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Version finale

**Answer to the
REVISED SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS
2004 Data**

**Réponse à la
GRILLE REVISEE
POUR
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES
Données 2004**

ESTONIA/ESTONIE



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

FINAL VERSION

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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting (Strasbourg, 15 – 17 June 2005) and
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REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY:

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I. Demographic and economic data

I. A. General information

- | | | |
|----|---|----------------|
| 1. | Number of inhabitants | 1 351 069 |
| | Source www.stat.ee , Statistical Office of Estonia | |
| 2. | Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level | |
| | State level | 3 billion € |
| | Regional / entity level | |
| | Source www.fin.ee , Ministry of Finance | |
| 3. | Per capita GDP | 9043 million € |
| | Source www.stat.ee | |
| 4. | Average gross annual salary | 5587,5 € |
| | Source www.stat.ee | |

I. B. Budgetary data concerning judicial system

- | | |
|---|----------------|
| 5. Total annual budget allocated to all courts | 20,7 million € |
| <i>Source State Budget 2004</i> | |

Please specify:

Includes the budget of the courts of the 1st and the 2nd instance and the Supreme Court, also the probation service, business and land registries. Does not include IT cost and accounting as these costs are borne by the Ministry of Justice.

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their

amount:

	Yes	Amount
▪ Salaries?	Yes	16,4 million €
▪ IT?	Yes	1,2 million €
▪ Justice expenses borne by the State?	No	€

Source Ministry of Justice

7. Annual public budget spent on legal aid 1,7 million €

Source State Budget 2004/

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	1,6 million €
▪ the annual public budget spent on legal aid in other court cases	118 152 €

Source

9. Annual public budget spent on prosecution system 53,4 million €

Source State Budget 2004

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	Yes	Yes	Yes	Yes
Other ministry. Ministry of Finance	No	No	No	Yes
Parliament	No	Yes	No	No
Supreme Court	Yes, their own budget	Yes, their own budget	No	Yes, their own budget
Judicial Council	-	-	-	-
Courts	Yes	Yes	Yes	Yes
Inspection body. State Audit Office	No	No	No	Yes
Other. Please specify				

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	Yes	Yes
Legal advice (Yes/No)	Yes	Yes
Other (Yes/No). Please specify	Yes (for example, drafting and submitting legal documents)	Yes (for example, representation before other instances, drafting of legal documents)

12. Number of legal aid cases:

▪ total	3077 (persons: 3479)
▪ criminal cases	2885 (persons: 3287)
▪ other than criminal cases	192 (persons: 192)

Source Register of judicial decisions, period: 1 March 2005 - 31 December 2005. It is not possible to give the number of cases for earlier years as until 2005 statistics was kept only on the money spent on legal aid and the amount of time the lawyers provided it.

NB! As the questionnaire does not specify if the term “legal aid cases” refers to the number of court cases in which legal aid is given or the number of persons who receive legal aid, so both are stated in the answer. It is important to keep in mind that these results depict only those cases that have started since 1 March 2005 (the launch of a new and comprehensive legal aid system in Estonia) and ended before 1 January 2006. Any ongoing cases may not yet be included in the register.

13. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

Yes ☒ No ☐

14. Does your country have an income and asset test for granting legal aid:

No Yes/Amount

- for criminal cases? ☒
- for other than criminal cases? ☒ X (There is no fixed amount, instead the court assesses the applicant's financial status based on the application and information from the Estonian Tax and Customs Board as well as different judicial registers. If the supposed cost for non-state funded legal aid in the case at hand would exceed the applicant's two months' income - based on the applicant's income of the last four months - the applicant is entitled to state funded legal aid if all other requirements are met by the applicant.)

Source

15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

Yes ☒

No ☐

16. If yes, is the decision taken by:

- the court?
- a body external to the court?
- a mixed decision-making body (court and external)?

Yes

☒

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
- for other than criminal cases?

Yes

☒

No

☒

If yes, are there exceptions? Please specify:

Yes. For example, a person can be exempted from paying court fees for a civil case if he/she applies to the court to be exempted and gives sufficient proof of his/her insufficient income. There also several specific conditions expressly regulated in different procedural laws under which one could be exempted from paying fees.

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

No

Yes

☒

Please specify:

Insurance Activities Act establishes legal expense insurance as a class of non-life insurance. To our knowledge, several insurance companies offer this kind of insurance, mainly to legal persons, but in some cases also to physical persons.

19. Do judicial decisions have an impact on who bears the legal costs which are paid by the parties during the procedure in:

- criminal cases?
- other than criminal cases?

Yes

☒

☒

No

☐

☐

You can indicate below:

- any useful comments for interpreting the data mentioned above

- *the characteristics of your legal aid system*

II. B. Users of the courts and victims

II. B. 1. Rights of the users and victims

20. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| ▪ legal texts (e.g. codes, laws, regulations, etc.)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): www.riigiteataja.ee | | |
| ▪ case-law of the higher court/s? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): www.nc.ee | | |
| ▪ other documents (for examples legal forms)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): www.just.ee | | |

21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

Yes ☐ No ☒

If yes, please specify:

22. Is there a public and free-of-charge specific information system to inform and to help victims of crimes?

Yes ☒ No ☐

23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape	No	Yes	No	
Victims of terrorism	No	Yes	No	

Child/Witness/ Victim	No	Yes	yes	
Victims of domestic violence	No	Yes	No	
Ethnic minorities	No	Yes	No	
Disabled persons	No	Yes	No	
Juvenile offenders	No	Yes	Yes	
Other				

24. Does your country have compensation procedure for victims of crimes?

Yes ☒

No ☐

25. If yes, does this compensation procedure consist in:

- a public fund?
- a court order?
- private fund?

Yes

☒

26. If yes, which kind of cases does this procedure concern?

Violent acts which result in the death of the victim, in his/her severe health damage or a health disorder that lasts at least 6 months are applicable for compensation. The victim and those who are dependent on him can apply for compensation.

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

No

☒

Yes

☐

Please specify:

II. B.2. Confidence of citizens in their justice system

28. Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?

Yes

No

☐

☒

- wrongful arrest? ☒
- wrongful condemnation? ☒

If yes, please specify (fund, daily tariff):

It is funded from the state budget, the daily tariff is the minimum monthly salary (fixed by the government) divided by 30 (the number of days in a month) and multiplied by 7. Currently 45 euros per day.

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

Yes ☐ No ☒

If possible, please specify their titles, how to find these surveys, etc:

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level		
Surveys at court level		

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

Yes ☒ No ☐

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/No)
Court concerned	yes	No
Higher court	yes	No
Ministry of Justice	yes	No
High Council of Justice	No such body	No such body
Other external organisations (e.g. Ombudsman)		

Can you give information elements concerning the efficiency of this complaint procedure?

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

- first instance courts of general jurisdiction 16

Source Ministry of Justice

- specialised first instance courts 4

Source Ministry of Justice

Please specify the different areas of specialisation (and, if possible, the number of courts concerned):

Administrative courts

34. Total number of courts (geographic locations) 17 geographic locations/24 courthouses

Source Ministry of Justice

35. Number of first instance courts competent for a case concerning:

- a debt collection for small claims 16

Please specify what is meant by small claims in your country:

No such distinction

- a dismissal 16
- a robbery 16

36. Number of professional judges sitting in courts 245 permanent judges – 180 in the courts of the 1st instance, 46 in the courts of the 2nd instance, 19 in the Supreme Court

Source Ministry of Justice

37. Number of professional judges sitting in courts on an occasional basis and who are paid as such:

- gross figure
- if possible, in full time equivalent

Source

Please specify:

38. Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs 1955

Source Ministry of Justice

Please specify:

Lay judges, it is the maximum number of lay judges courts can nominate. Most of them participate very seldom in the judicial process.

39. Does your judicial system include trial by jury with the participation of citizens?

No x

Yes

For which type of case(s)?

If possible, number of citizens who were involved in such juries for the year 2004?

40. Number of non-judge staff who are working in courts 1016
(present the information in full time equivalent and for permanent posts)

Source Ministry of Justice

41. If possible, could you distribute this staff according to the 3 following categories:

- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars: 646
- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management): 74
- technical staff: 213

42. In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):

No ☐
 Yes ☒ Number of staff 78

43. **Number of public prosecutors** 186
 (present the information in full time equivalent and for permanent posts)

Source Prosecutor's Office

44. **Do you have persons who have similar duties as public prosecutors?**

No ☒
 Yes ☐ Please specify:

45. **Is the status of prosecutors:**

Yes ☐
☒ independent within the judiciary?
☒ independent from the judiciary ?
☒ under the authority of the Ministry of Justice?

46. **Number of staff (non prosecutors) attached to the public prosecution service** 74
 (present the information in full time equivalent and for permanent posts)

Source Prosecutor's office

47. **Who is entrusted with the individual court budget?**

	Preparation of the budget (Yes/No)	Arbitration and allocation (Yes/No)	Day to day management of the budget (Yes/No)	Evaluation and control of the use of the budget (Yes/No)
Management Board	-	-	-	-
Court President	Yes, approves the draft prepared by the director	No	No	No, but possible through director
Court administrative director	Yes	Yes	Yes	Yes
Head of the court clerk office	No	No	No	No
Other. Please specify				

48. In general, do the courts in your country have computer facilities?

Yes ☒

No ☐

49. What are the computer facilities used within the courts?

Functions	Facilities	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Direct assistance to the judge/court clerk	Word processing	X			
	Electronic data base of jurisprudence	X			
	Electronic files	X			
	E-mail	X			
	Internet connection	X			
Administration and management	Case registration system	X			
	Court management information system	X			
	Financial information system	X			
Communication between the court and the parties	Electronic forms	X			
	Special Website	-	-	-	-
	Other electronic communication facilities				

Source Ministry of Justice

50. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

No ☐

Yes ☒

Please specify the name and the address of this institution:

Ministry of Justice

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system

III. B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?

Yes ☐ No ☒

52. Do you have a regular monitoring system of court activities concerning the:

	Yes	No
▪ number of incoming cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ number of decisions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ number of postponed cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ length of proceedings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ other?	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

53. Do you have a regular evaluation system of the performance of the court?

No ☐
Yes ☒ Please specify:

The Ministry of Justice analyses court statistics and makes certain resource-related decisions based on the work-load of the courts. The quality of the decisions is not yet properly analysed (e.g. number of overturned cases per judge), also there is not a mechanism for dealing with judges who are able to deal with considerably less cases per year than others.

54. Concerning court activities, have you defined:

▪ performance indicators? Yes ☒ No ☐

Please specify the 4 main indicators for a proper functioning of justice:

Currently the indicators deal with only the workload of the judges – length of proceedings, number of incoming cases, number of decisions.

▪ targets? Yes ☐ No ☒

Please specify who is responsible for setting the targets:

	Yes
- executive power?	<input type="checkbox"/>
- legislative power?	<input type="checkbox"/>
- judicial power?	<input type="checkbox"/>
- other?	<input type="checkbox"/>

Please specify:

Please specify the main objectives applied:

Source

55. Which authority is responsible for the evaluation of the performances of the courts:

	Yes	
▪ the High Council of judiciary?	<div></div>	
▪ the Ministry of justice?	X (only the workload)	
▪ an Inspection body?	<div></div>	
▪ the Supreme Court?	<div></div>	
▪ an external audit body?	<div></div>	
▪ other?	<div></div>	Please specify:

56. Does the evaluation system include quality standards concerning judicial decisions?

No	Yes	
<div></div>	X <div></div>	Please specify:

Source

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:

	Yes	No
▪ civil cases?	X <div></div>	<div></div>
▪ criminal cases?	X <div></div>	<div></div>
▪ administrative cases?	X <div></div>	<div></div>

58. Do you have a way of analysing queuing time during court procedures?

No	Yes	
<div></div>	X <div></div>	Please specify:

59. Do you monitor and evaluate the performance of the prosecution services?

No	Yes	
<div></div>	X <div></div>	Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

IV. Fair trial

IV. A. Fundamental principles

60. Is there in your judicial system:
- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?
Yes ☒ No ☐
 - the right to have reasons given for all prisons sentences?
Yes ☒ (if the convicted person gives up the right for appeal, then the reasons do no have to be read) No ☐
 - for all cases, an effective remedy to a superior jurisdiction?
Yes ☒ No ☐

61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented? Unfortunately no such statistics is kept

Source

62. Is there a procedure to effectively challenge a judge if a party consider he/she is not impartial?

No ☐
Yes ☒

If possible, number of successful challenges (in a year):

63. Please give the following data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
	Article 6§1 (equity)	Exact number not known									

Criminal proceedings	Article 6§1 (duration)			1			1	1	1		
	Article 6§2										
	Article 6§3a										
	Article 6§3b										
	Article 6§3c										
	Article 6§3d										
	Article 6§3e										
Civil proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§1 (non execution only)										

Source Ministry of Foreign Affairs.

IV.B. Timeframes of proceedings

IV. B. 1. General

64. Are there specific procedures for urgent matters in:

- | | Yes | No |
|-------------------------|--------------------------|-------------------------------------|
| ▪ civil cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ administrative cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

65. Are there simplified procedures for:

- | | Yes | No |
|------------------------------------|-------------------------------------|-------------------------------------|
| ▪ civil cases (small claims)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ criminal cases (petty offences)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ administrative cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

66. Is it possible for a second instance court to send back a case to a first instance court for a new examination?

Yes ☒

No ☐

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers to submit their conclusions and dates of hearings)?

No ☐

Yes ☒

Please specify:

The judge lays out the rules, but he/she has to take into account the possibilities of the parties. In the end both sides have to reach an agreement.

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious): 37 781; 25301 of them were new (received in 2004).

Please specify the main types of cases:

Claims from client agreements (small claims), family cases, sale contracts.

Source **Ministry of Justice**

- 69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:**

		Civil cases	Administrative cases	Divorce	Employment dismissal
Total number (1st instance)	Incoming cases	25301	3257	1338	556
	Decisions on the merits	25682	3003	1222	397
	Percentage of decisions subject to appeal in a higher court	9,3%	41,6%	5,8%	6,1%
	Pending cases by 1 January 2005	11826	1344	1247	456
	Percentage of pending cases of more than 3 years	7,6%	14,7%	2,3%	4,8%
Average length (from date of lodging of court proceedings*)	1st instance decisions	168,4 days	94,3 days	-	-
	2nd instance decisions	109,8 days	206,9 days	-	-
	Total procedure (without the Supreme Court)	278,2 days	301,2 days		

* If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

Incoming cases – cases received during the year;

Starting point – the day the case is registered in the court information system, the day the case reaches the court;

Ending point – the day the final decision is made in the specific court (court instance);

Length of cases – from starting point to ending point;

Pending cases – case not solved by the end of the period.

Where appropriate, please specify the specific procedure as regards divorce:

It is possible to file for divorce in the Marital Status Office (if the parties are in agreement) or a court (no agreement, children are involved, property issues).

Source **Ministry Of Justice**

IV. B. 3. Criminal cases

70. Please describe the role and powers of the prosecutor in the criminal procedure:

	Yes	No
▪ to conduct or supervise police investigation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to conduct investigation?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ when necessary, to demand investigation measures from the judge?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to charge?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to present the case in the court?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to propose a sentence to the judge?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to appeal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to supervise enforcement procedure?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ to end the case by dropping it without the need for a judicial decision?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ to end the case by imposing or negotiating a penalty without a judicial decision?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ other significant powers?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Please specify:

ADDITION for "supervise enforcement procedure" - prosecutor does not supervise enforcement directly, though, when additional sanctions are used prosecutor checks if financial imperatives are fulfilled (bank transfers made).

71. Does the prosecutor also have a role in civil and/or administrative cases?

No ☒
Yes ☐

Please specify:

72. Functions of the public prosecutor in relation to criminal cases– please complete this table:

	Total number of 1st instance criminal cases
Received by the public prosecutor	34078
Discontinued by the public prosecutor	
In general	29474
Because the offender could not be identified	20987
Due to the lack of an established offence or a specific legal situation	2336
Concluded by a penalty, imposed or negotiated by the public prosecutor	2096
Charged by the public prosecutor before the courts	NA

Source [Register for criminal proceedings](#)

73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases,

starting and ending point of length and pending cases:

		Criminal cases	Robbery cases	Intentional homicides
Total number (1st instance)	Incoming cases	8622		
	Judicial decisions	8412		
	Convicted persons	10060 persons	9577 persons	595 persons
	Acquitted persons	248 persons	156 persons	8 persons
	Percentage of decisions subject to appeal in a higher court	21%	-	-
	Pending cases by 1 January 2005	2181	-	-
	Percentage of pending cases of more than 3 years	3,8%	-	-
Average length*(from the date of official charging)	1st instance decision	115,1 days	-	-
	2nd instance decision	49,1 days	-	-
	Total procedure	164,2 days	-	-

* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

Source Ministry Of Justice

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning timeframes of proceedings**

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:

- a body composed of members of the judiciary?
- a body composed of members external to the judiciary?
- a body composed of members of the judiciary and

Yes

external to the judiciary?

x

75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

Yes

- a body composed of members of the prosecution system?
- a body composed of members external to the prosecution system?
- a body composed of members of the prosecution system and external to the prosecution system?

x

76. Is the mandate given for an undetermined period for:

- | | Yes | No |
|----------------|-----|----|
| ▪ judges? | x | |
| ▪ prosecutors? | x | |

Are there exceptions ? Please specify:

If no, what is the length of the mandate:

Is it renewable?

- | | Yes | No |
|-------------------|-----|----|
| ▪ of judges? | | |
| ▪ of prosecutors? | | |

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of the selection and nomination procedure of judges and prosecutors*

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	No		
	Highly recommended	No		
	Optional	No		
General in-service training	Compulsory	x	Annual	x
	Highly		Regular	

	recommended			
	Optional		Occasional	
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory	X (but not sanctioned)	Annual	x
	Highly recommended		Regular	
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended		Regular	
	Optional	x	Occasional	x

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	Yes		
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	Yes
	Highly recommended	Yes	Regular	
	Optional		Occasional	
Specialised in-service training	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of of your training system for judges and prosecutors**

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career
20620 €

Source : According to the Courts Act the salary is the national average annual salary multiplied by

4.

80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court
28353 €

Source National average salary multiplied by 5,5.

81. Gross annual salary of a public prosecutor at the beginning of his/her career
11505€

Source Prosecutor's office

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court
21450 €

Source Prosecutor's office

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	Yes	Yes
Housing	No	No
Other financial benefit (If yes, please specify)	Additional pay based on the length of the tenure	No

84. Can judges or prosecutors combine their work with any of the following other professions?

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching	x			X		
Research and publication	x			X		
Arbitrator			X			X
Consultant			x			X
Cultural function			X			X
Other function to specify						

85. Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?

No x

Yes Please specify:

V. C. Disciplinary procedures

86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for disciplinary procedures	Total number	7	3
	Breach of professional ethics (Yes/No) If yes, please specify the number	Yes 1	Yes, 2
	Professional inadequacy (Yes/No) If yes, please specify the number	Yes 7	Yes, 1
	Criminal offence (Yes/No) If yes, please specify the number	No	No
	Other (Yes/No) If yes, please specify		No
Types of sanctions	Total number	5	
	Reprimand (Yes/No) If yes, please specify the number	Yes 3	Yes, 1
	Suspension (Yes/No) If yes, please specify the number	No	No
	Dismissal (Yes/No) If yes, please specify the number	No	No
	Fine (Yes/No) If yes, please specify the number	Yes 1	No
	Other (Yes/No) If yes, please specify	Reduction of pay 1	No

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors**

VI. Lawyers

87. Number of lawyers practising in your country

520

Source **The Estonian Bar Association (31.12.2005)**

88. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?

Yes ☐ No ☒

89. Do lawyers have a monopoly of representation:

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*	In courts of first instance and appeal – No; in the Supreme Court of Estonia – Yes		Member of family	X
			Trade Union	
			NGO	
			Other	X
Criminal cases*	Defendant	In courts of first instance and appeal – No; in the Supreme Court of Estonia – Yes	Member of family	
			Trade Union	
			NGO	
			Other	X
	Victim	In courts of first instance and appeal – No; in the Supreme Court of Estonia – Yes	Member of family	
			Trade Union	
			NGO	
			Other	X
Administrative cases*	In courts of first instance and appeal – No; in the Supreme Court of Estonia - Yes		Member of family	
			Trade Union	
			NGO	
			Other	X

* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?

- a national bar?
- a regional bar?
- a local bar?

Yes

☒

Please specify:

The Estonian Bar Association is a central organisation which comprises all practitioners of the lawyer profession (sworn advocates, sworn advocate's senior clerks, sworn advocate's clerks).

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes ☒ No ☐

92. Is there a mandatory general system for lawyers requiring continuing professional development?

Yes ☒ No ☐

93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/

specific diploma or specific authorisations?

No ☒

Yes ☐

Please specify:

94. Can users establish easily what the lawyers' fees will be?

Yes ☒

No ☐

95. Are lawyers fees:

- regulated by law?
- regulated by Bar association?
- freely negotiated?

Yes

☒

96. Have quality standards been formulated for lawyers?

Yes ☐

No ☒

97. If yes, who is responsible for formulating these quality standards:

- the bar association?
- the legislature?
- other?

Yes

☒

Please specify:

98. Is it possible to complain about :

- the performance of lawyers?

No

Yes

☒

Please specify:

It is possible for clients to file a complaint concerning the activities and conduct of their lawyers to the Court of Honour of the Estonian Bar Association.

- the amount of fees?

Yes

☒

No

☐

99. Disciplinary proceedings and sanctions against lawyers:

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	Yes
	Professional inadequacy	Not a reason for disciplinary proceedings, but a reason for assessing professional suitability by a professional suitability assessment committee (which can result in the removal of membership).
	Criminal offence	Not a reason for disciplinary proceedings, but a reason for removal of membership in case of a court verdict coming into force regarding a lawyer.

	Other	Yes – a breach of legislative and other regulations that determine the activities of the lawyer profession is also a reason for disciplinary proceedings
Type of sanctions	Reprimand	X
	Suspension	X
	Removal	X
	Fine	X
	Other	

100. Who is the authority responsible for the disciplinary procedures:

	Yes	
▪ a professional body?	<input checked="" type="checkbox"/>	Please specify:
The disciplinary procedures are conducted by the Court of Honour of the Estonian Bar Association. The Court of Honour's verdict can be disputed in an administrative court.		
▪ the judge?	<input type="checkbox"/>	
▪ the Ministry of justice?	<input type="checkbox"/>	
▪ other?	<input type="checkbox"/>	Please specify:

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning the organisation of the Bar**

An more thorough overview of the organisation of the Bar can be found on the website of the Estonian Bar Association (<http://www.advokatuur.ee/eng/>).

VII. Alternative Dispute Resolution

101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
		No	Private mediator	

Family cases	Compulsory stage prior to court proceedings		Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases		Prosecutor	
Administrative cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	Yes
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	NO	Prosecutor	

102. Can you provide information about accredited mediators?

103. Can you provide information about the total number of mediation procedure concerning:

- civil cases?
- family cases?
- administrative cases?
- employment dismissals?
- criminal cases?

Source

104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)?
Please specify:

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your system concerning ADR*

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

- judges?
 - bailiff practising as private profession ruled by public authorities?
 - bailiff working in a public institution?
 - other enforcement agents?
- Please specify their status:

Yes

x

A bailiff is an independent person who holds an office in public law. A bailiff engages in liberal profession and holds office in his or her own name and at own liability.

106. Number of enforcement agents

51

Source Ministry of Justice

107. Is there a specific initial training or examination to enter the profession of enforcement

agent?

Yes ☒

No ☐

108. Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?

Yes

☒

109. Can users establish easily what the fees of the enforcement agents will be?

Yes ☒

No ☐

110. Are enforcement fees:

- regulated by law?
- freely negotiated?

Yes

☒

111. Is there a body entrusted with the supervision and the control of the enforcement agents?

No ☐

Yes ☒

Which authority is responsible for the supervision and the control of enforcement agents:

- a professional body?
- the judge?
- the Ministry of justice?
- the prosecutor?
- other?

Yes

☐

☒

☐

☐

☐

Please specify:

112. Have quality standards been formulated for enforcement agents?

No ☒

Yes ☐

Who is responsible for formulating these quality standards?

Source **Ministry of Justice**

113. What are the main complaints of users concerning the enforcement procedure:

- no execution at all?
- lack of information?
- excessive length?
- unlawful practices?
- insufficient supervision?
- excessive cost?
- other?

Yes

☐

☒

☐

☒

☐

No

☒

☒

☐

☒

☒

☐

☐

Source Ministry of Justice

114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?

No ☒

Yes ☐

Please specify:

115. Is there a system measuring the timeframes of the enforcement of decisions :

Yes No

▪ for civil cases?

☐ ☒

▪ for administrative cases?

☒

116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:

Yes

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more: please specify

☒

Source Ministry of Justice

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	0
	Professional inadequacy	11
	Criminal offence	0
	Other	
Sanctions	Reprimand	3
	Suspension	0
	Dismissal	1
	Fine	7
	Other	0

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters

VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has in charge the enforcement of judgments?

Yes ☒ Please specify his/her functions and activities (e.g. Initiative or control functions):

The judge is obliged to solve all the questions bound to enforcement of judgments. Nevertheless he or she does not control the enforcement procedure. The judge has mainly initiative function.

No ☐ Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

No ☐
Yes ☒ Please specify:

Data of the effective recovery rate of criminal fines can be seen in yearly statistics.

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your enforcement system of decisions in criminal matters*

IX. Notaries

120. Is the status of notaries:

- a private one?
- a status of private worker ruled by the public authorities?

Yes Number

☒ ☐

- a public one?
 - other?
- Please specify:

☐ ☐

A notary is a holder of liberal profession (or known also as *regulated profession*); a notary performs public duties in his or her own name and at his or her own responsibility. Notary's duties and rules for performing them are prescribed by laws and regulations.

Source ☐

121. Do notaries have duties:

- within the framework of civil procedure?
- in the field of legal advice?
- to authenticate legal deeds?
- other?

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If yes, please specify:

Operates as a single point of access in certain cases by drawing up and forwarding to state and private bodies notices and applications which are connected to a certified notarial act (for example, when a notary certifies a contract on the establishment of a company, parties can ask the notary to compose and submit to a competent authority the following applications necessary for establishing a company: a) application for registration of the company in the commercial register; b) application for registration of shares; c) application for registration as a VAT payer; d) application for a licence for certain fields of operation).

122. Is there a body entrusted with the supervision and the control of the notaries?

No
Yes

☐
☒

Which authority is responsible for the supervision and the control of the notaries:

- a professional body?
- the judge?
- the Ministry of justice?
- the prosecutor?
- other?

Yes
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system of notaries

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

On the 1st of January 2006 a regional reform took place by which courts were merged into 4 general 1st instance courts and 2 administrative courts. Not a single courthouse was closed – the reform was mainly administrative. The aim was to create better possibilities to even the workload of judges/length of proceedings, and specialisation of judges.

So, the main problems of the Estonian court system are:

1. uneven workload of the courts;
2. uneven length of proceedings;
3. low level of specialisation of judges;
4. low salaries of court staff (non judicial staff);
5. quality of court personnel;
6. not unified working methods.

Court merger is a tool with which we can create possibilities to deal with most of these problems, now we have to do a lot of work to take advantage of these possibilities. Quality of personnel should improve with the unification of working methods and training. Still the salaries remain an issue and as it is mostly a political issue (state budget) it is difficult to see a quick solution.