
AT342	Schlins	2.481	6.056.359	Feldkirch		Feldkirch
AT342	Schnifis	800	4.868.471	Feldkirch		Feldkirch
AT342	Sulz	2.591	3.018.098	Feldkirch		Feldkirch
AT342	Übersaxen	621	5.761.457	Feldkirch		Feldkirch
AT342	Viktorsberg	415	12.514.217	Feldkirch		Feldkirch
AT342	Weiler	2.133	3.082.302	Feldkirch		Feldkirch
AT342	Zwischenwasser	3.256	22.628.813	Feldkirch		Feldkirch

Source: *Economica*.

All remaining LAUs in the example are assigned to one court located in Feldkirch. In the notarial case, we can see an additional notarial district established by the communities of Götzis and Mäder, which are supported by one notary. The other LAUs in the Feldkirch notarial district are served by the six notaries sited in Feldkirch.

This example already shows that, in some cases, the court districts are subdivided into more than one notarial district.

## 6.2 Accessibility Indicators based on LAU assignments

The LAU assignment allows the calculation of two different indicators concerning the accessibility of notarial service in comparison to the accessibility of court services. First, the average number of inhabitants assigned to an average court and notarial site can be calculated. Second, the maximum distance from a synthetic circular district possessing the same area as the actual geographic district can be calculated. This distance can be calculated for courts and notaries, respectively.

Being able to extend this approach to a larger number of countries, we also implemented calculations based on a NUTS-3 level. Since the mapping procedure is quite elaborate and needs an exact knowledge of the allocation of each LAU, this aggregated consideration still delivers insights on a regional

level, although the results are based on some assumptions of the distribution within the NUTS-3 regions.

### 6.3 Country Profiles

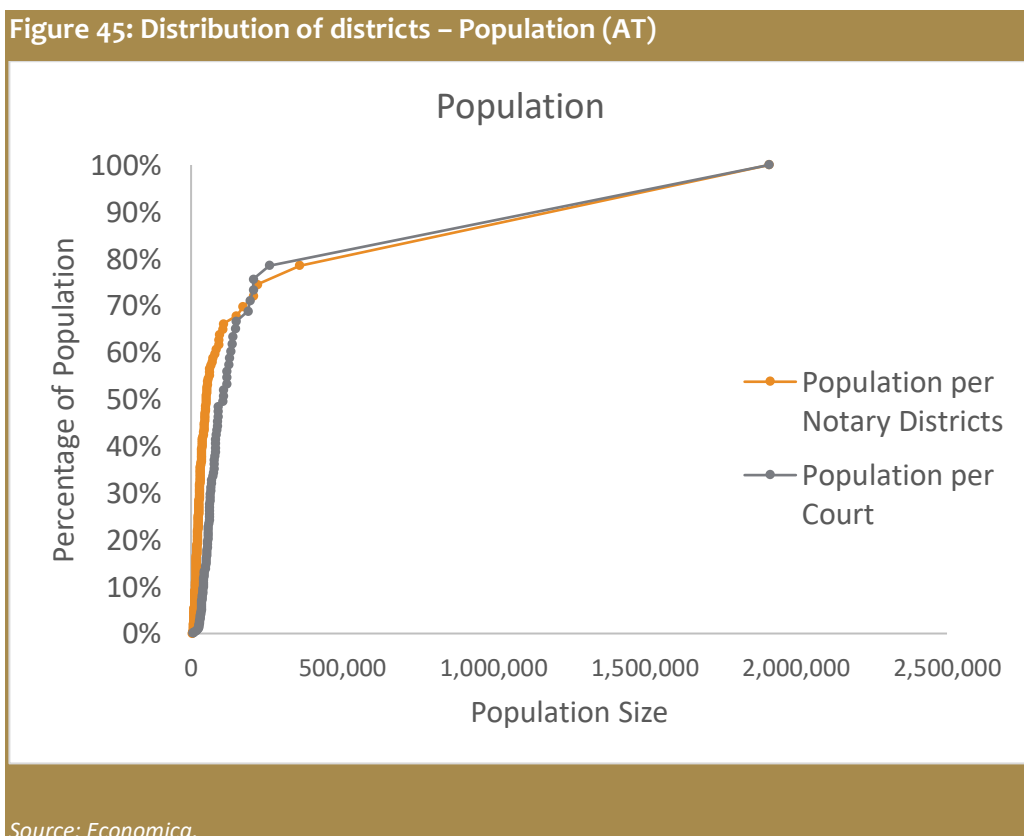
In the following section, the country profiles for the six Hexagonale countries are given in detail.

#### 6.3.1 Austria

In the case of Austria, we have 115 courts (=first instance court districts) and 246 notary districts, wherein 526 notaries are serving. In the case of Vienna, each of the 23 political districts is simultaneously organised as notarial districts, while several districts are merged into one court district leading to 23 notarial and 13 court districts in Vienna.

#### Population

In the following Figure, the distribution of the notarial and court districts is shown. On the x-axis the population size of the various districts is given. On the y-axis, the percentage of the population covered within the specific population size is pointed out.



Since Vienna is to some extent a data outlier, we provide the same analysis for Austria excluding Vienna in the following Figure, showing the district distribution for the courts, the notarial sites and the notaries excluding Vienna. As one can see, the median district size (median responsibility population-weighted) in terms of population size is smaller for notary districts than court districts. Taking also the number of notaries within the notarial district into account decreases the median number of inhabitants a notary is responsible for.

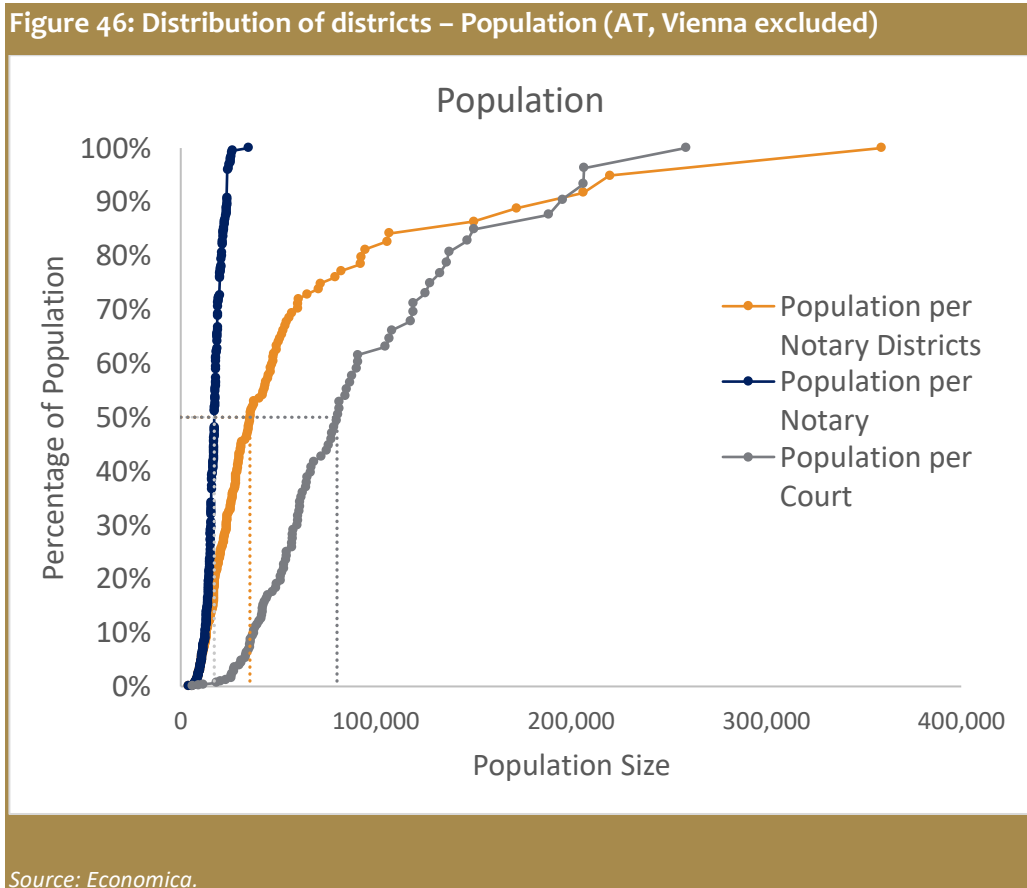
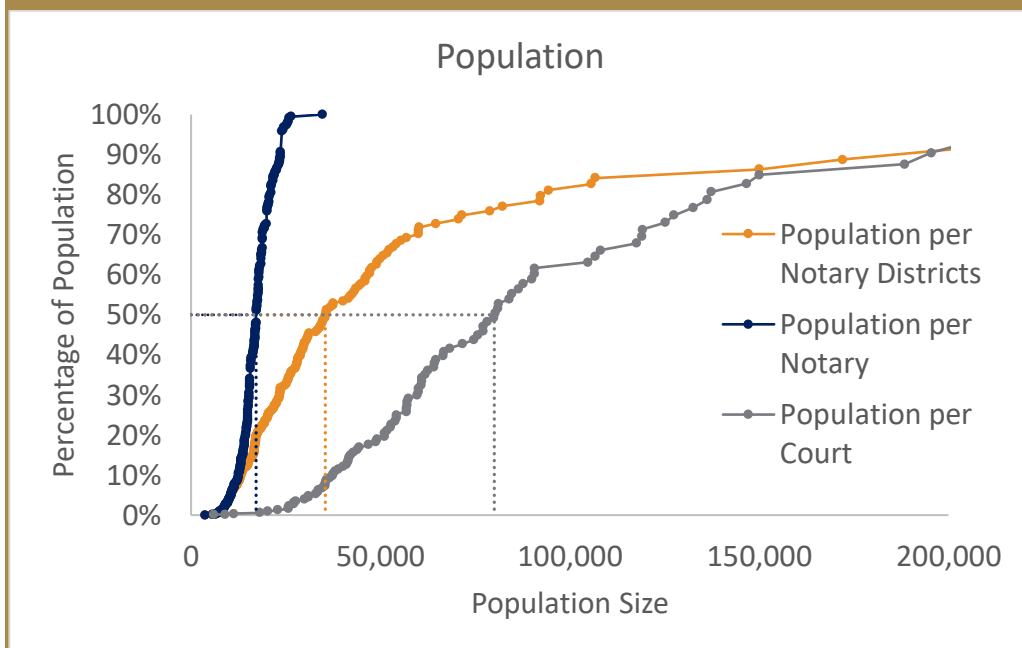


Figure 47: Distribution of districts – Population (AT, Vienna excluded, Districts below 200,000)



Source: *Economica*.

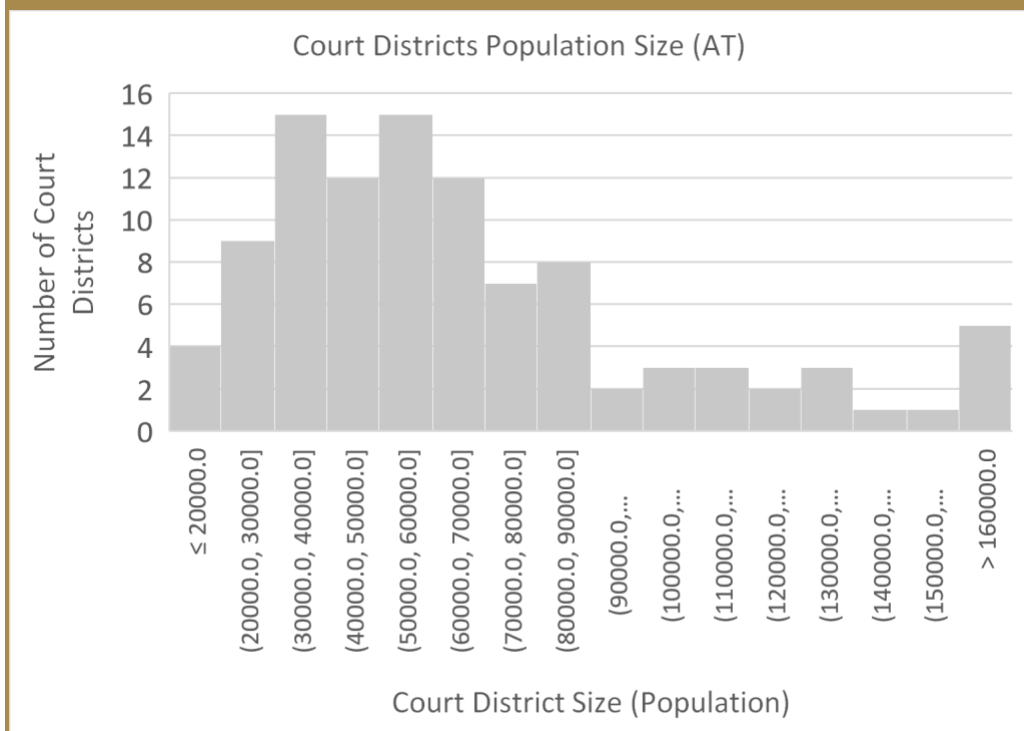
The median responsibility (population-weighted) in terms of population size is for notary districts (35,447) less than half of the court districts (80,081). The median citizen is living in a region, where a notary is responsible for 17,166 inhabitants.

The next two figures present basic statistics from the notarial and court district distribution. In contrast to the preceding calculations, we now focus on the districts, which means the median and the arithmetic mean are based on the various districts' data.

The court districts possess a median of 57,065 inhabitants and an arithmetic mean of 68,528.

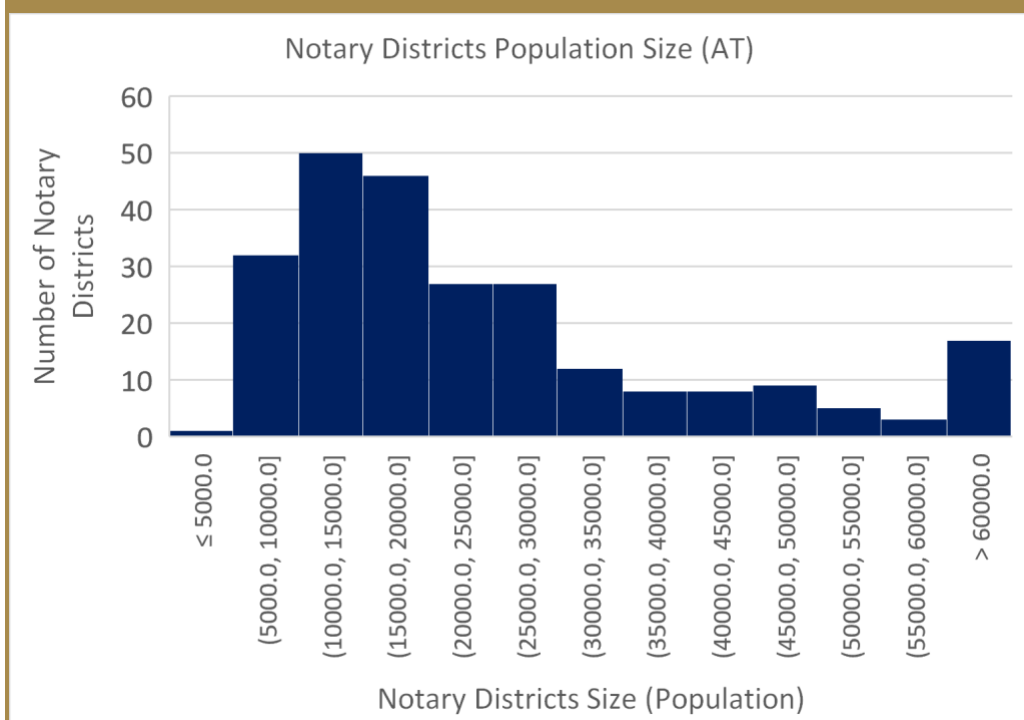
The median (18,580) and arithmetic mean (28,580) for notarial districts are smaller than for courts. Since both histograms have a strong lower limit of zero, we can see a right-skewed distribution, where the arithmetic mean is higher than the median.

Figure 48: Histogram of court districts – Population (AT)



Source: *Economica*.

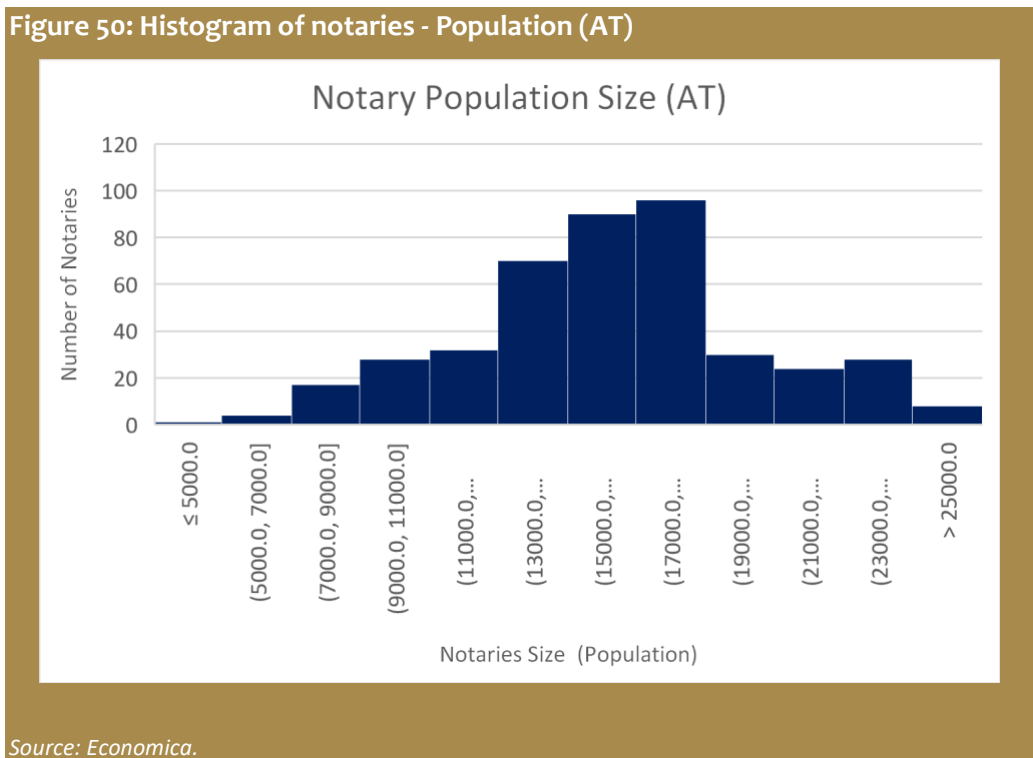
Figure 49: Histogram of notarial districts - Population (AT)



Source: *Economica*.

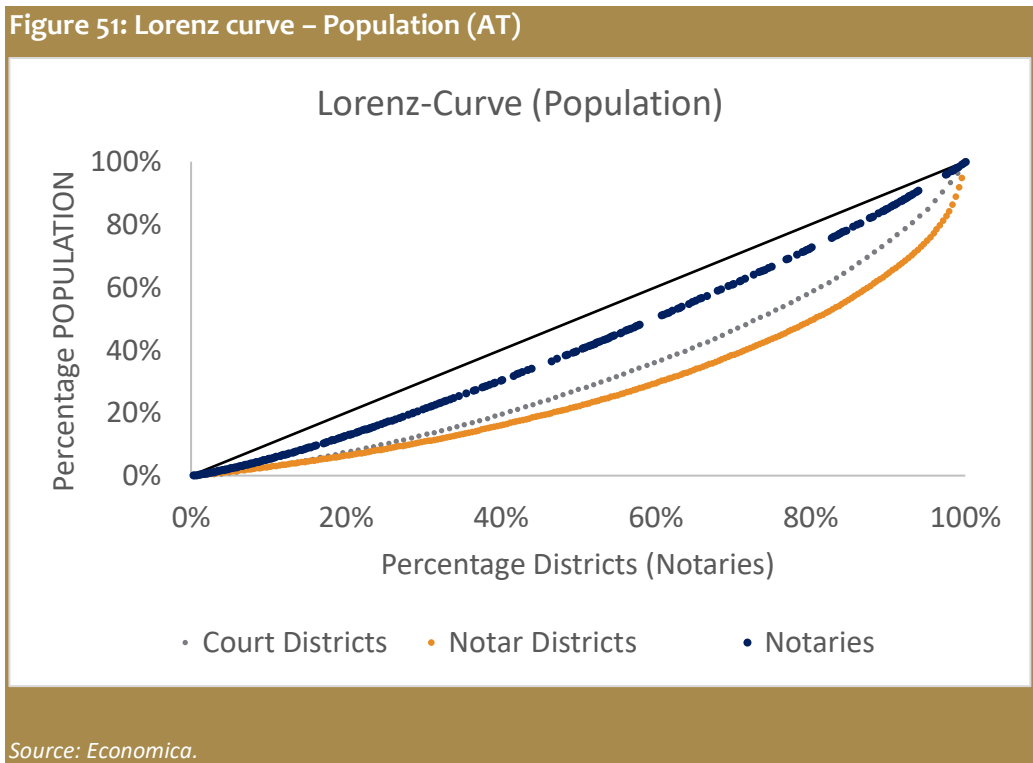


Finally, the histogram of the population size by notaries indicates the lower statistics of the mean (16,328) and median (16,315).



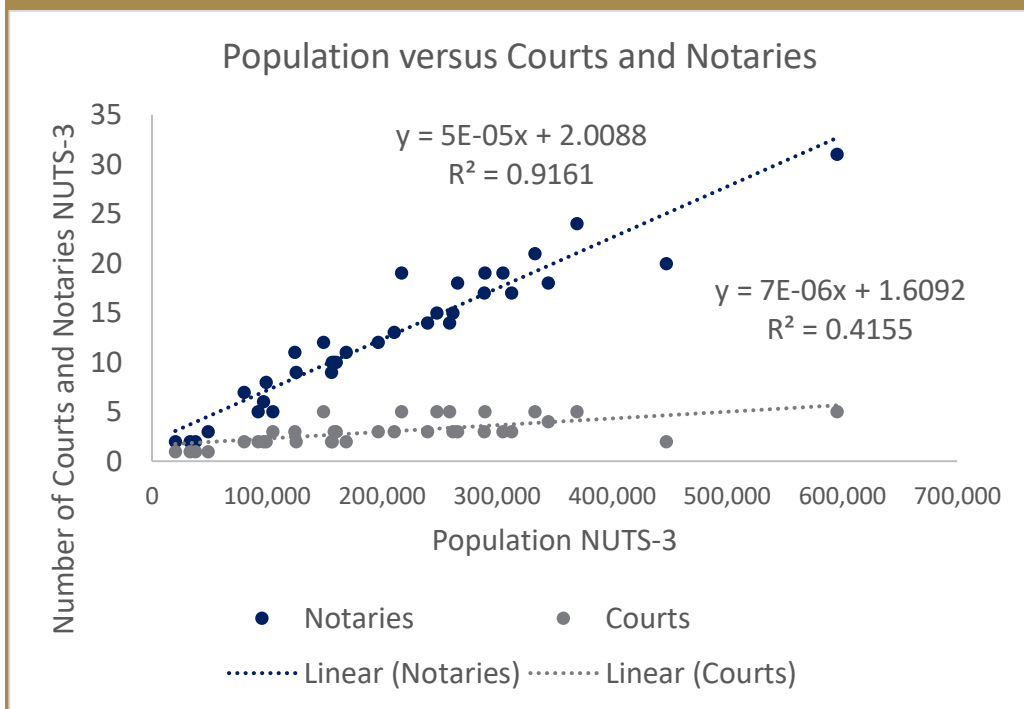
In the following Figure, a Lorenz curve is drawn. The curve is a graph showing the proportion of overall notarial and court districts and notaries assumed by the bottom x-axis in per cent. It shows for the bottom x% of court districts/notary districts/notaries corresponding percentage (y%) of the total population they represent. The percentage of court districts/notary districts/notaries is plotted on the x-axis, and the percentage of the population on the y-axis.

The larger the difference between the 45 degrees straight line and the Lorenz curve is, the higher the inequality. The Lorenz curve for the notary districts, therefore, indicates that smaller – in terms of population size – notary districts are overrepresented. This indicates that the supply of notarial offices in small districts compared to court sites is better. On the other hand, we can see that the share of inhabitants a notary is responsible for is much closer to 45 degrees straight line, indicating a more uniform service supply for Austria as a whole.



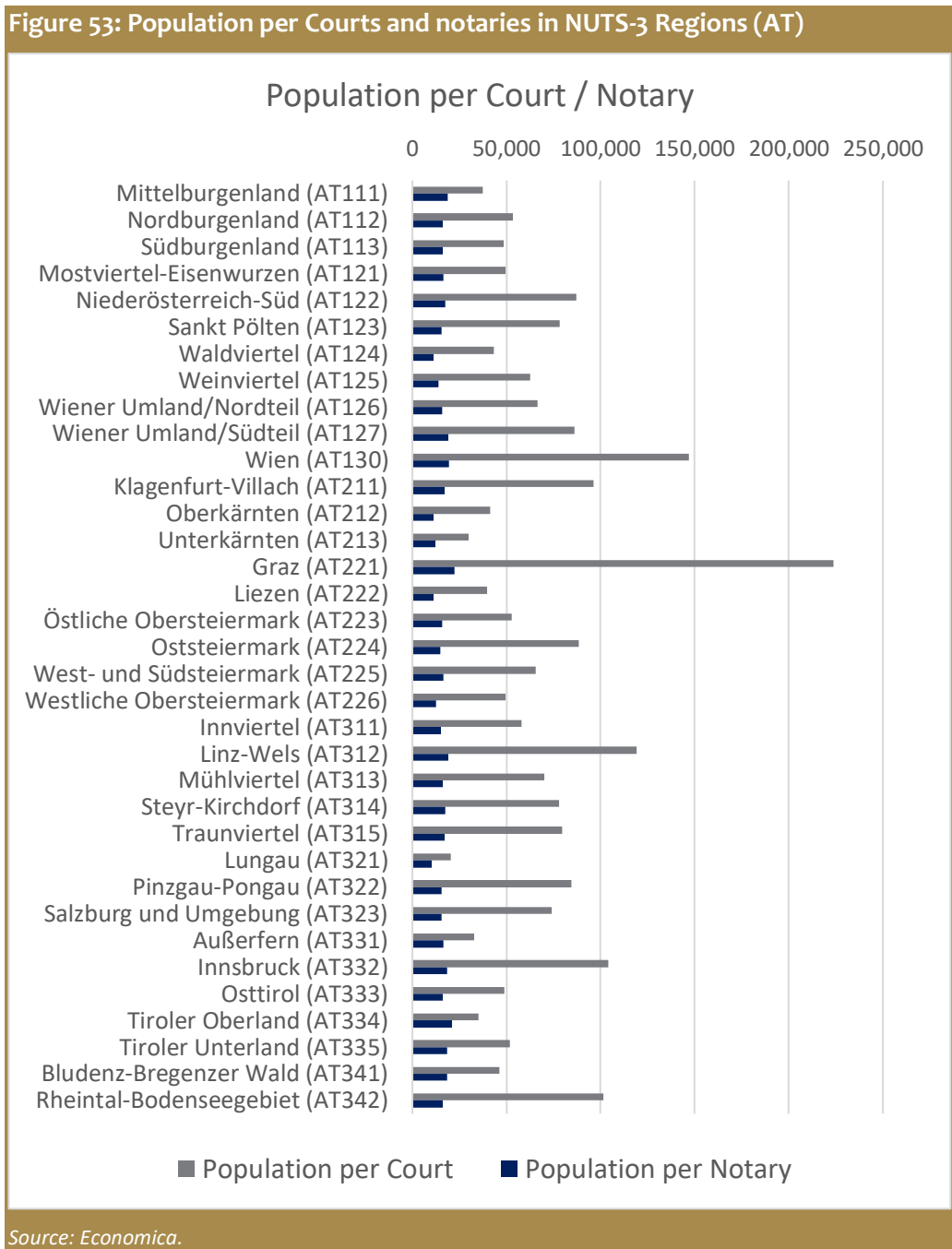
In order to calculate the supply on a regional level corresponding with the NUTS classification, the number of courts and notaries within the NUTS-3 regions are displayed against the size of the population. In this Figure, one can see that with the increasing size of the population, the number of notaries is also increasing. This relationship is not so pronounced in the case of courts since the correlation coefficient (R-squared) is smaller.

Figure 52: Population versus Courts and notaries in NUTS-3 Regions (AT)



Source: Economica.

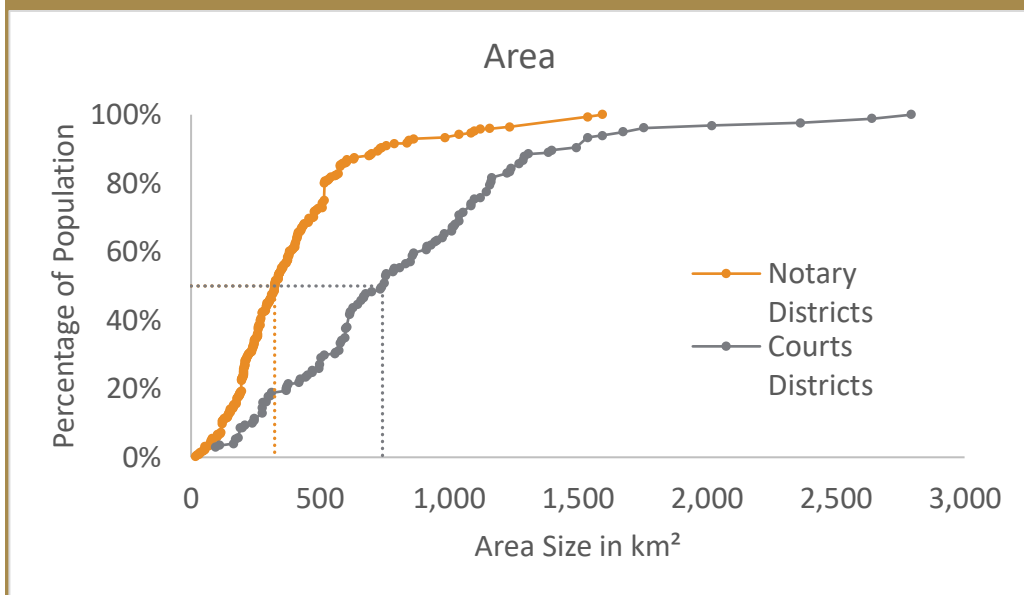
The population size an average court and notary is responsible for in the NUTS-3 regions varies from 20,251 to 223,571 and 10,126 to 22,357 citizens. The mean and median are also much higher in the court district case (mean = 70,004 and median = 62,605) than in the notary case (mean = 16,138 and median = 16,165).



*Geographic Area*

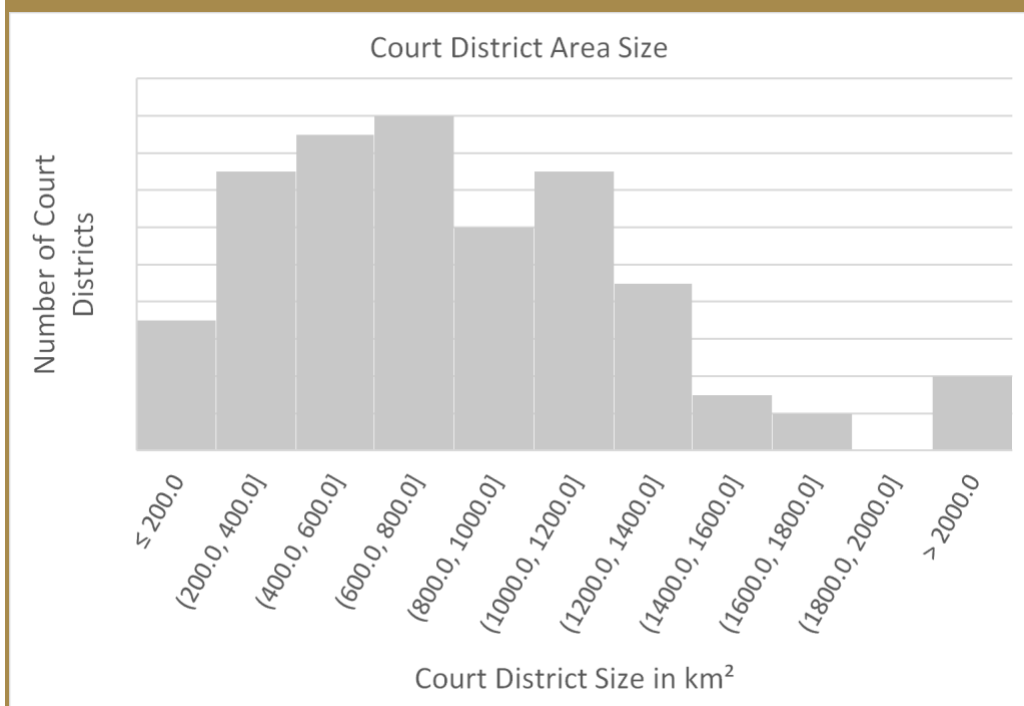
Not only the inhabitants a notary or court is responsible for can be calculated, but also the covered geographic area is a possible access dimension. For instance, the median responsibility (population-weighted) in terms of area size is for notary districts (324 square kilometers) less than half of the value for court districts (742 square kilometers).

Figure 54: Distribution of covered area (AT)

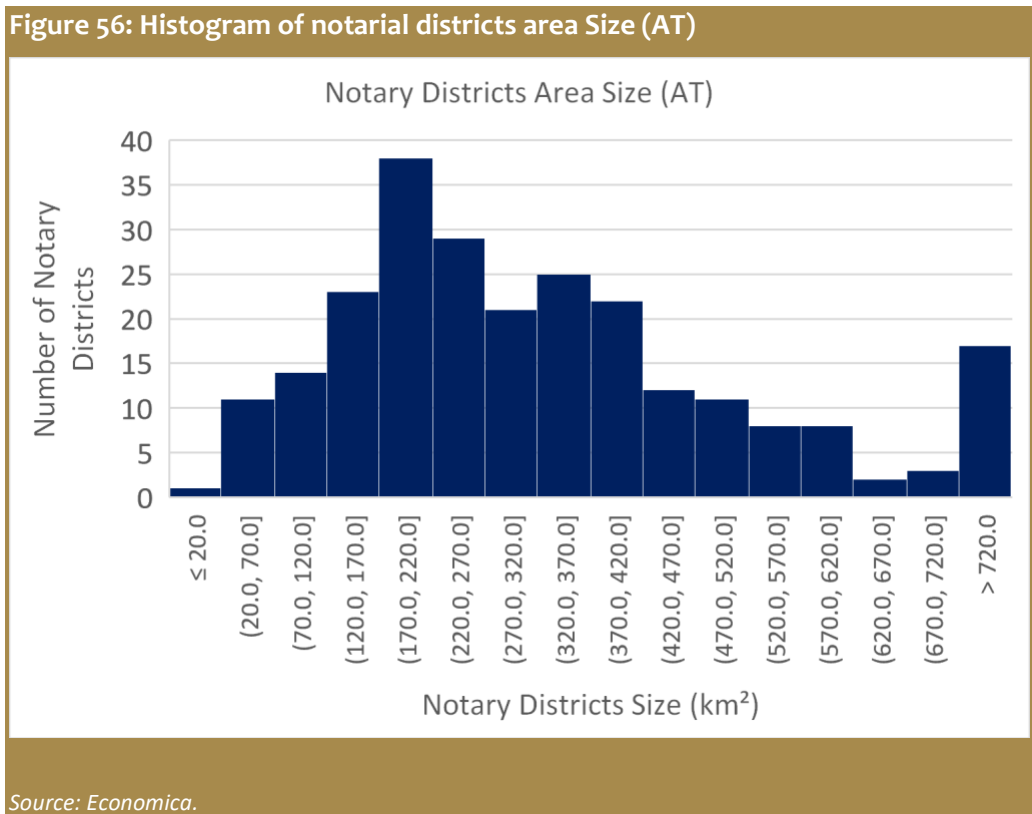


Source: Economica.

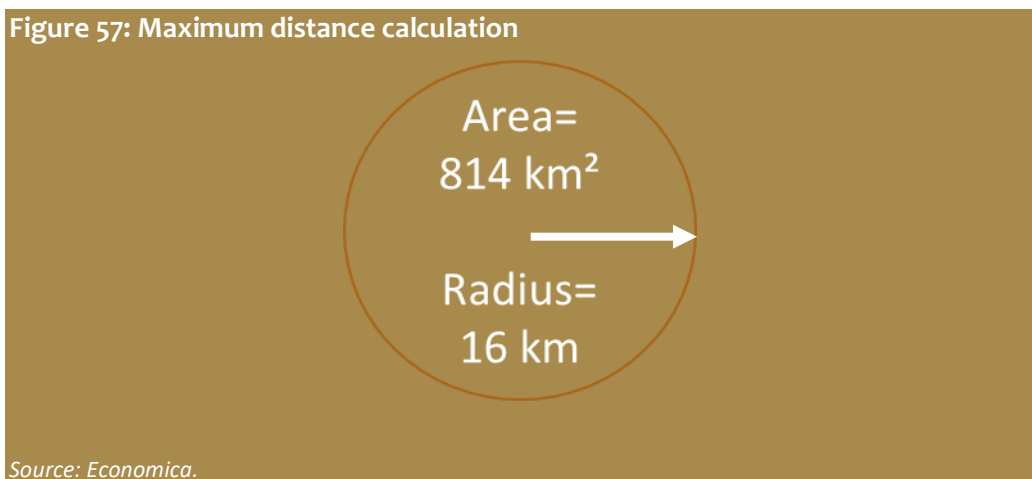
Figure 55: Histogram of court districts area size (AT)



Source: Economica.



Assuming a synthetic circular district possessing the same area as the actual geographic district one can calculate the radius and therefore the maximum distance to the middle point of the circle, in which by assumption the court or notary office is located.



The arithmetic mean for courts is 814 square kilometres resulting in a radius of 16.1 km. For notaries, we receive an arithmetic mean of 341 square kilometres, which gives a maximum distance to the notarial office of 10.4 km. Overall the maximum distance to the next court is about 55 % higher (16.1 km) than to the next notary office (10.5 km) in Austria.

These results indicate again that the accessibility of notarial service is better than for court service in Austria.

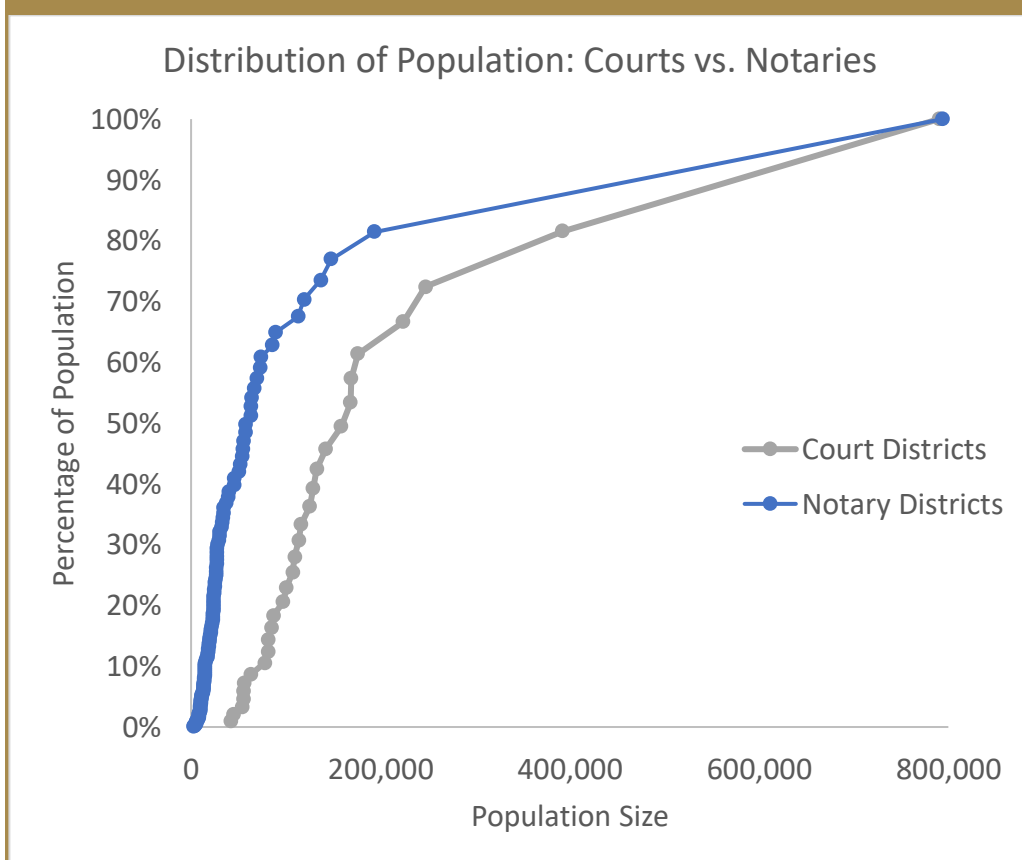
### 6.3.2 Croatia

Compared to the 30 court districts, there are many more notary districts (117) with 330 notaries in Croatia. Each of these courts is responsible for 142,830 inhabitants, whereas a notary is, on average, only responsible for 12,985 inhabitants.

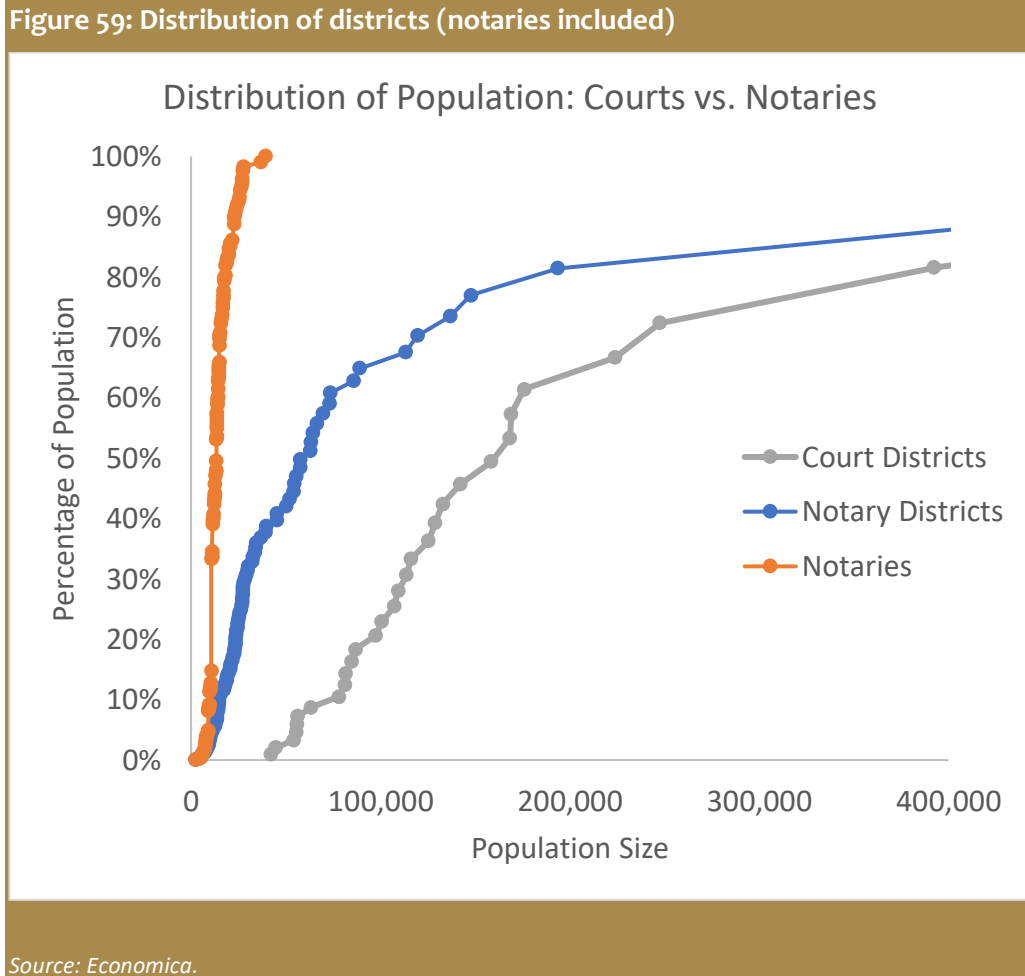
#### Population

As in the Austrian case, we first show the distribution according to the population in the next Figure. One can see that the median citizen (50 % population-weighted) size for court districts of 160,039 is almost three times higher than the one for notary Districts (50 % population-weighted) 57,799. For a notary, this value even decreases to 13,432 (50 % population-weighted). These numbers show the average size of a court or notary district and notary from the distribution of the population.

Figure 58: Distribution of districts – Population (HR)



Source: *Economica*.

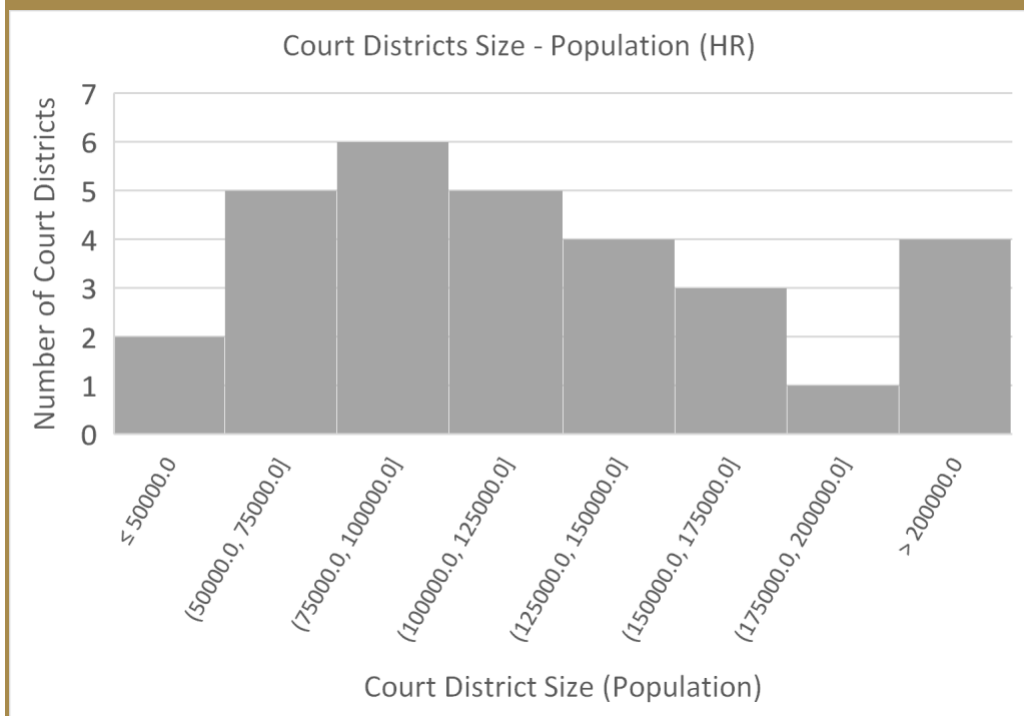


In the next analysis, we are focusing on the court and notary districts. The statistics for the mean of 142,830 and median 108,329 in the case of courts are substantially higher compared to the statistics of the notary districts (mean = 36,623, median = 21,893), which shows again that the accessibility is higher for notaries.

Also including statistics from the individual notaries, one can see that the mean (12,999) and median (11,396) are even lower.

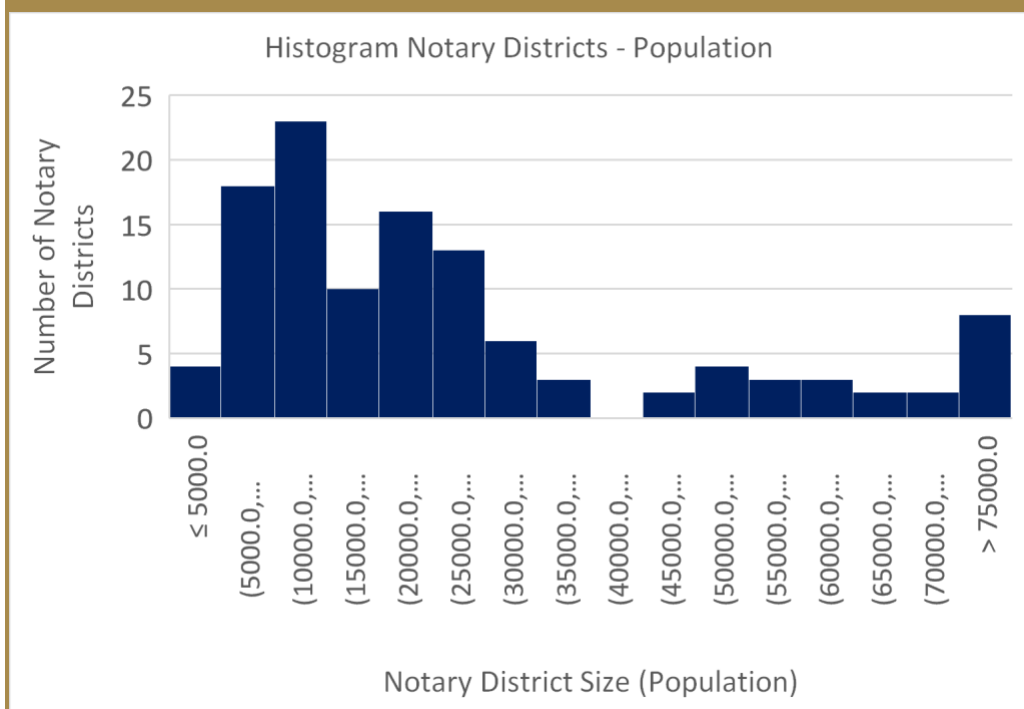


Figure 60: Histogram of court districts population in Croatia

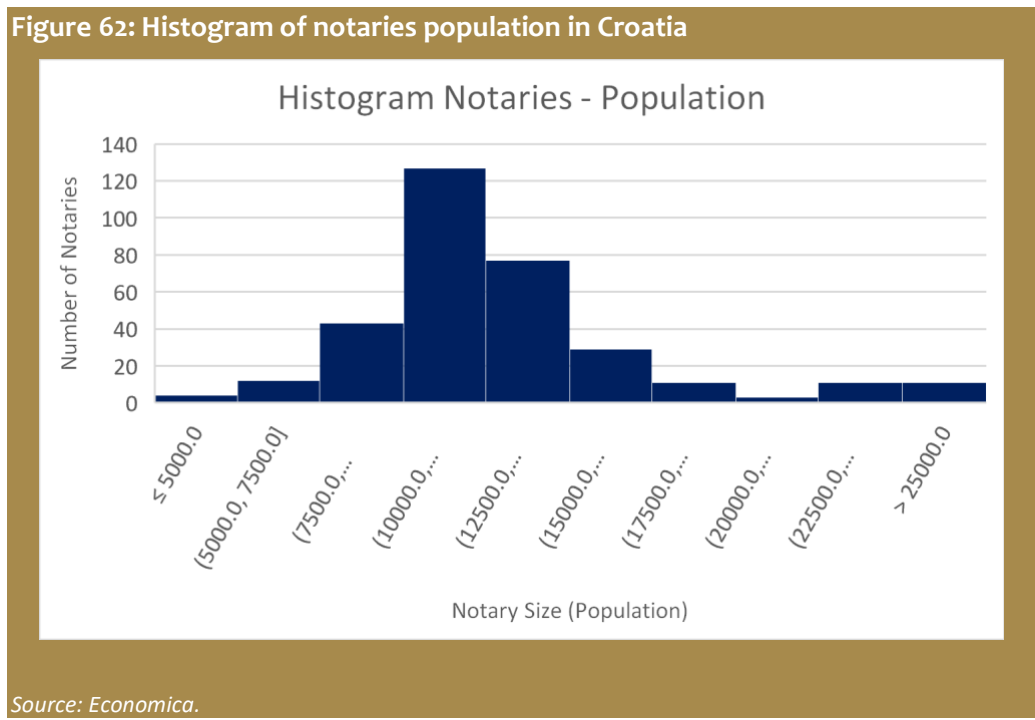


Source: Economica.

Figure 61: Histogram of notarial districts population in Croatia

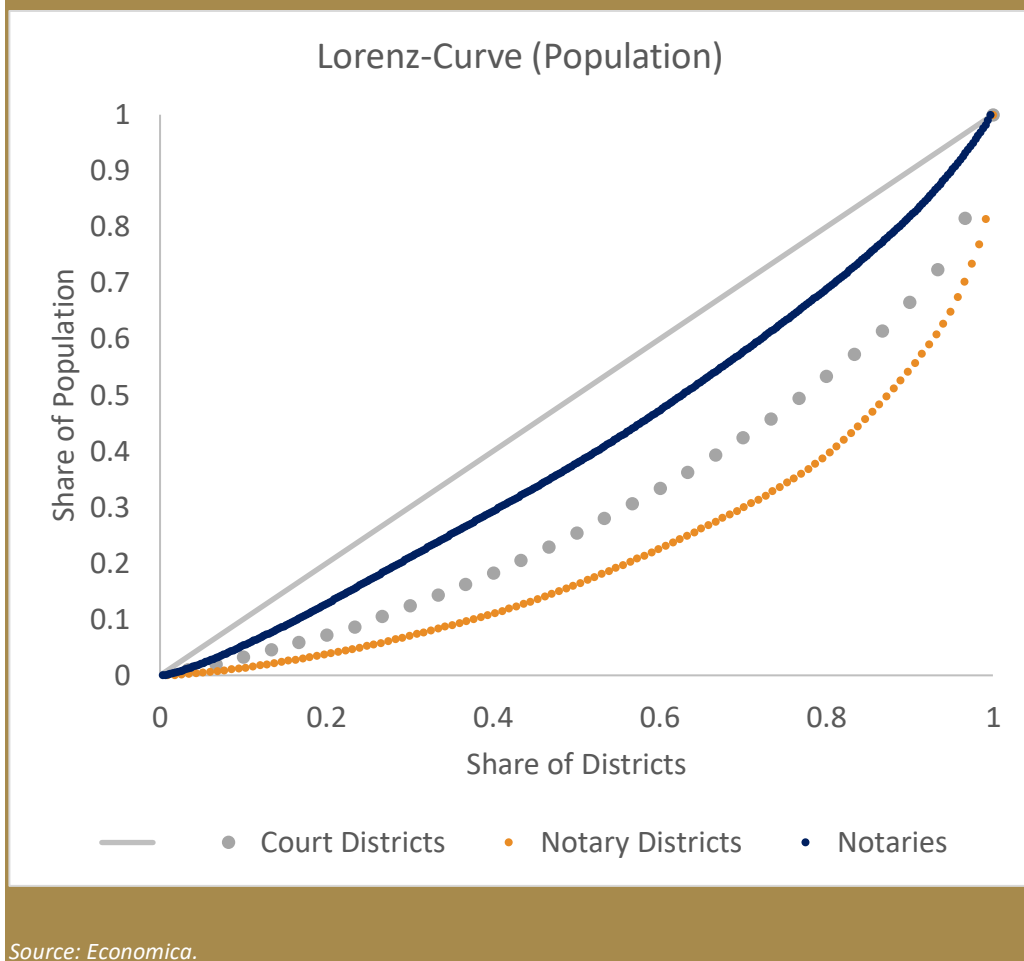


Source: Economica.



The Lorenz curve for the notary districts is more unequally distributed than the one for the court districts since smaller notary districts are over-represented. The supply of legal services provided by individual notaries is more equally distributed than the courts' curve.

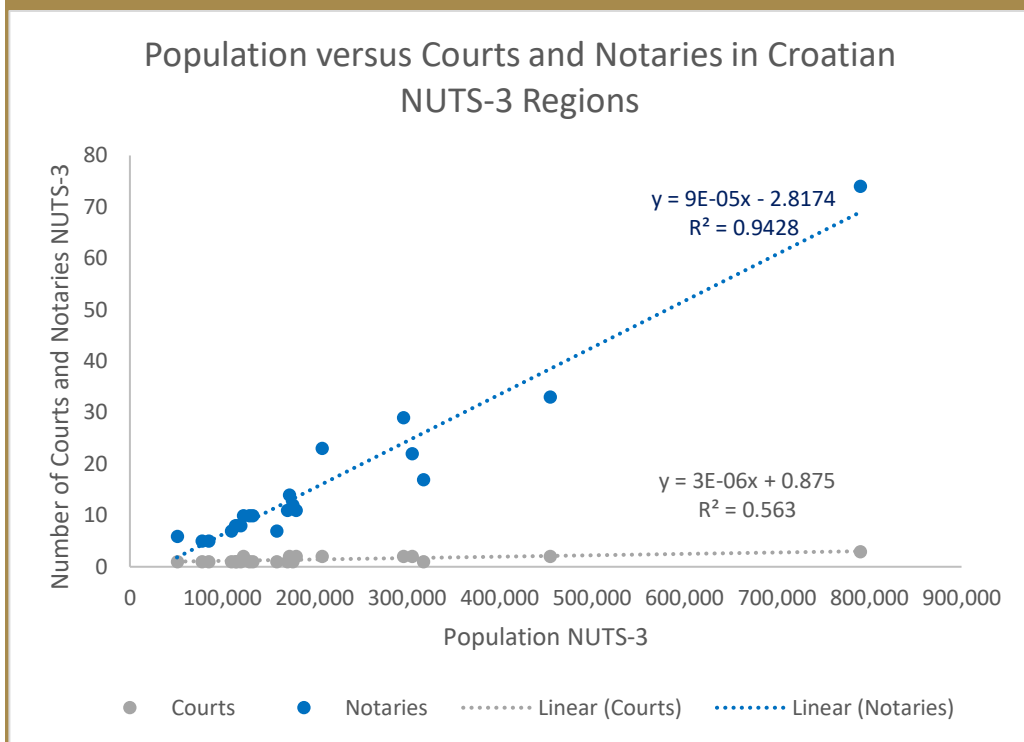
Figure 63: Lorenz curve Population (HR)



Source: Economica.

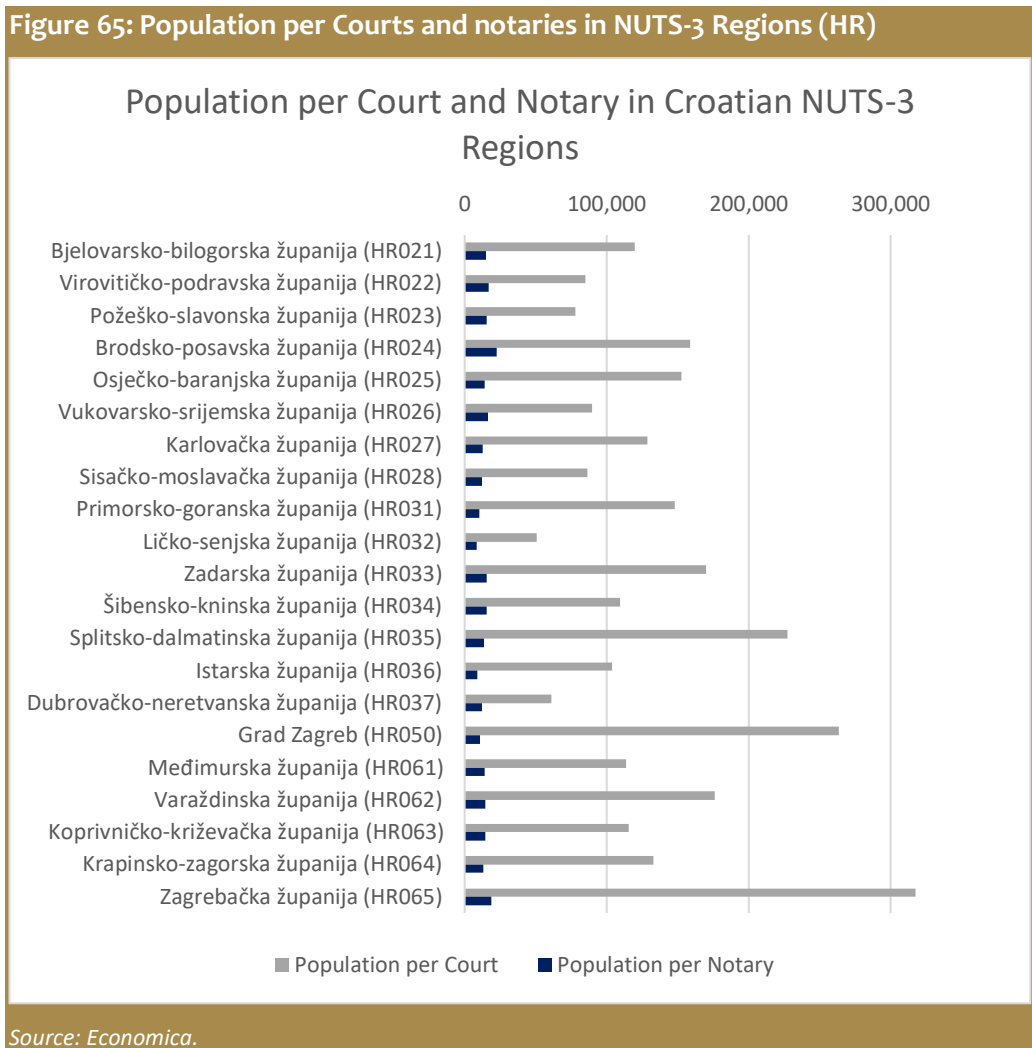
When we aggregate the information on the NUTS-3 level, one can also see in Croatia that a larger population size is served by a higher number of notaries within the NUTS-3 region.

Figure 64: Population versus Courts and notaries in NUTS-3 Regions (HR)



Source: *Economica*.

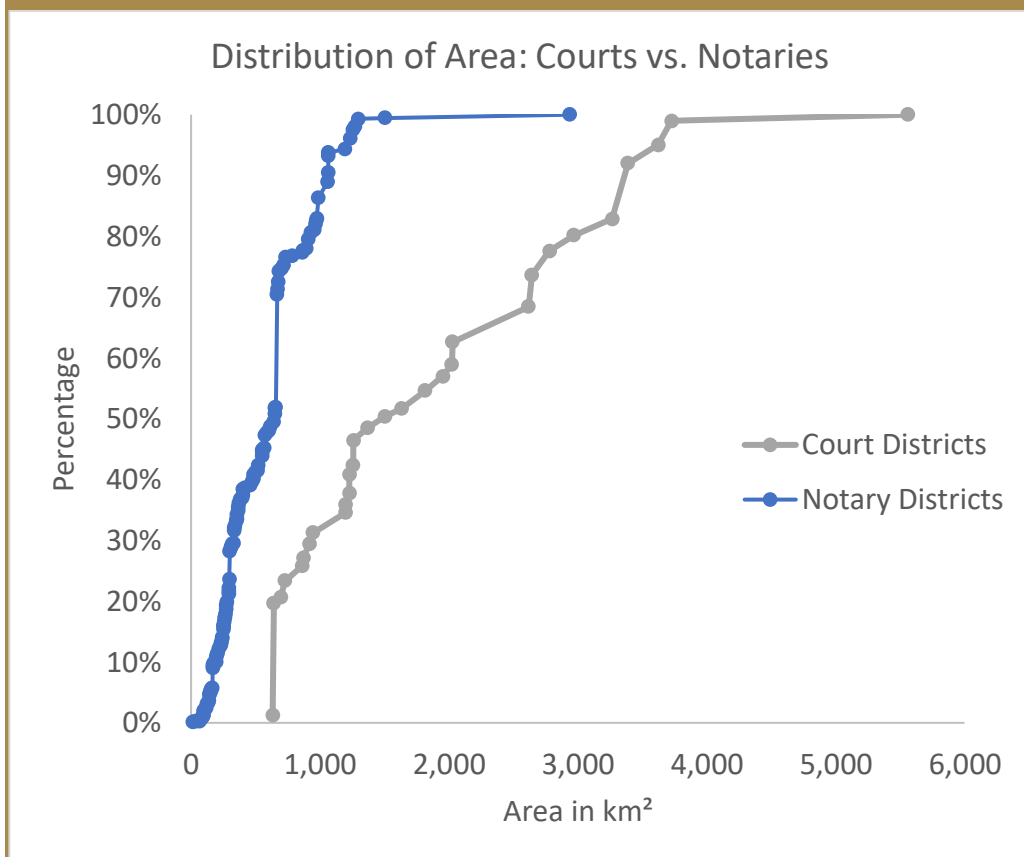
The size of inhabitants a court or a notary is responsible for is, on average, almost ten times lower for notaries (mean = 14,116, median = 14,226) than for courts (mean = 137,567, median = 119,764)



*Geographic Area*

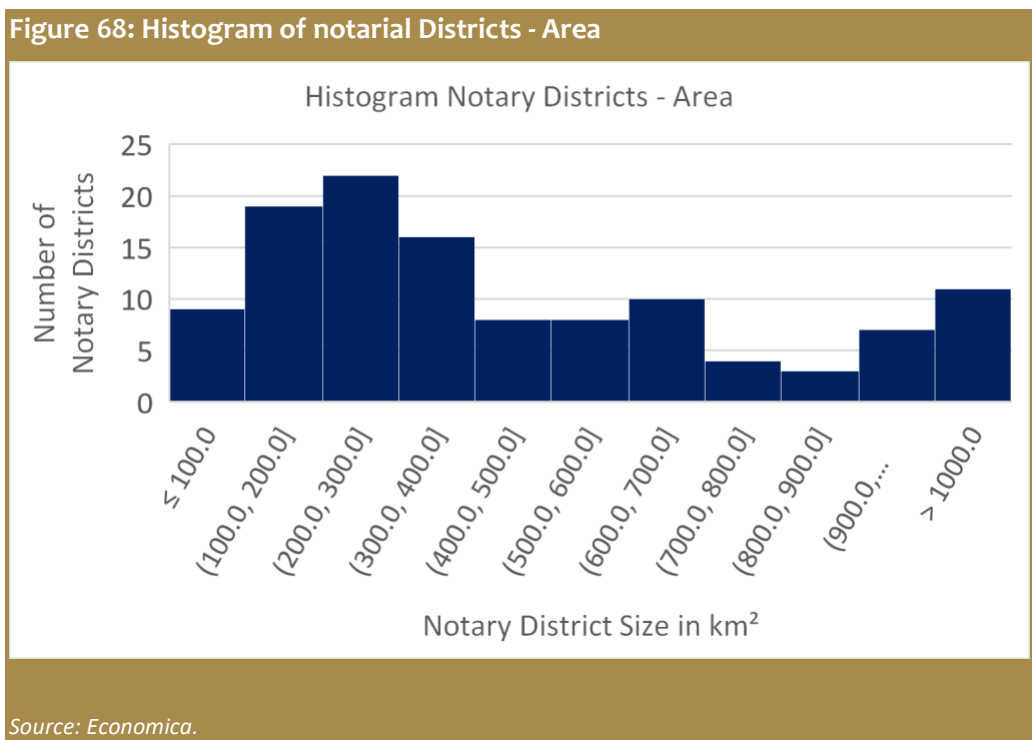
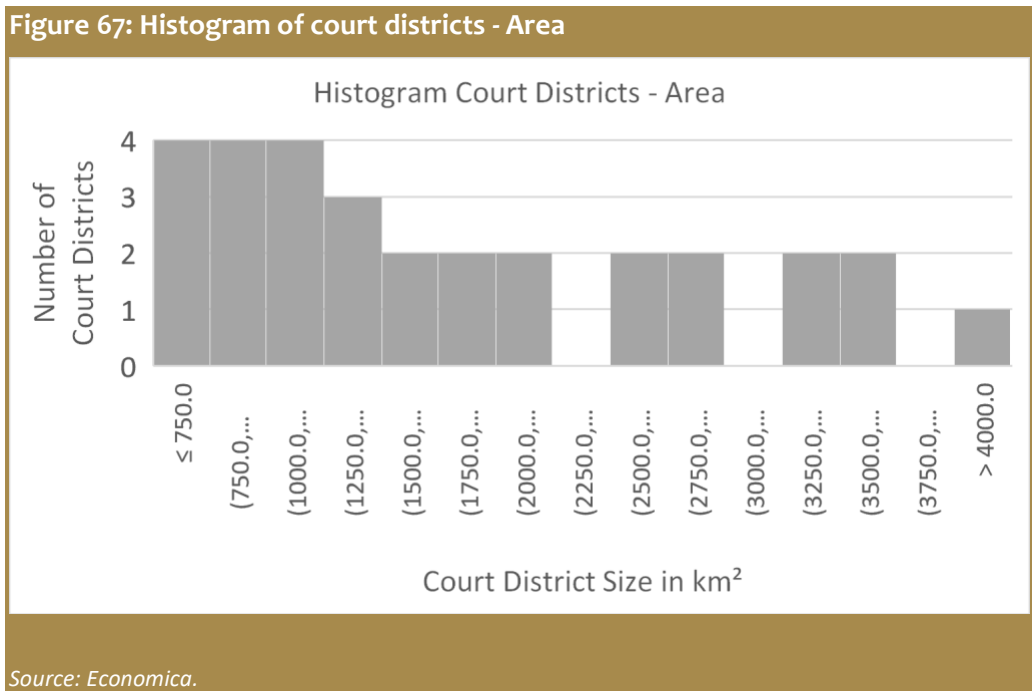
The population-weighted mean of the covered area of a court (1.505 square kilometres) and a notary (640 square kilometres) district is more than two times higher.

Figure 66: Distribution of covered area



Source: *Economica*.

Analysing the population size of the court and notary districts, one can see that the statistics for courts (mean = 1,885 square kilometres, median = 1,436 square kilometres) are about four times higher than for notary districts (mean = 483 square kilometres, median = 354 square kilometres).



6.3.3 Czech Republic

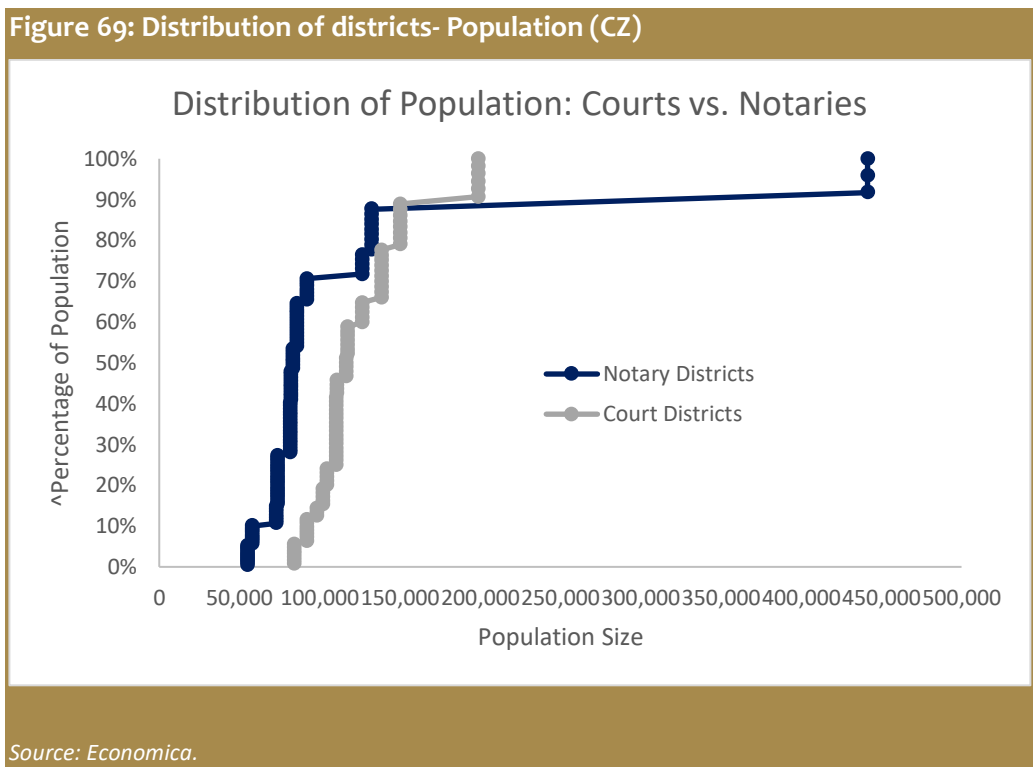
In Czechia, there are 89 court districts, 116 notary districts and 433 notaries. When we set the total population of 10.7 million inhabitants to these three categories of justice service supply, an average court is responsible for 120,157

citizens. Within an average notary district, there are 92,189 inhabitants and an average notary is responsible for 24,697 people.

The following calculations are based on specifications of the justice system in terms of the location of courts and notaries. This information was combined on the NUTS-3 level and redistributed to individual courts and notaries under the assumption of an equal distribution within the distinct NUTS-3 regions.

*Population*

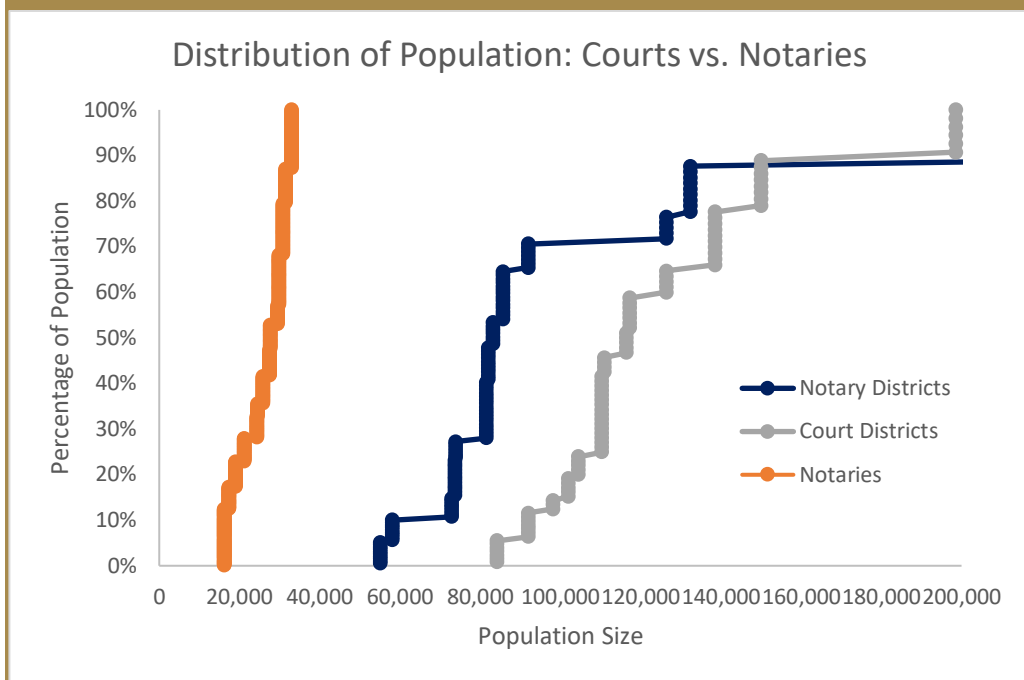
In the following picture, the distribution of the population for the court and notary districts is shown. The median citizen is living in a court (notary) district with 116,511 (83,222) citizens. The right outliers in the figures are in both cases, i.e. court and notary districts due to (the region of) Prague.



For this reason, we limit the population axis size to 200,000 and include the distribution for the notaries in addition. The mean citizen is living in an area in which one notary is responsible for 27,741 people.



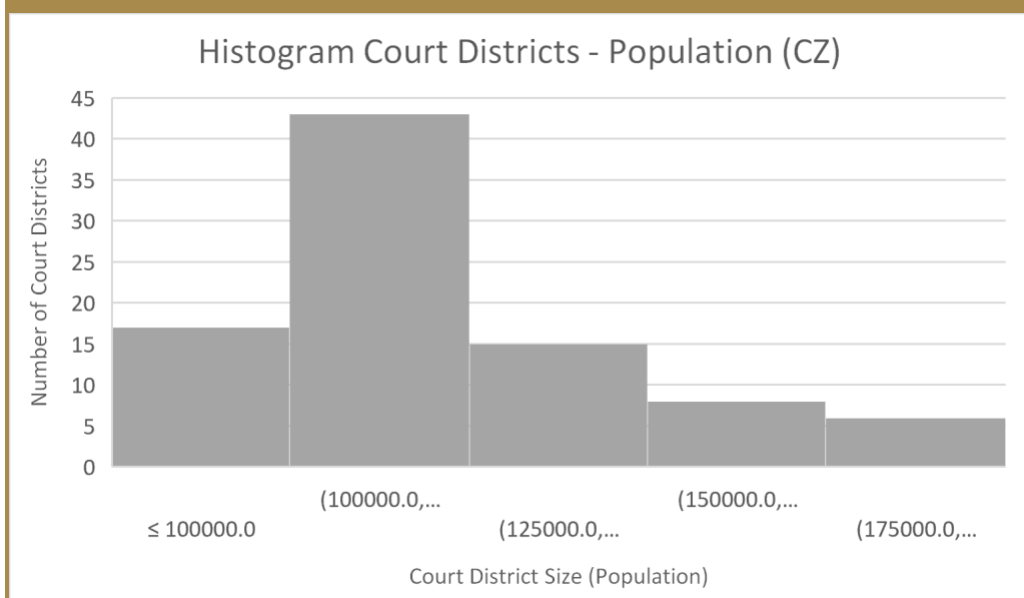
Figure 70: Distribution of districts - Population (notaries included, CZ)



Source: *Economica*.

The histogram of the court districts shows the highest number for the interval 100,000 to 125,000 people, wherein also the mean (120,157) and median (110,923) of the courts are located.

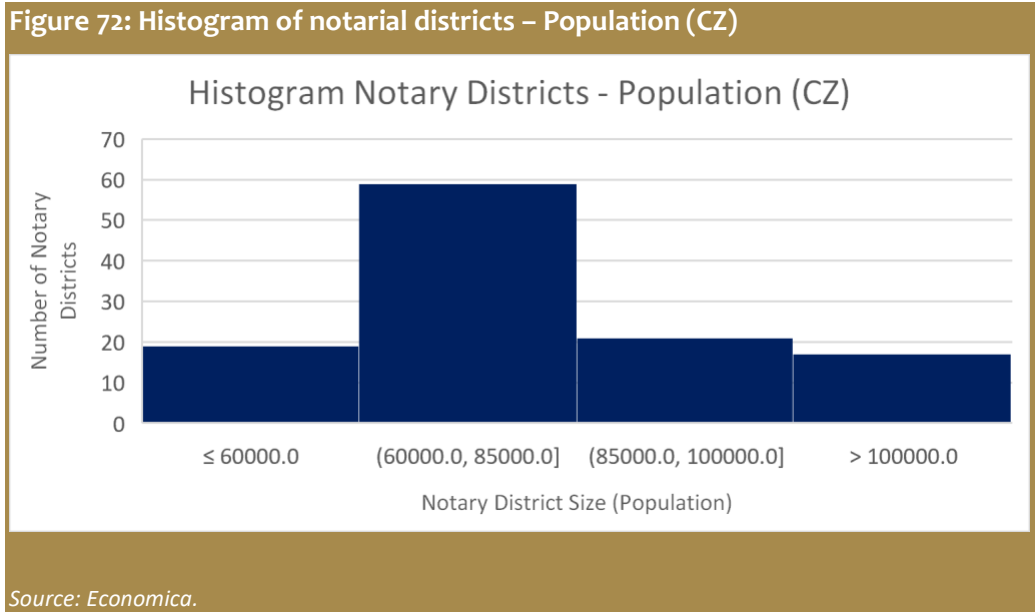
Figure 71: Histogram of court districts – Population (CZ)



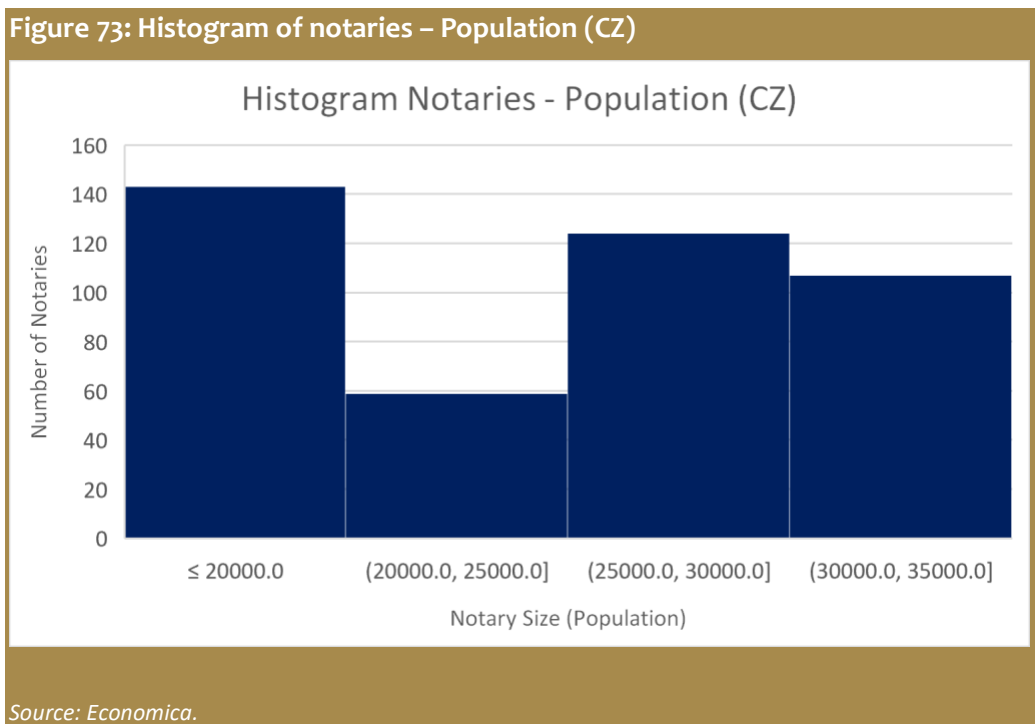
Source: *Economica*.

The lower values for the statistics mean (92,189) and median (81,479) in the case of notarial districts are also reflected by the smaller range of intervals of

the histogram. Due to the right-skewed distribution, the mean for notary districts is also higher than the median.

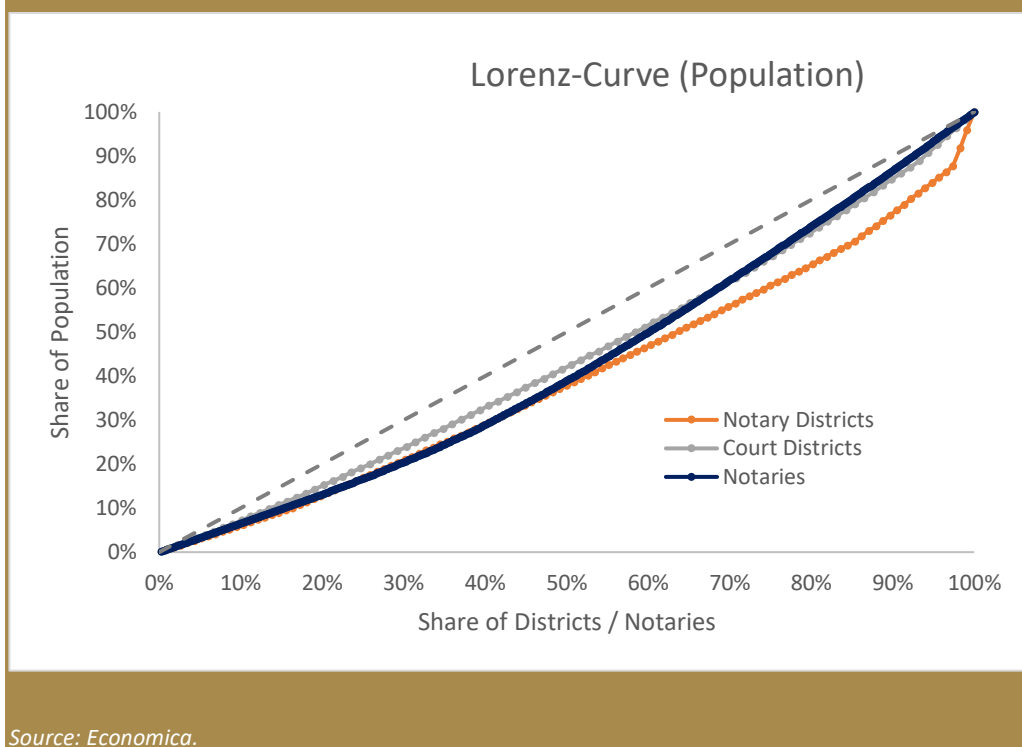


The mean (24,697) and median (25,763) size of the population that an average notary is responsible for, is much lower, also indicated by the maximum histogram interval of 30,000 to 35,000.



Between the Lorenz-Curve of court districts and notaries, there is almost no difference, indicating the same level of evenly distributed service.

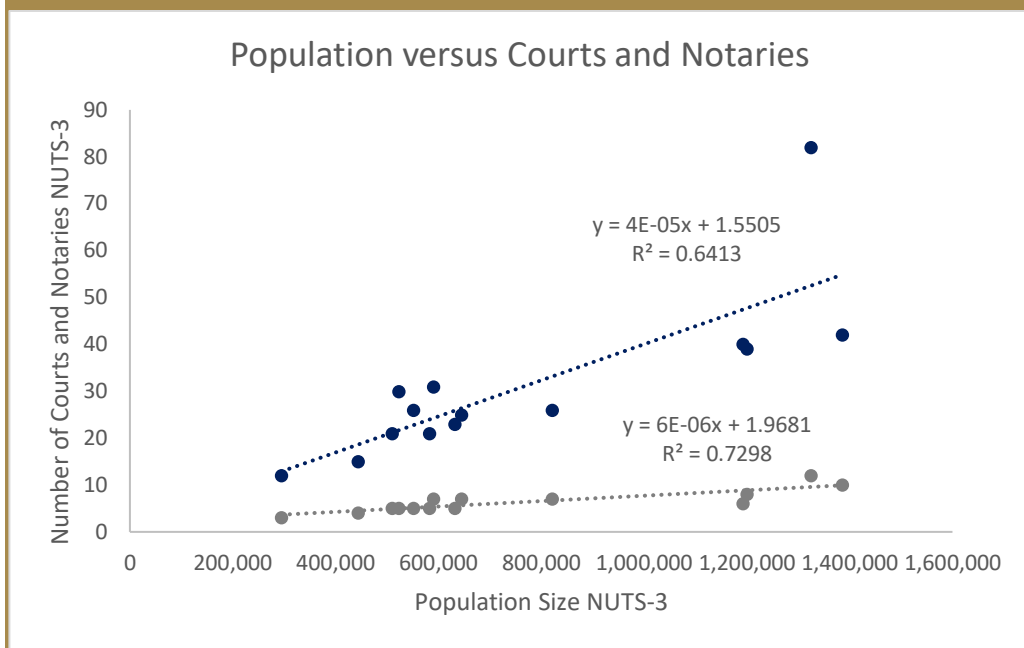
Figure 74: Lorenz curve



The larger deviation for the notary districts is mainly caused by the smaller number of notarial districts in Prague, which are, however, compensated by a higher number of notaries within.

The number of notaries and Courts within a NUTS-3 region is well adjusted to the population size of the region, resulting in a correlation coefficient of above 0.64.

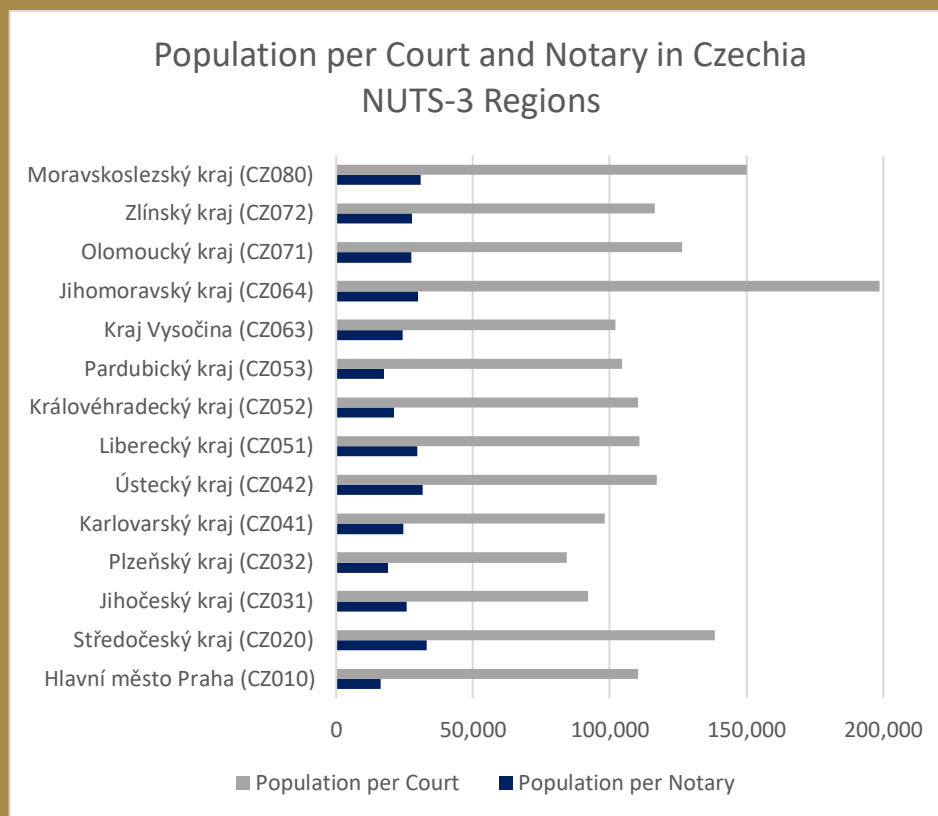
Figure 75: Population versus Courts and notaries in NUTS-3 Regions (CZ)



Source: *Economica*.

The population size a notary is responsible for in the various NUTS-3 regions varies from 16,150 to 32,980 (mean = 25,596 | median = 26,621), whereas the range for courts is given by 84,271 to 198,665 (mean = 118,575 | median = 110,639).

Figure 76: Population per Courts and notaries in NUTS-3 Regions (CZ)

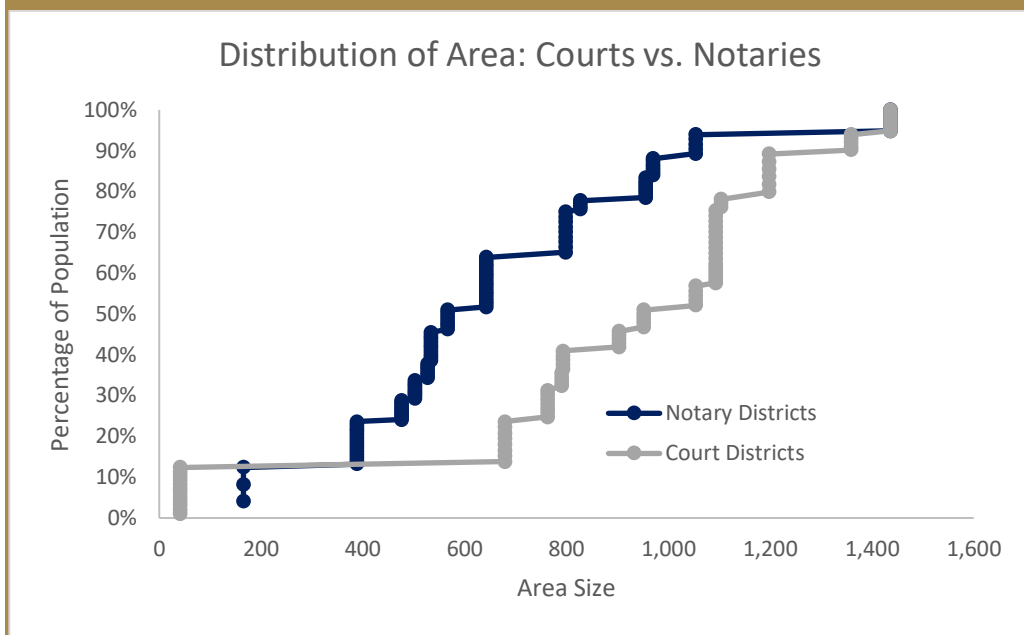


Source: *Economica*.

*Geographic Area*

The median citizen is living in a region where a notary district extends to 566 square kilometres and a court district to 952 square kilometers. Now the outliers to the left are due to (the region of) Prague (Hlavní město Praha (CZ010)). On the other hand, considering the absolute size of the NUTS-3 region Jihočeský kraj (CZ031) there are relatively few notary districts and notaries in this specific region, resulting in a big average area for a court and notary district. But since the region is sparsely populated compared to the other regions, it was no outlier in the analysis based on population.

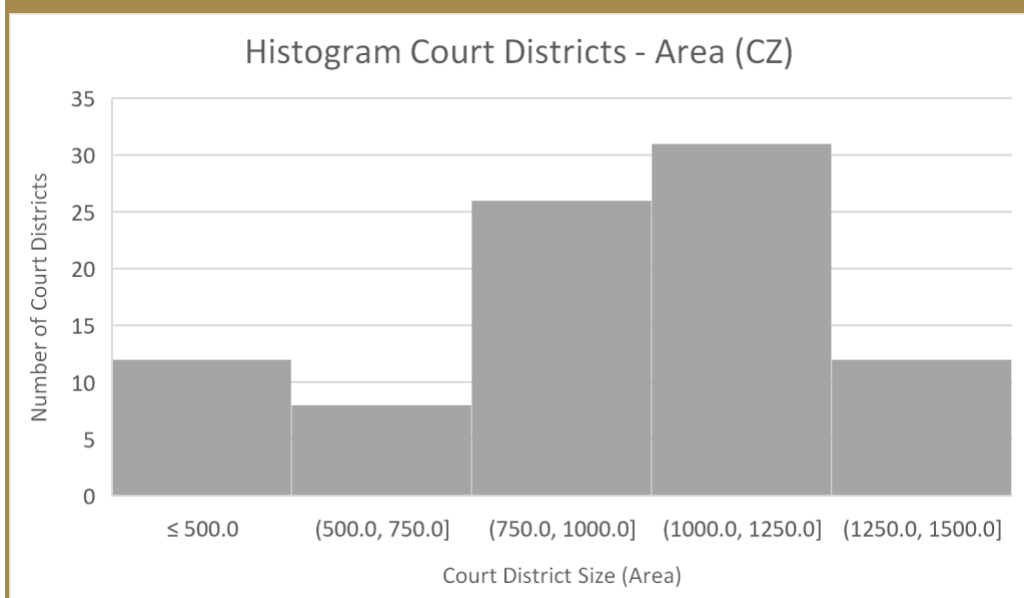
Figure 77: Distribution of covered area



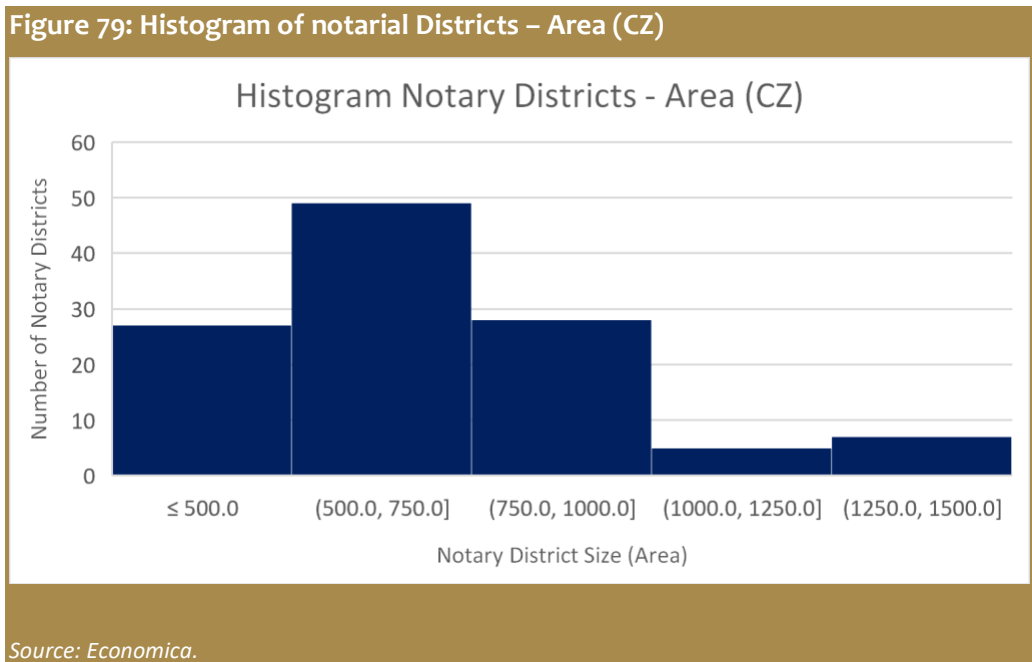
Source: Economica.

The bigger area of an average court district compared to an average notary district can also be concluded by comparing the area histograms of court and notary districts. In the former, the statistics mean and median are 886 and 952 square kilometres compared to 680 and 566 square kilometres.

Figure 78: Histogram of court districts – Area (CZ)



Source: Economica.



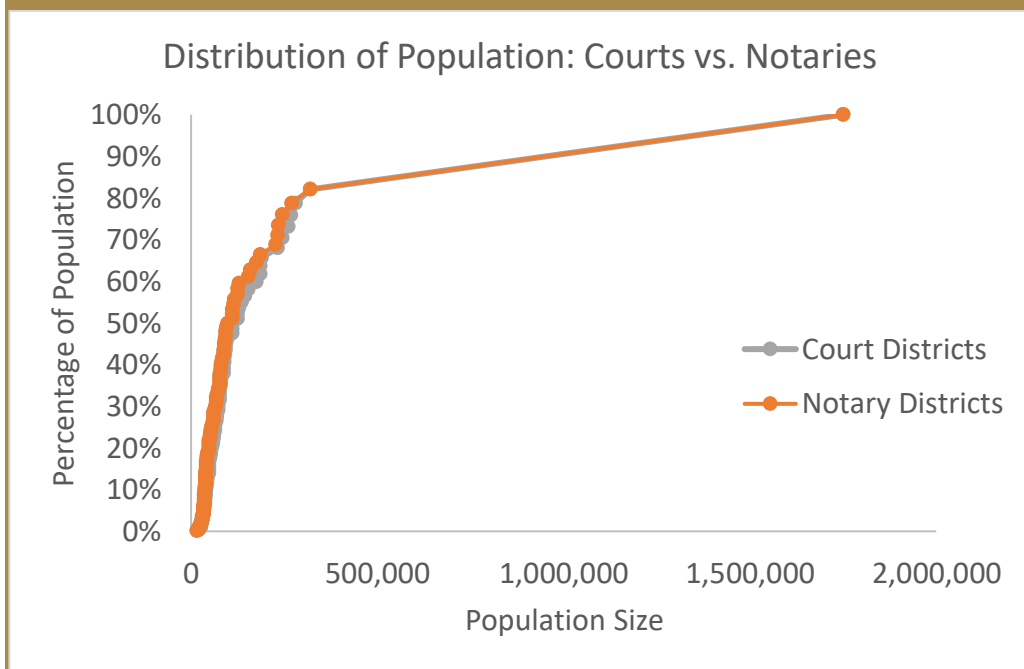
### 6.3.4 Hungary

In Hungary, there are only 11 additional notary districts besides the 106 court districts. Nevertheless, the number of notaries 313 is substantially higher than the number of district courts 112. On a national average, a court is responsible for 87,228 inhabitants and a notary for 31,213 inhabitants.

#### Population

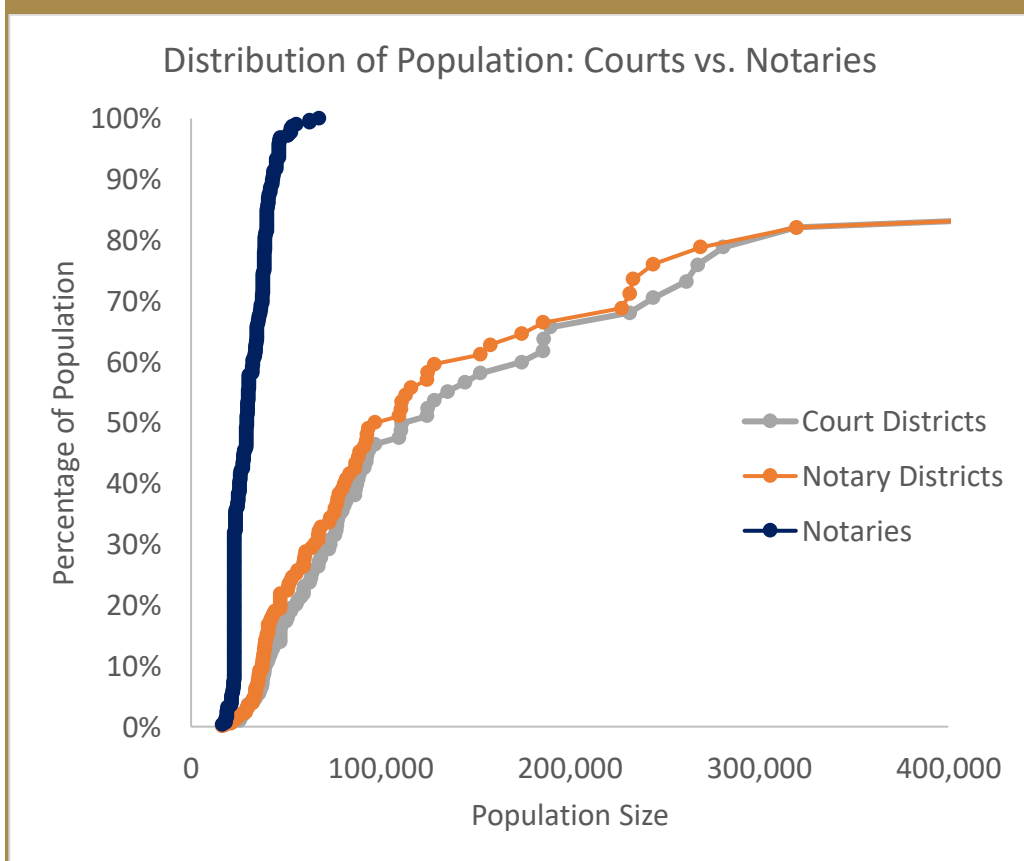
The distribution of the districts with respect to the population delivers similar population-weighted averages of 111,131 for court and 97,244 for notary districts. Taking also the individual notaries into account, this means decreases to a value of 29,430.

Figure 80: Distribution of districts Population (HU)



Source: Economica.

Figure 81: Distribution of districts (notaries included) Population (HU)



Source: Economica.



The statistical key figures mean and median for the court districts with 92,165 and 57,293 inhabitants are slightly higher than the corresponding values of notary Districts with 83,500 and 47,228 inhabitants. Taking also the number of notaries within one notary district into account reduces the statistics to 31,213 and 29,430.

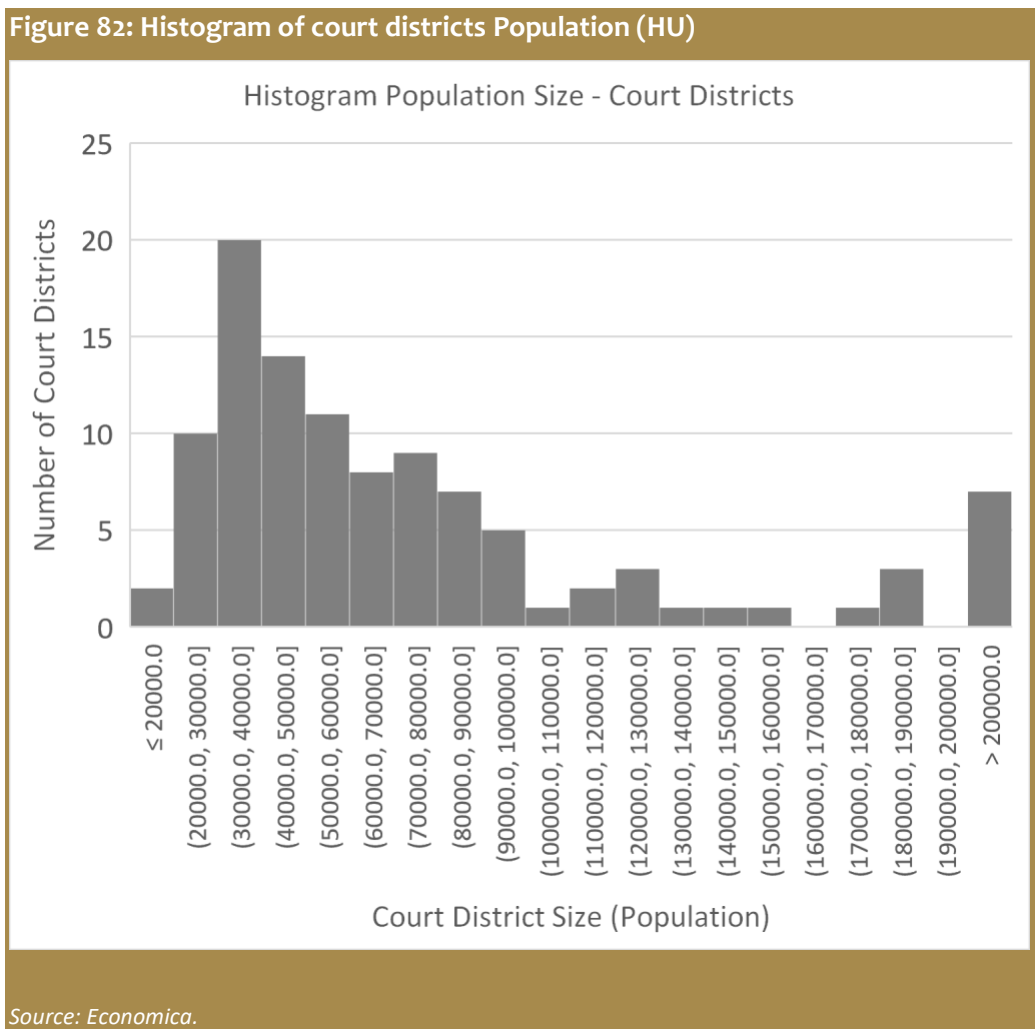
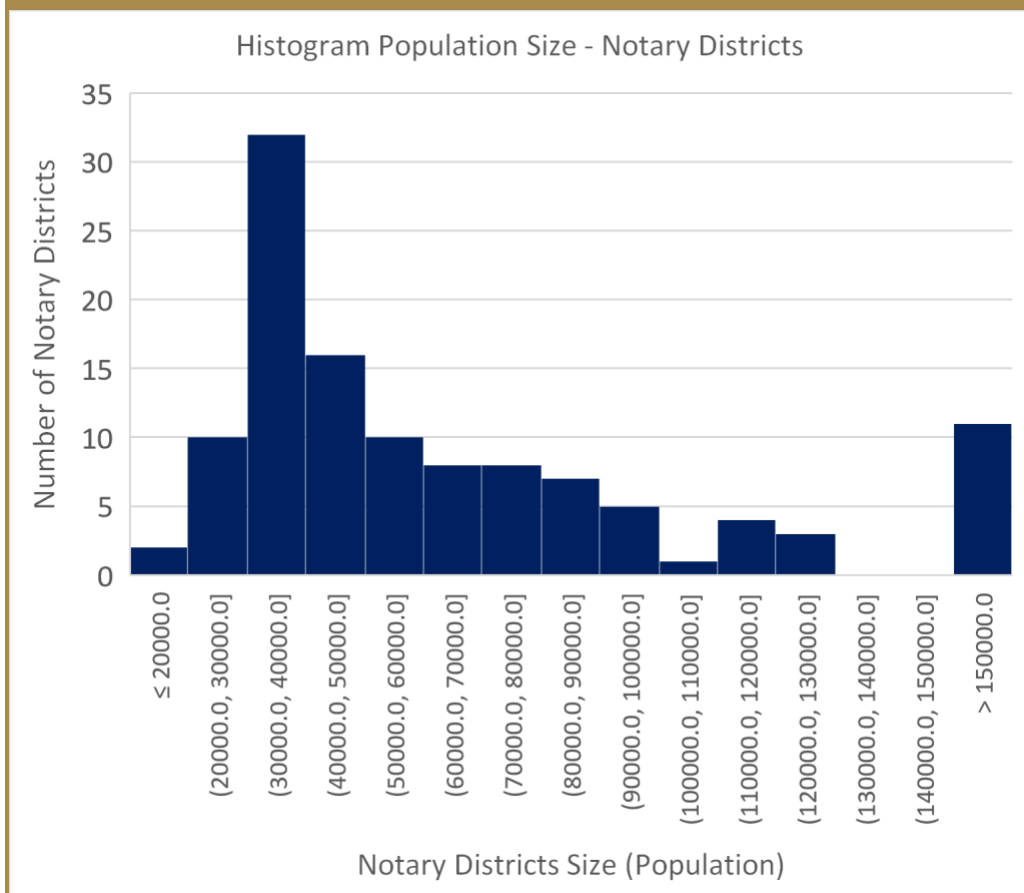
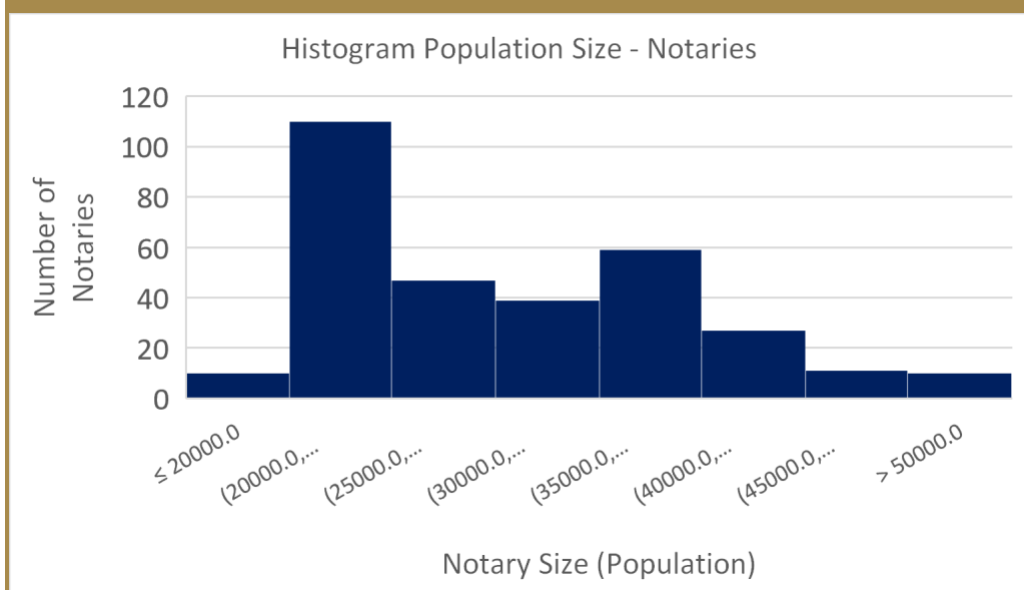


Figure 83: Histogram of notarial districts Population (HU)



Source: Economica.

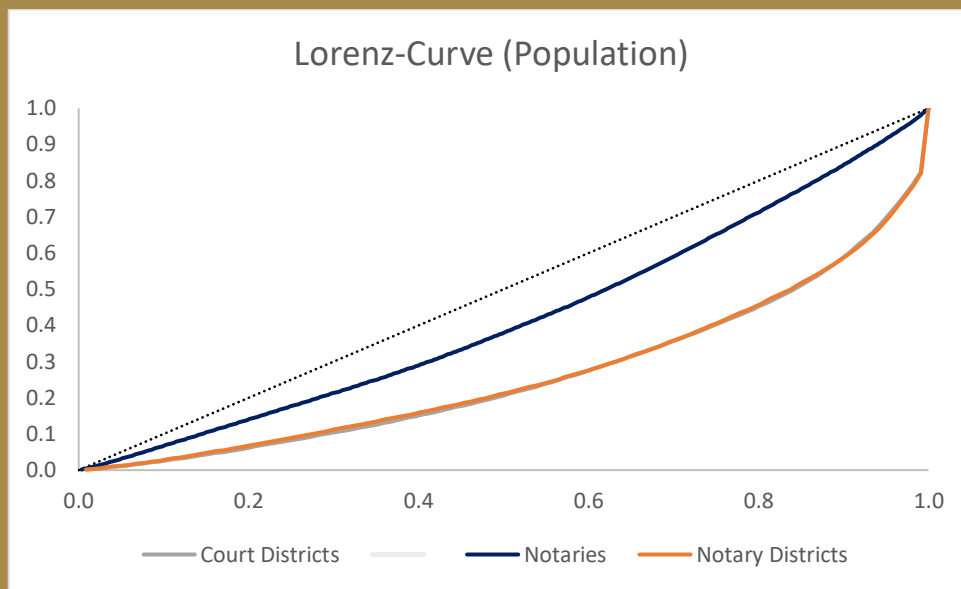
Figure 84: Histogram of notaries Population (HU)



Source: Economica.

In the case of Hungary, there is almost no visible difference between the Lorenz-Curve of court and notary districts, but again the curve for the notaries is closer to the 45-degree linear resulting in a smaller Gini-Index, which indicates a more equal distribution.

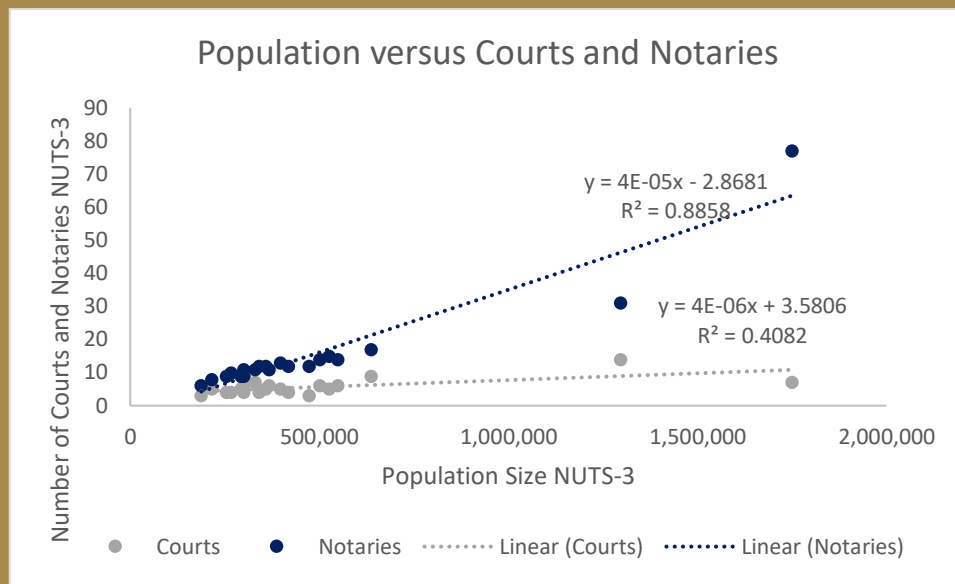
Figure 85: Lorenz curve Population (HU)



Source: *Economica*.

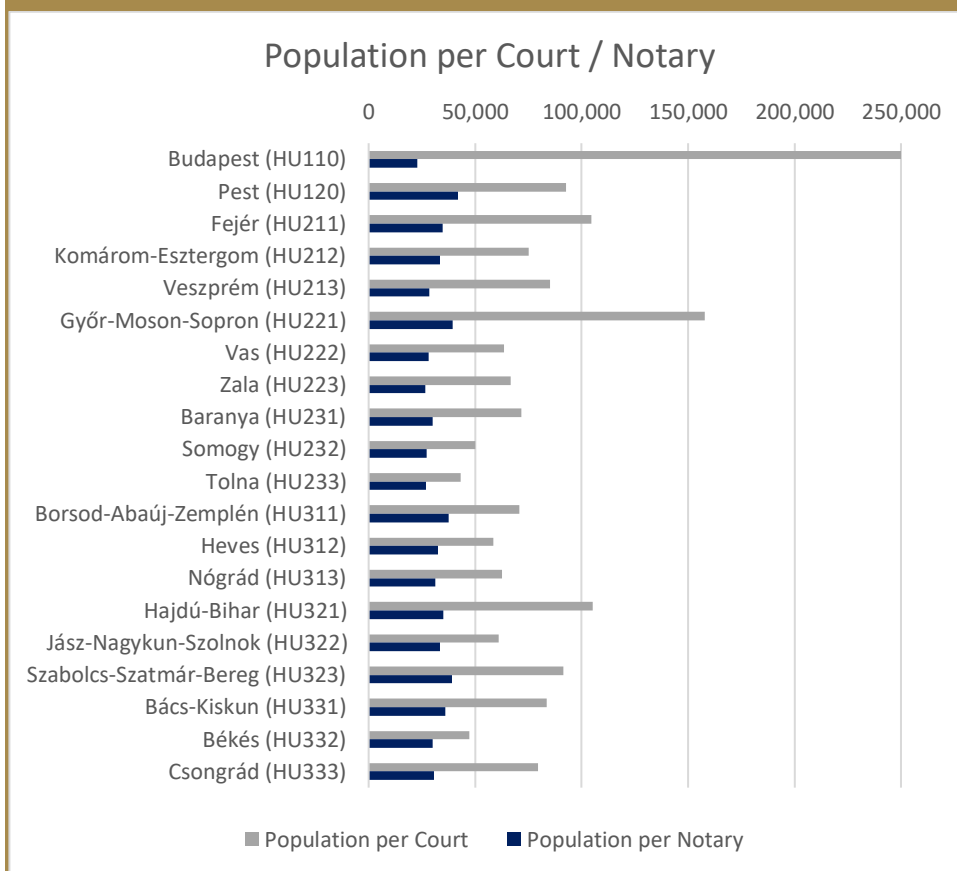
In Hungary, the number of notaries within the NUTS-3 regions is set in higher statistical relation to the population size than the number of courts. The population per court and per notary is therefore on average lower in the latter case (mean = 86,080 versus 32,277, median = 73,535 versus 31,976).

Figure 86: Population versus Courts and notaries in NUTS-3 Regions in



Source: Economica.

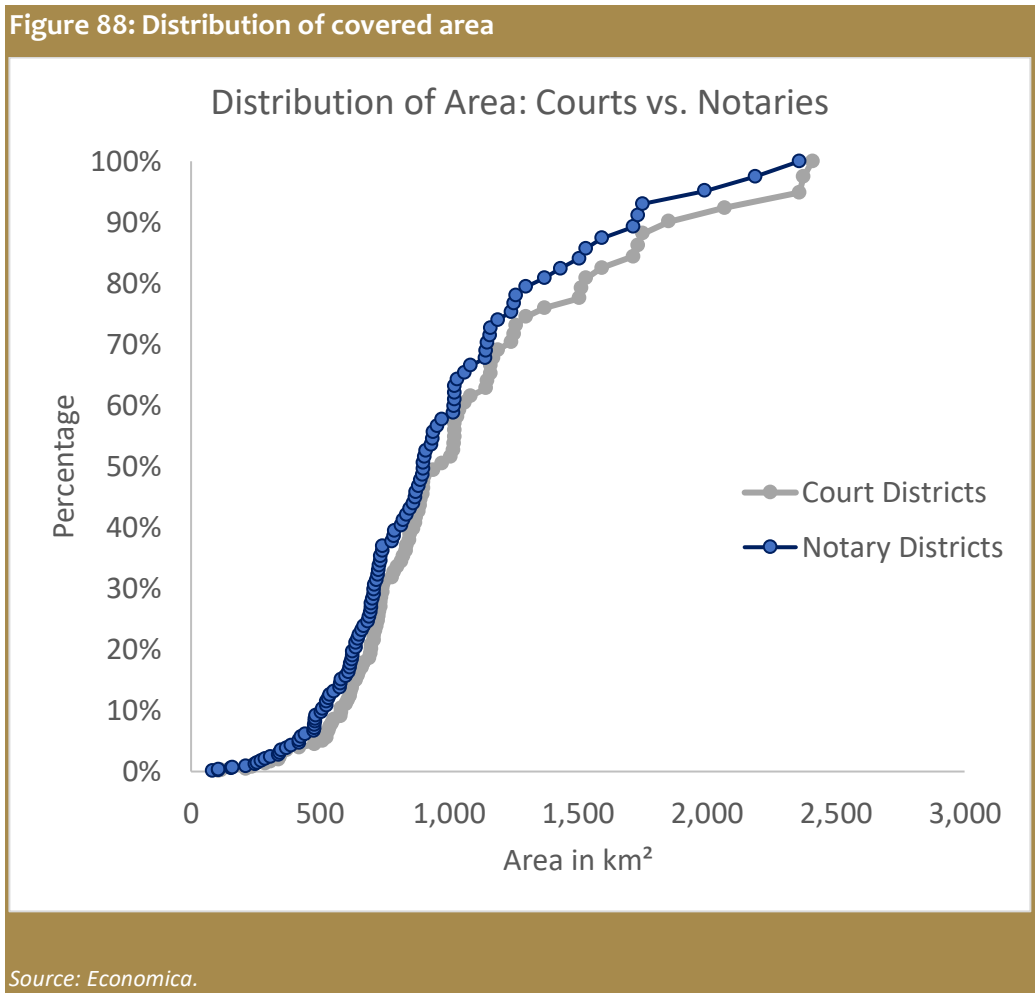
Figure 87: Population per Courts and notaries in NUTS-3 Regions in



Source: Economica.

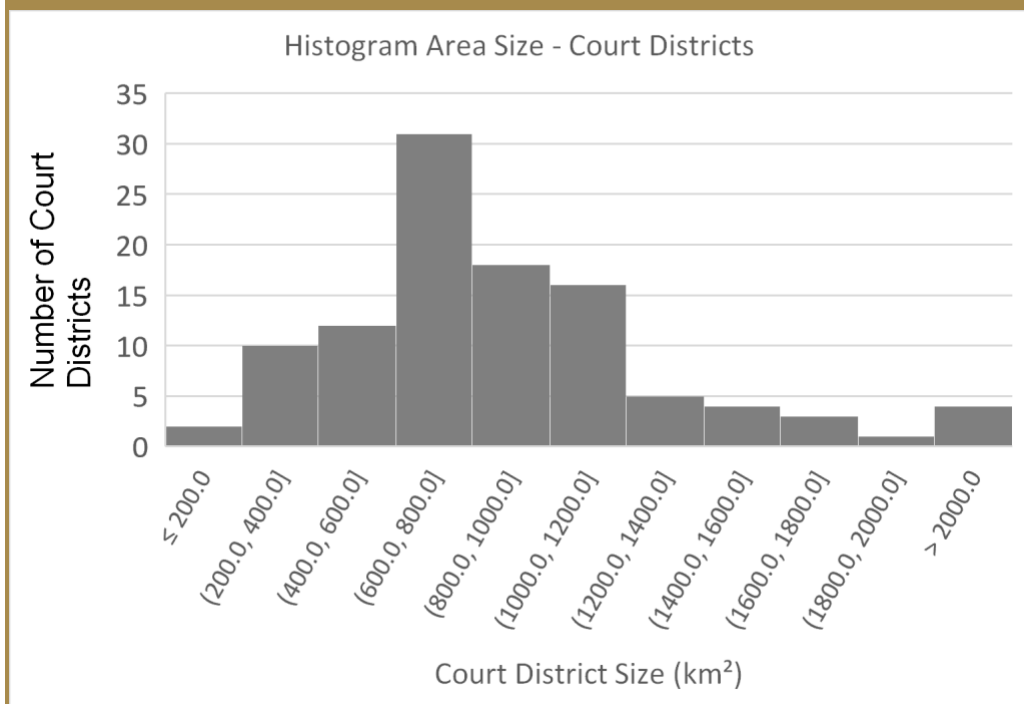
*Geographic Area*

Concerning the covered area by courts and notary districts, there is again only a small difference. The population-weighted average area is 973 square kilometers (court districts) compared to 900 square kilometers (notary districts).



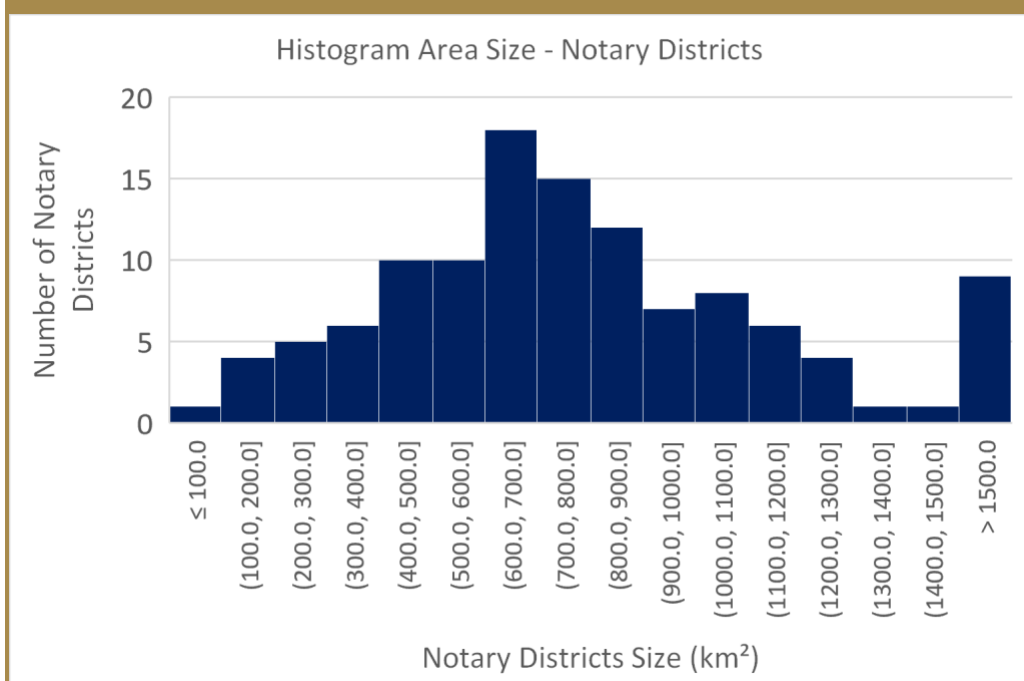
The court districts are, on average, responsible for an area of 878 square kilometres (mean) / 781 square kilometres (median). Compared to 795 square kilometres (mean) / 717 square kilometres (median) in the notary district case.

Figure 89: Histogram of court districts - Area



Source: Economica.

Figure 90: Histogram of notarial Districts - Area



Source: Economica.

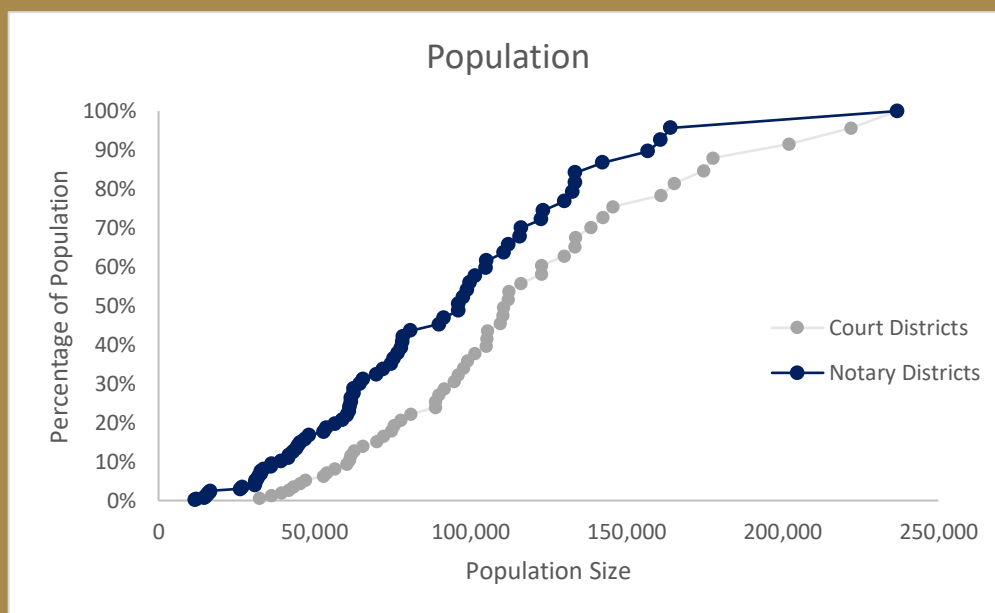
### 6.3.5 Slovakia

In Slovakia, we received information from about 54 court districts; considering the total population of 5.46 million, this results in 101,072 citizens per court. For the 77 notary districts and 334 individual notaries within, we receive on average 70,881 and 16,341 citizens per notary district and notary, respectively. Within the 77 notary districts, we find 105 notarial sites, meaning that in several notarial districts, there is more than one notarial office located in at least two different locations.

#### Population

The distribution of the court and notary districts shows that the average size of the notary districts in terms of population is smaller. Focusing on the inhabitants, we find that for the median citizen, the size of the home district is 110,716 (court districts) and 96,171 (notary districts).

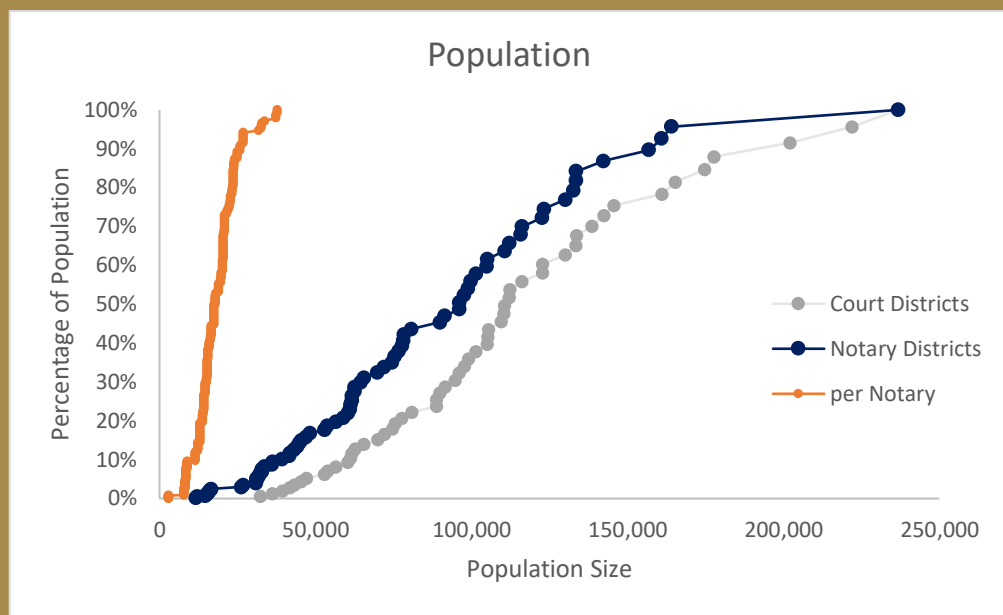
Figure 91: Distribution of districts



Source: *Economica*.

When we also include the number of notaries into this consideration, we find a very strong reduced value of 17,990 citizens in a notary calculation.

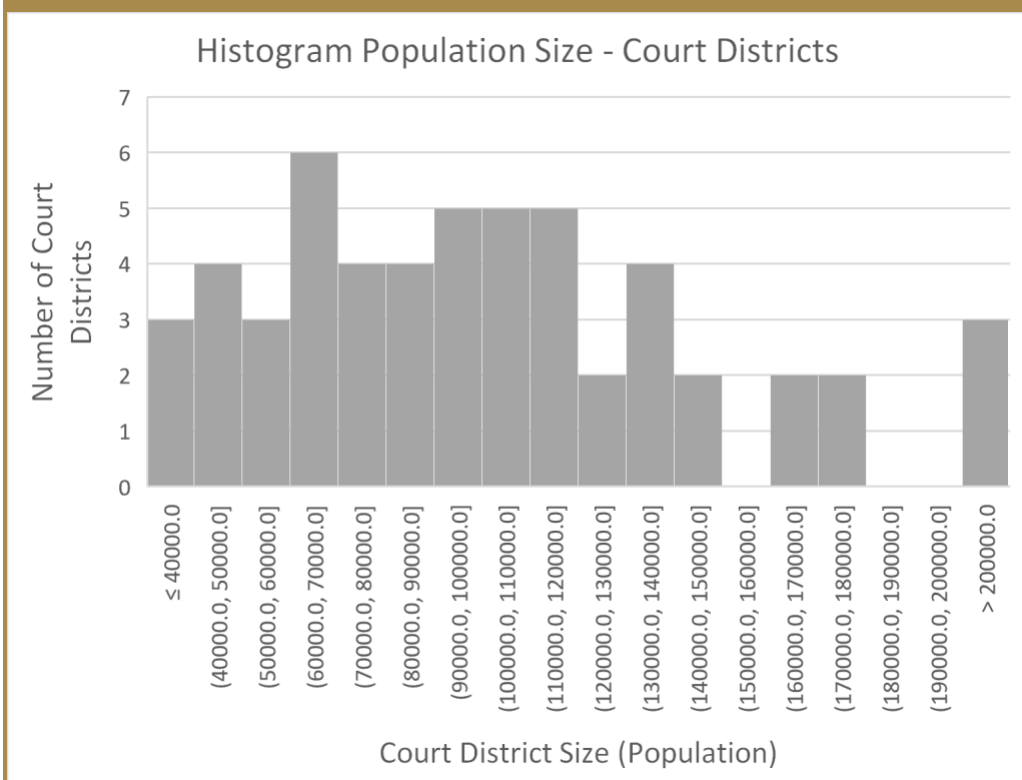
Figure 92: Distribution of districts (notaries included)



Source: *Economica*.

The histograms of the court and notary districts show for Slovakia slightly lower statistics for the latter (mean = 101,072, median = 96,982 versus mean = 70,881, median = 61,773).

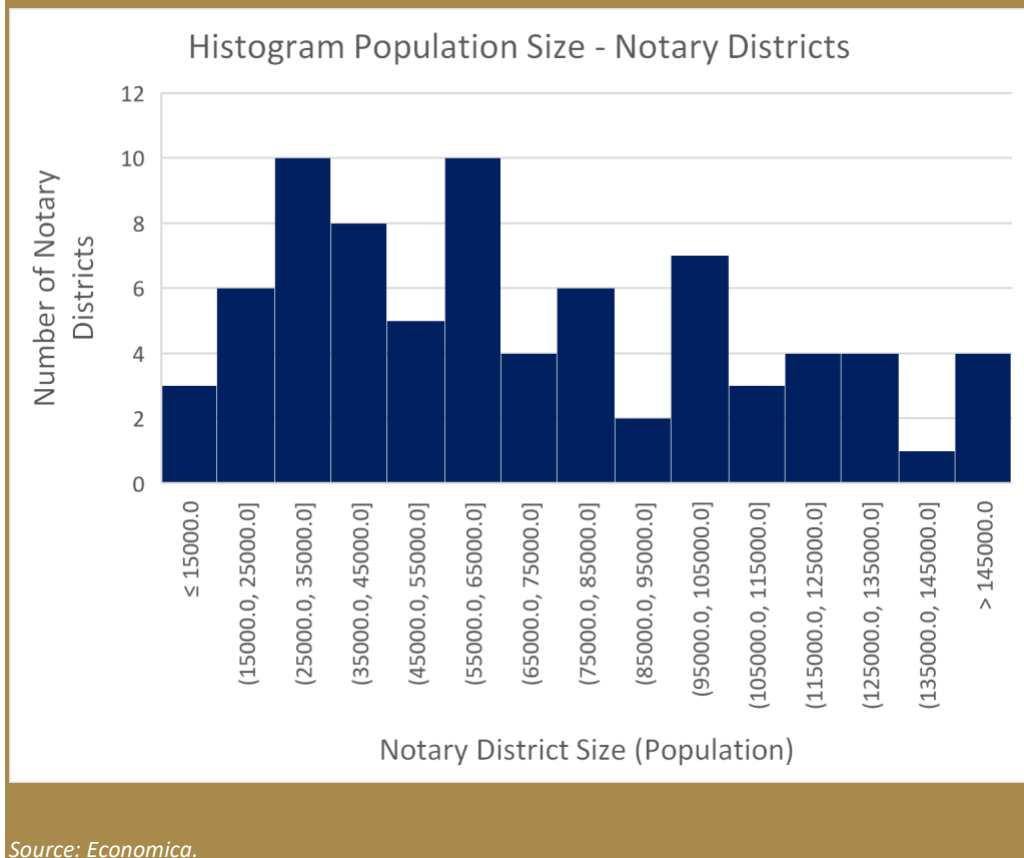
Figure 93: Histogram of court districts



Source: *Economica*.

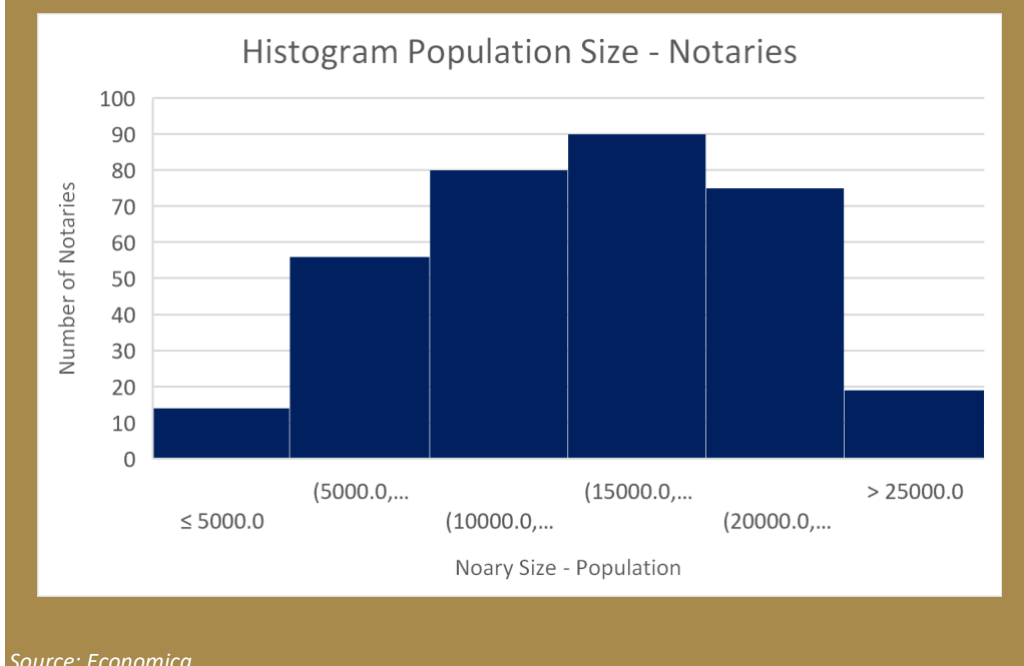


Figure 94: Histogram of notarial districts

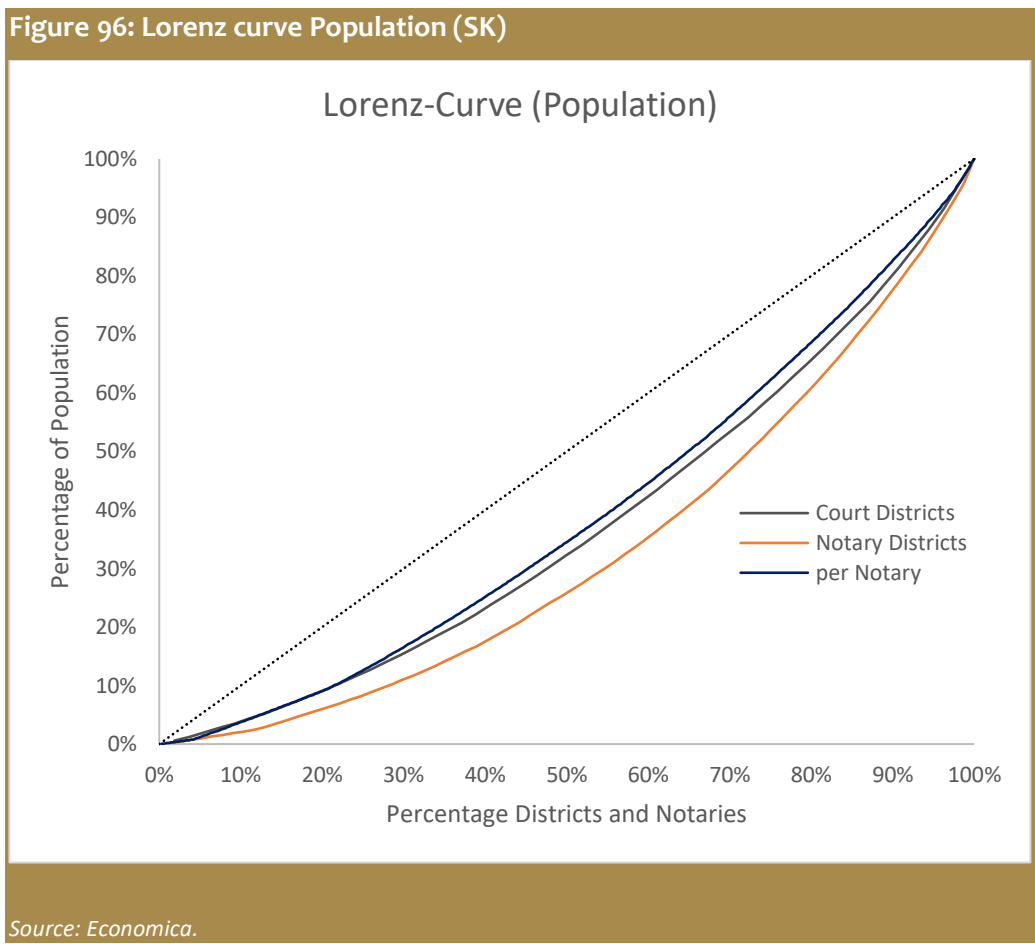


The big difference in the statistics occurs when also the number of notaries is considered (mean = 15,995, median = 15,443).

Figure 95: Histogram of notaries

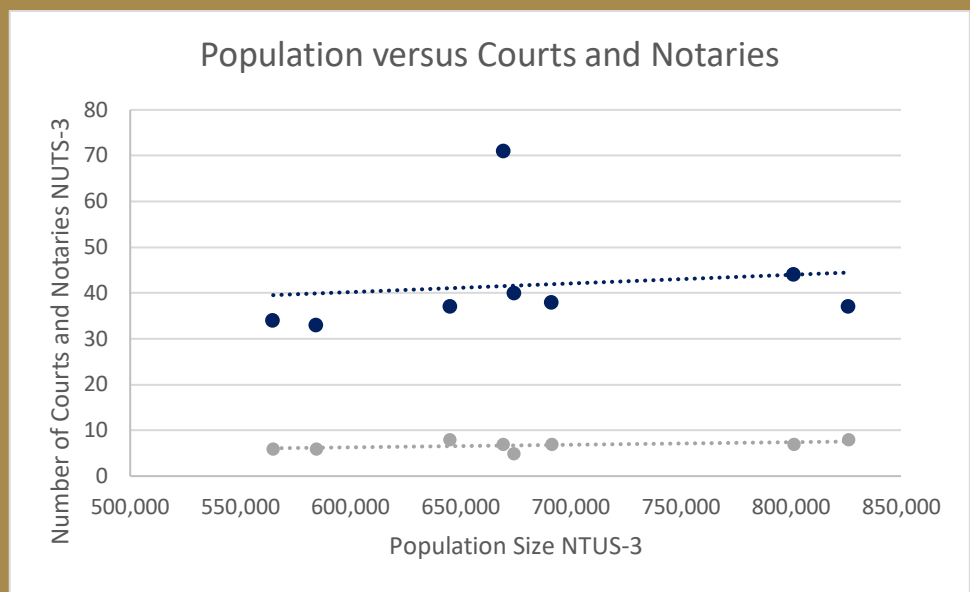


The Lorenz-Curve for notary districts is substantially far away from the 45-degree line, indicating that there are considerably smaller notary districts than court districts. Analysing the Lorenz-Curve for the notaries, we can see – compared to the court districts – only a slightly more even distribution, which indicates that there are also more notarial districts that are small than big.



The findings from the Lorenz-curve are confirmed when the Figure of the population size versus the number of courts and notaries is analysed. As one can see, there is almost no increase in the number of courts and also notaries when the population size of the NUTS-3 region increases from the left to the right side.

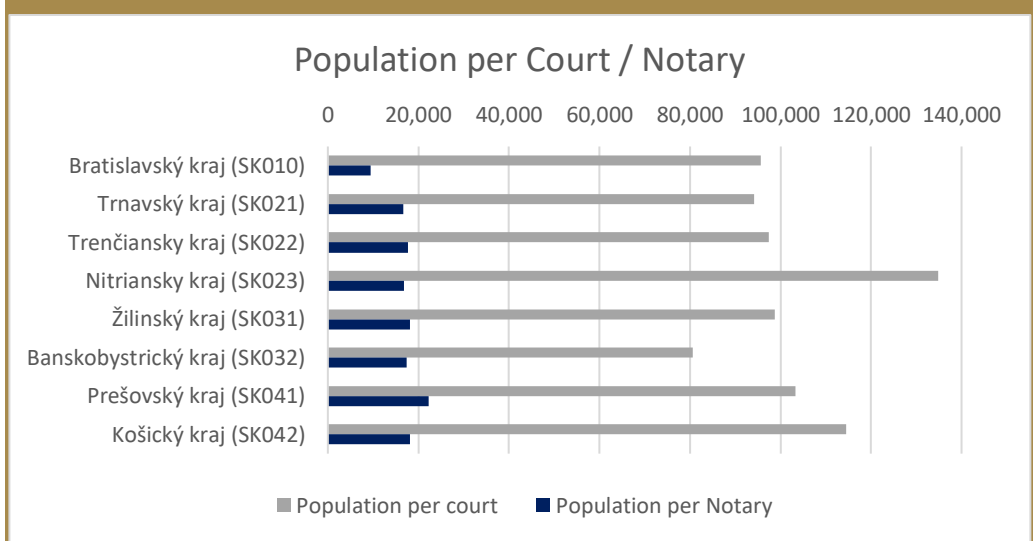
Figure 97: Population versus Courts and notaries in NUTS-3 Regions in SK



Source: Economica.

In the next Figure, the average population per court and notaries in the NUTS-3 regions of Slovakia is displayed. For the notaries, this indicator varies between 9,431 (SK010) and 22,331 (SK041). The maximum for Prešovský kraj is the only NUTS-3 region with a value above 20,000. Bratislavský kraj, on the other hand, possesses the highest number of notaries (71) within all NUTS-3 regions in Slovakia, resulting in the lowest value of citizens per notary. For the courts, one can see, that the values vary between 80,000 (SK032) and 135,861 (SK023).

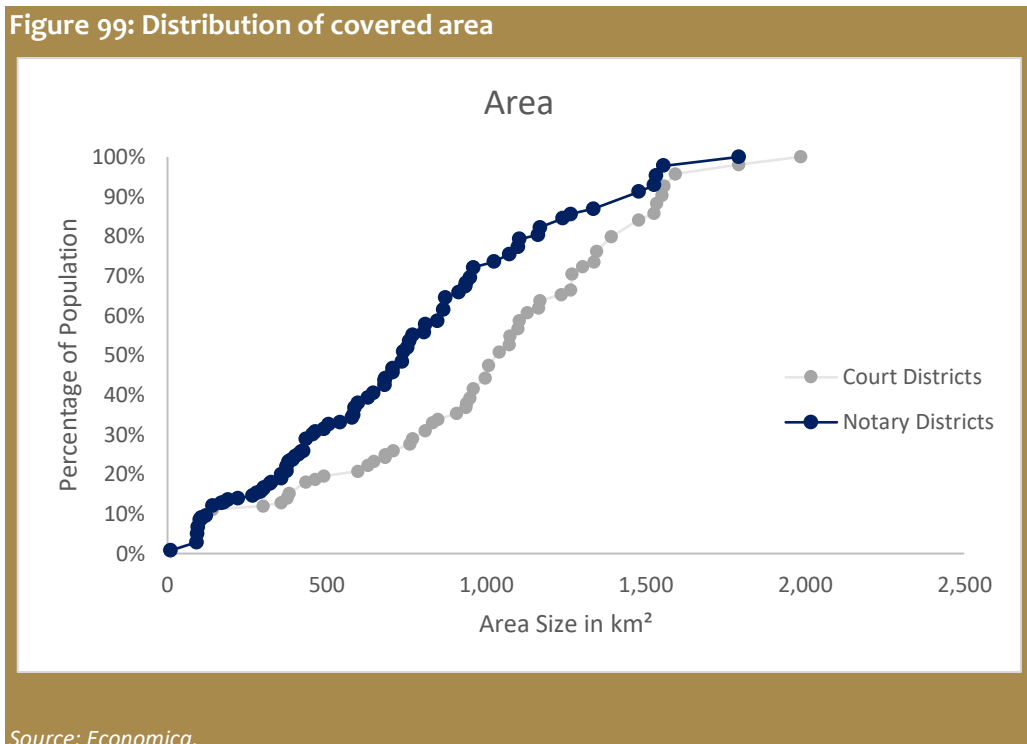
Figure 98: Population per Courts and notaries in NUTS-3 Regions in SK



Source: Economica.

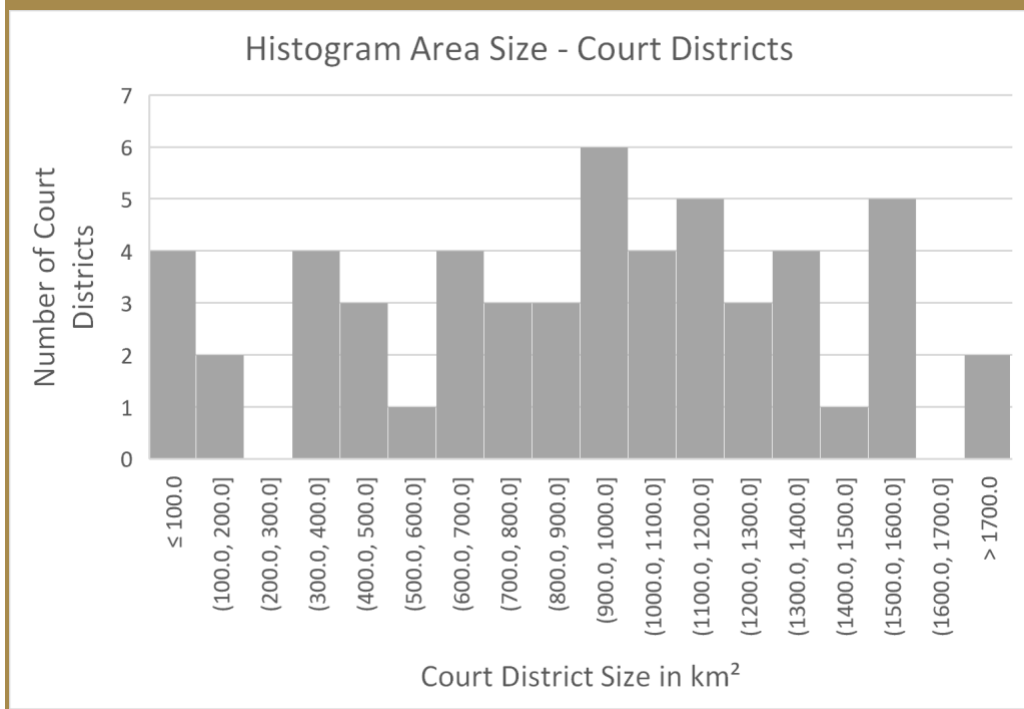
*Geographic Area*

In the next Figure, the size of the court and notary districts is again ordered to the geographic size on the x-axis, and the percentage of the population within the according districts is shown on the y-axis. When we determine the average geographic size for the median citizen (located at the 50 per cent level on the y-axis), we can find out that the size for court districts (1,041 square kilometers) is about 300 square kilometers larger than that for notary districts (741 square kilometers).



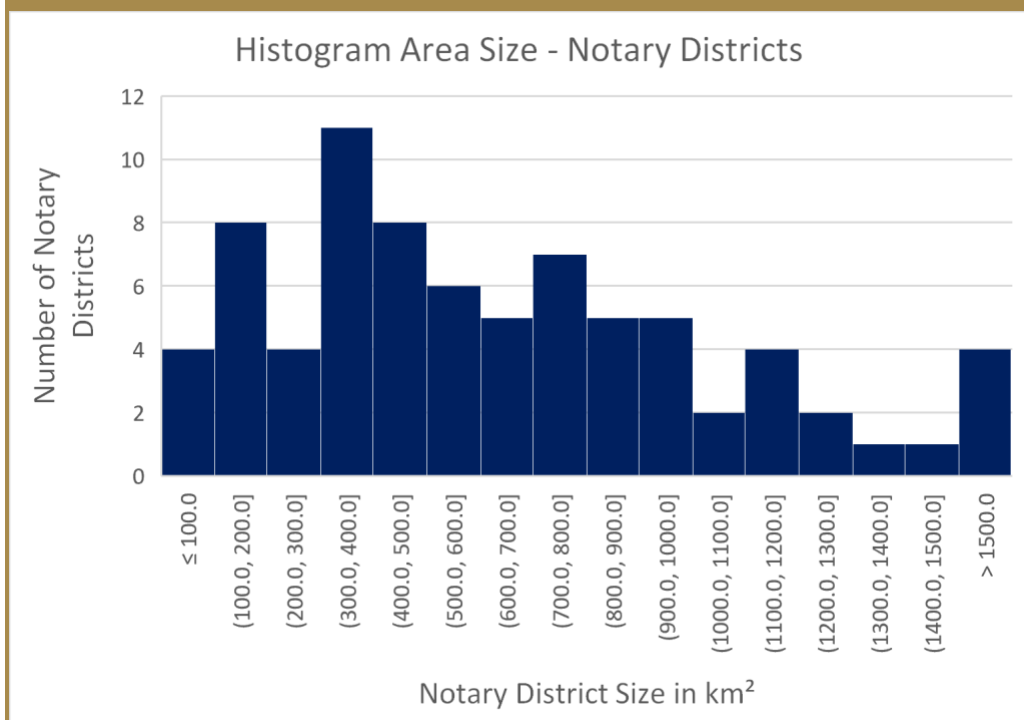
The histograms of the covered area by court and notary districts also show that, on average, there are fewer court than notary districts. On average, the size is 908 square kilometres (court districts) versus 637 square kilometres (notary districts), resulting in a circular distance of 17 kilometres versus 14 kilometres.

Figure 100: Histogram of court districts - Area



Source: Economica.

Figure 101: Histogram of notarial Districts - Area



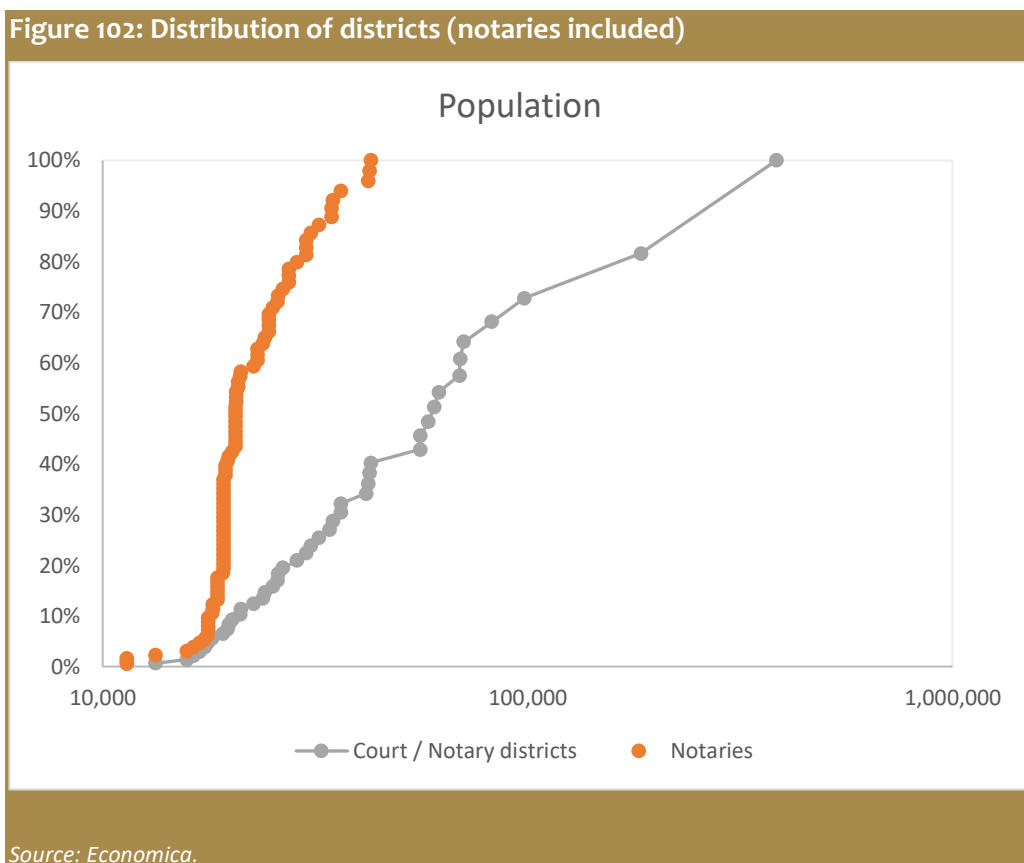
Source: Economica.

### 6.3.6 Slovenia

In Slovenia, there are 44 court districts, which are identical to the notary districts. Additionally, there are 7 notary office sites within these 44 court districts. For example, there is one office located in Trover and another in Zagorje ob Savi sharing the Trbovlje notary district. In total, 95 notaries exist in these 51 notarial sites.

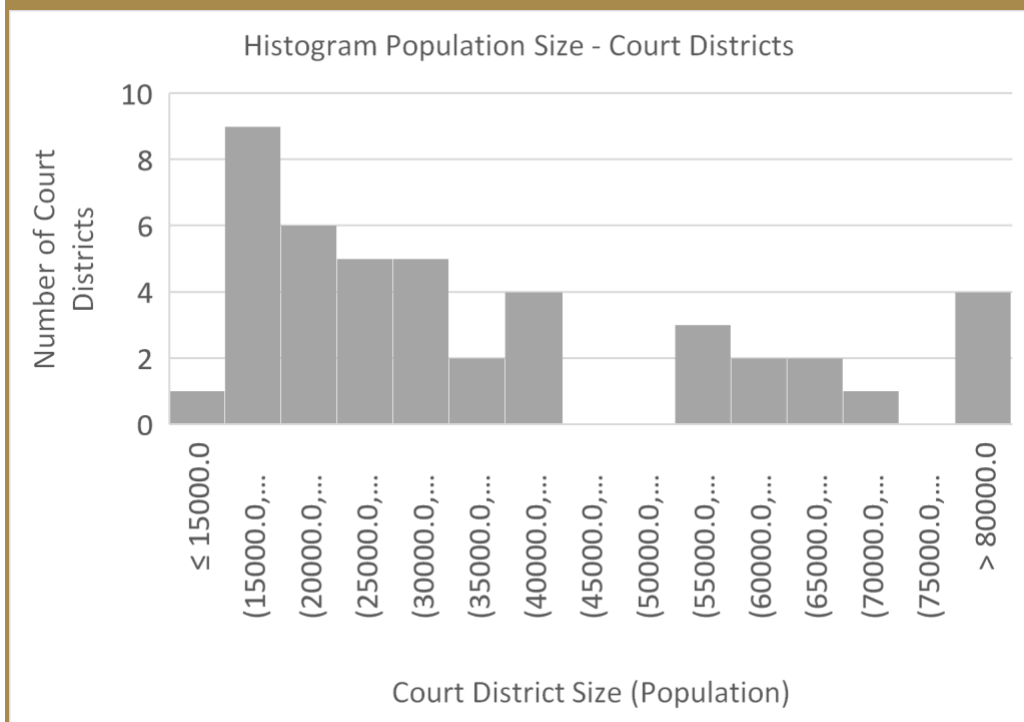
#### Population

The population size of the court (notary) districts in Slovenia varies from 13,297 in Ilirska Bistrica to 385,123 in Ljubljana. Also, taking into account the number of notaries within a notary district, the range is limited from 11,387 in Piran to 42,785 in Žalec. The mean citizen (50 % of population level) is living in a district with 59,457 (court district) and 20,544 (notaries) inhabitants.



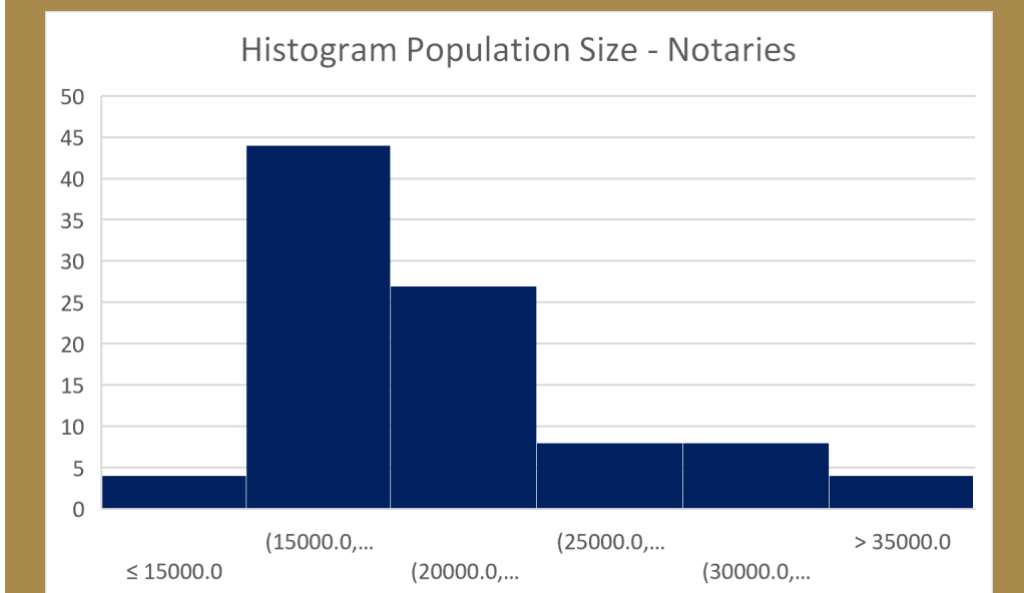
The mean population size according to the court districts is 47,633, which is caused by a few very big districts much higher than the median of 30,561. The average number of citizens a notary is responsible for is 22,062, less than half of the value above.

Figure 103: Histogram of court districts – Population (SI)



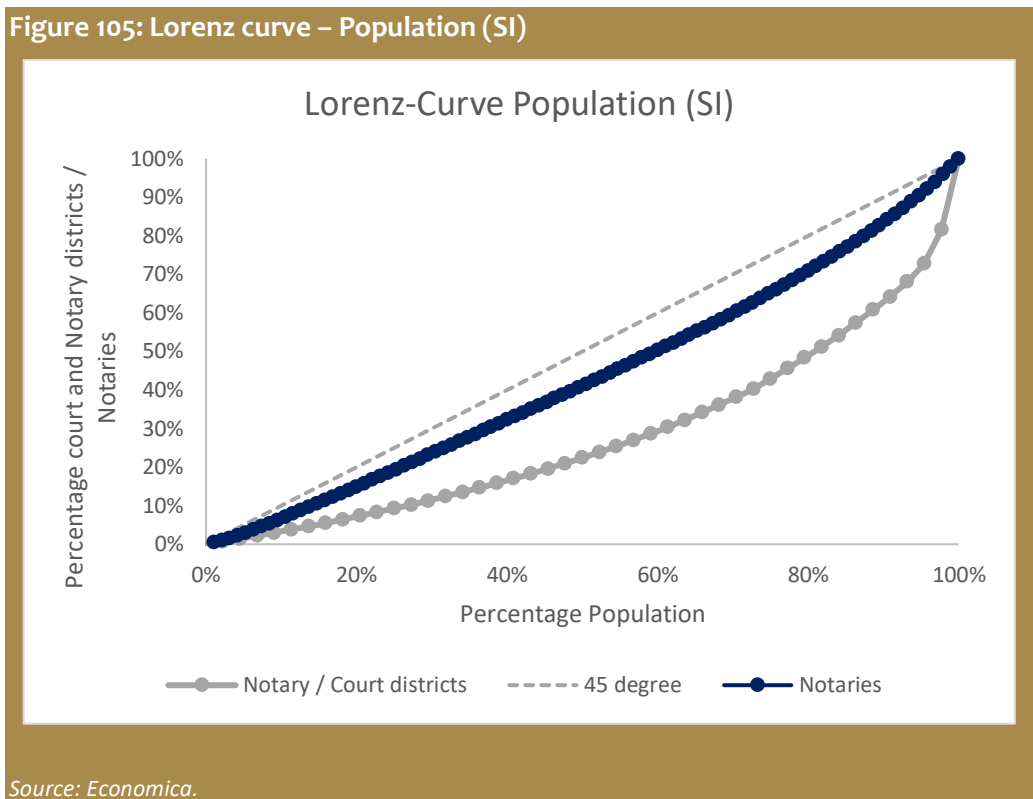
Source: Economica.

Figure 104: Histogram of notarial mapping – Population (SI)

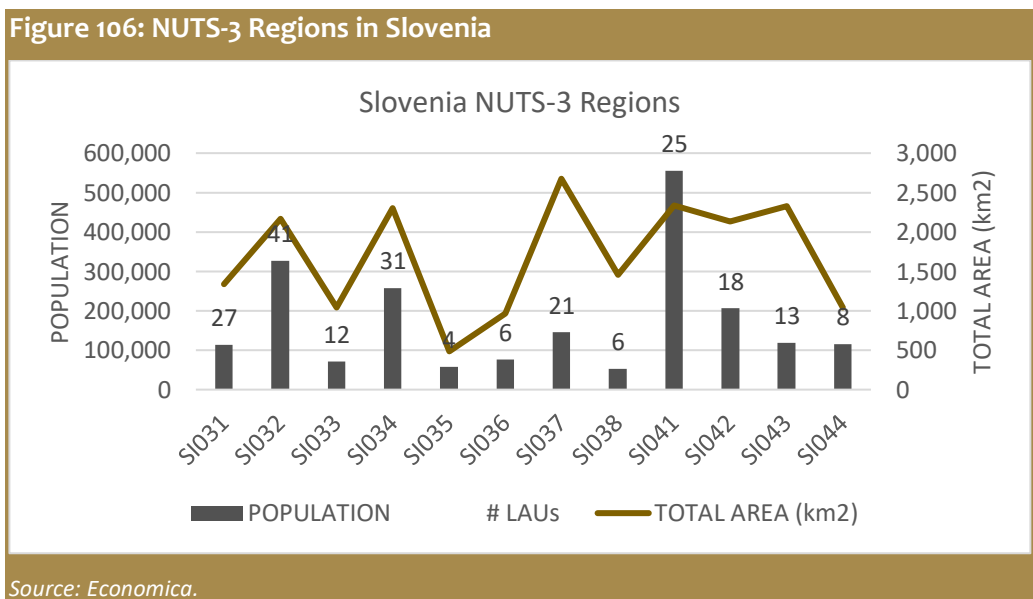


Source: Economica.

Since the number of notaries increases with the size of the district, one can see an almost evenly distributed supply of notarial services, as indicated by the small difference in the 45-degree line.

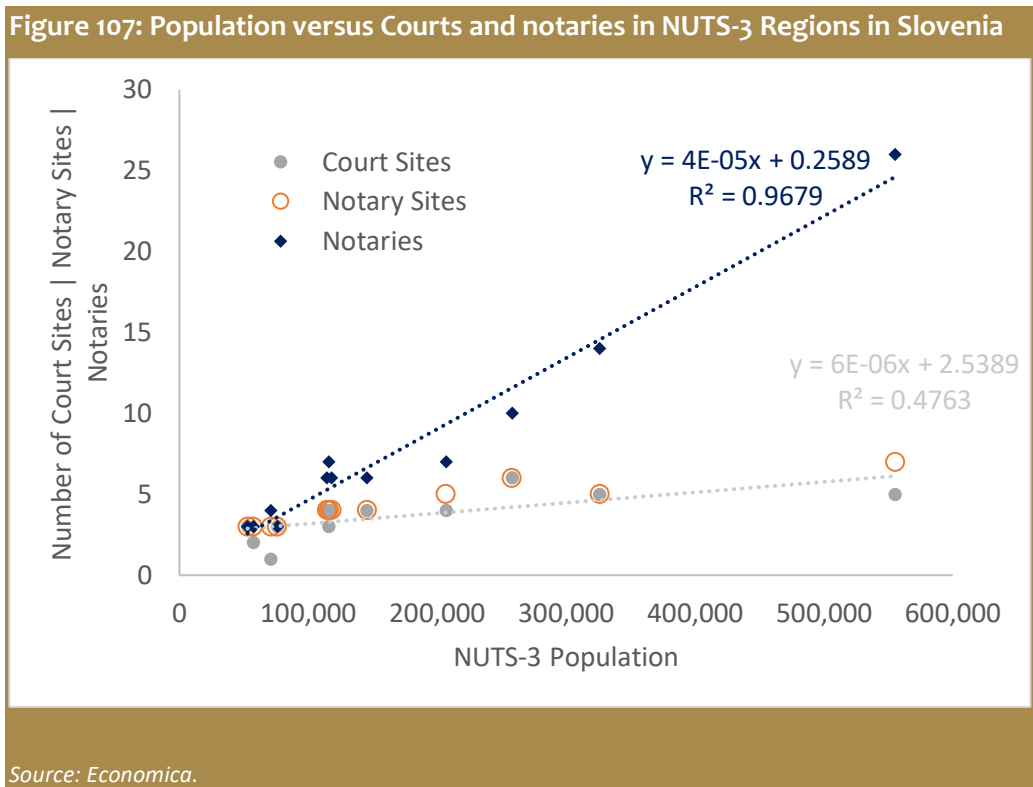


In the following Figure, the size of the NUTS-3 regions in Slovenia is described by the number of Local Authority Units (LAUs), population and area size. The region “SI041 Osrednjeslovenska” in central Slovenia includes Ljubljana and possesses the highest number of citizens.

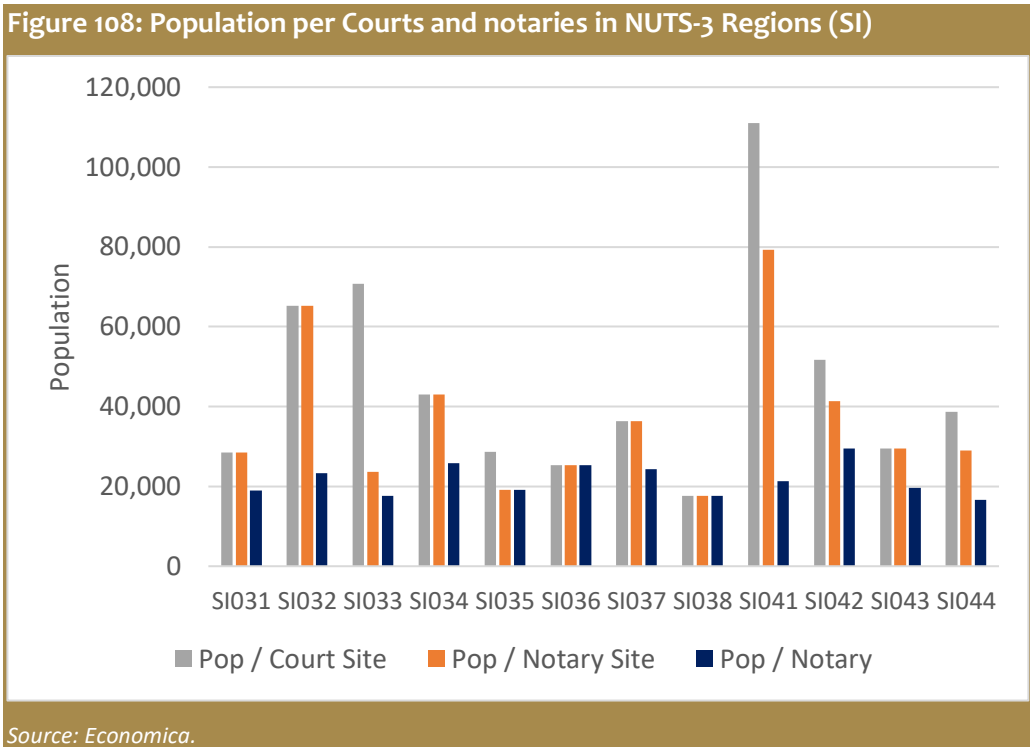




In the next Figure, the number of court districts, notarial sites and the number of notaries within the NUTS-3 regions is analysed. As already stated above, the number of notaries is increasing for NUTS-3 regions with higher population sizes.

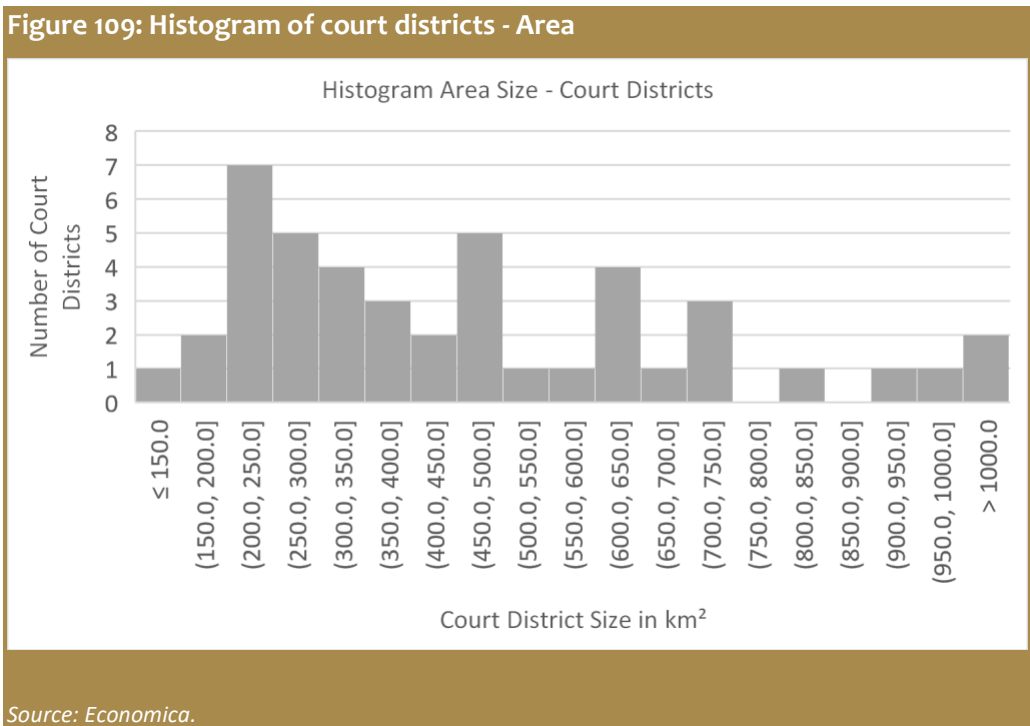


Since more notaries are sited in NUTS-3 regions with more population, the average number of citizens a notary is responsible for is limited by 29,517 compared to the maximum of courts 111,055. The mean number of citizens per notary (21,589) is less than half the value for court districts (45,513).



*Geographic Area*

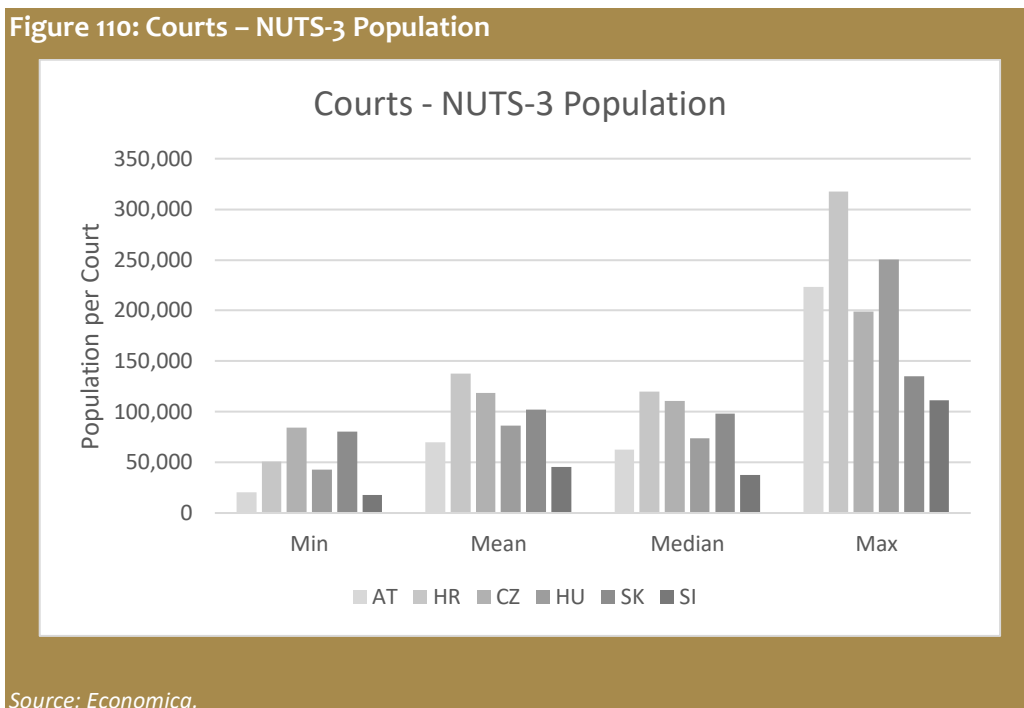
The geographic size of the court districts varies from 72 square kilometers to 1,077 square kilometers. Since there are quite a lot of court districts the average size is 461 square kilometers resulting in an average travel distance to the next court of 12.1 kilometers.



6.3.7 Average Population in the NUTS-3 Regions

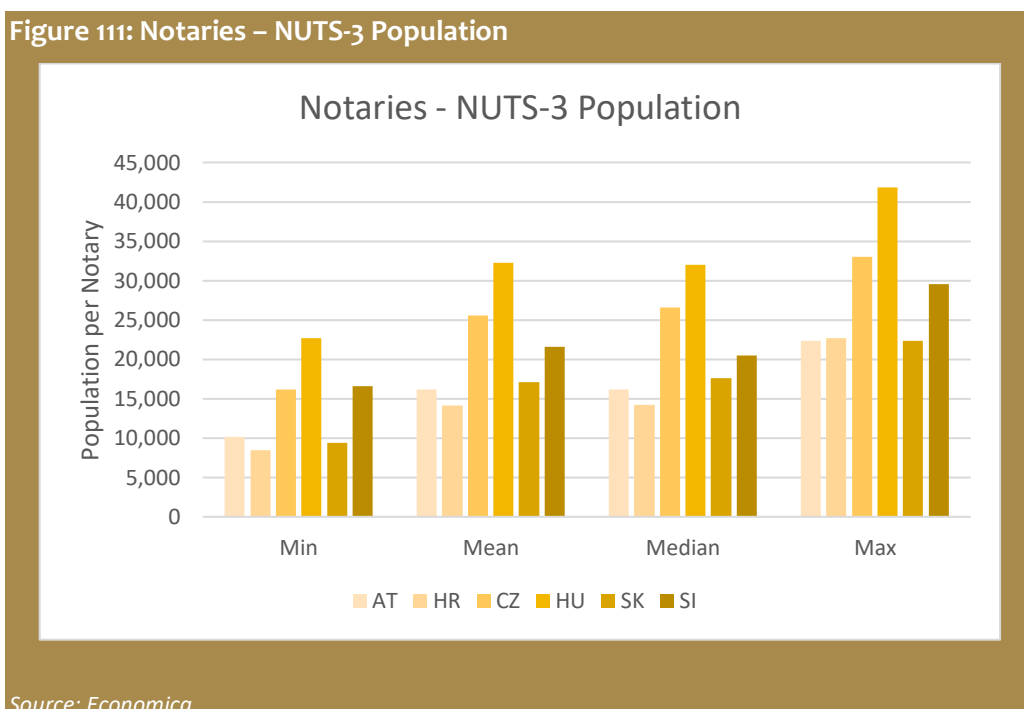
Summarising the results from the six hexagonale countries, we can see that the population size an average court and notary is responsible for differs quite a lot. The four statistics minimum, mean, median and maximum are on average four times higher for courts than for notaries. Only in Hungary and Slovenia, we can see that this relation is given by a factor of around two for the mean and median.

Figure 110: Courts – NUTS-3 Population



Source: Economica.

Figure 111: Notaries – NUTS-3 Population



Source: Economica.

## 7 Conclusion

The Economic Working Group conducted this economic study with an aim to be able to shed light on the role of Civil Law Notaries in non-contentious legal proceedings when the notary acts as Court Commissioner. The Hexagonale countries with the exception of Slovenia have Notaries acting as Court Commissioners in various non-contentious legal proceedings, succession proceedings being the most common among them. The goal was to view this transfer of responsibility as an outsourcing of legal services from public sector (i.e., law courts) to the private sector (i.e., notaries). Before drawing any viable conclusion and policy implications, we must note the two most important underlying assumptions:

- Civil Law Notaries act with neutrality and without prejudice which is similar to the Law Courts;
- The monetary cost of the service in question to the private individual is either the same when it is delivered by the court or the notary, or the payment by the private individual to the Notary is less than the payment to the court. This assumption is necessary since we do not have the consistent data on prices of different services.

We must add here that even when the court fee is lower, it should be noted that the law courts are financed by taxes implying that the whole society pays for the cases handled by the court. Succession cases are non-contentious, and are cases specific to private individuals regarding private benefits. Thus, beside the fee that the individual pays the court or notary, the court logistics and infrastructure are public property and availing services of the court in private cases amounts to the whole society paying collectively for benefit of private individuals. This is specifically true since civil law notaries, by definition, act with impartiality and can carry out non-contentious with equal objectivity.

We have collected the data from the Chambers of Notaries in Hexagonal countries on various processes and tasks of the Notaries where they act as court commissioners. We have also compiled data on public and private spending on legal services. As we have noted in Chapter 3, PPP (purchasing power parity) adjusted per capita public expenditure on law courts as well as percentage of public expenditure directed towards law courts were the highest in Slovenia among the Hexagonale countries in 2018. As a result, the density of courts in relation to inhabitants was the highest in Slovenia. Per capita private

expenditure which is positively correlated to per capita GDP was the highest in Austria.

For consistency, we have only used succession cases to draw several conclusions. The process as collected from the survey stands as follows:

- Slovenia is the only country in the Hexagonale where the Notaries do not act as court commissioners. So, all the stages of the process, 1. Receipt of the case, 2. Processing of the case, 3. Delivery of decision on the case, are carried out by the responsible court.
- In Hungary and Croatia, Notaries, acting as court commissioners, carry out all the 3 tasks. (Full data on Hungarian Succession proceeding were not available)
- In Czechia and Slovakia, the Notaries, while acting as court commissioners, are responsible for 2<sup>nd</sup> and 3<sup>rd</sup> stages of the process.
- In Austria, the Notaries act as court commissioners, but only deal with the middle section of the process; the first (receipt of the cases) and the last (delivery of decision) are dealt with by the respective courts.

Though commenting on the judicial processes is not within the scope of this study, one can still assume that similar cases should take least amount of time in Slovenia, Croatia and Hungary, and in Austria it should be the highest. This is due to the loss of time in handing over the cases from one legal entity to another as most of the succession proceedings are done on paper files takes time. But it was shown that the average disposition time for succession cases in the highest in Slovenia and the lowest in Croatia. It was also shown that the rate of appeals for succession cases were higher relative to other than criminal cases only in Slovenia, whereas it was significantly lower in all other Hexagonale countries.

From the point of view of outsourcing non-contentious legal proceeding to notaries, the study points towards the fact that considerable socio-economic benefit can be achieved with Notaries acting as court commissioners in non-contentious cases. But, as we have pointed out before, a more rigorous and detailed data recording and data collection process for non-contentious cases needs to be in place before a concrete conclusion in this regard can be drawn.

**Acknowledgment:** In this study we have extensively used publicly available CEPEJ data and Research Publications by CEPEJ. We have followed the protocol provided below to best of our knowledge.

*Protocol CEPEJ public data*

*CEPEJ public data can be used only under certain circumstances:*

- *to fully comply with the methodology adopted and followed by the CEPEJ for the drafting of its report “European judicial systems – CEPEJ Evaluation Report”, namely to use the data in connection with the comments submitted by the CEPEJ national correspondents for each question (specific comment and general comment);*
- *to mention that the CEPEJ is the source of these data;*
- *if the CEPEJ data is presented jointly with data from other sources, including in same tables or graphs, clearly identify the data from the CEPEJ;*
- *if these data are used within analyses, the text below should be mentioned:  
“The information and positions presented in this study/publication are those of the authors and do not necessary reflect the official position of the CEPEJ. In this study, the CEPEJ is only one of the data sources used, and the CEPEJ does not guarantee the accuracy of the analyses, opinions and/or conclusions of this study/publication. Neither the CEPEJ nor any person acting on behalf of the CEPEJ can be held responsible for any use that might be made of the information contained therein.”*

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