

## 1. Evaluation of the judicial systems (2016-2018 cycle)



Austria

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**Reference data 2016 (01/01/2016 - 31/12/2016)**

**Start/end date of the data collection campaign : 01/06/2017 - 31/12/2017**

### **Objective :**

The CEPEJ decided, at its 28th plenary meeting, to launch the seventh evaluation cycle 2016 – 2018, focused on 2016 data. The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of its national correspondents' network, a general evaluation of the judicial systems in the 47 member states of the Council of Europe as well as two observer states (Israel and Morocco). This will enable policy makers and judicial practitioners to take account of such unique information when carrying out their activities.

The present questionnaire was adapted by the Working group on evaluation of judicial systems (CEPEJ-GT-EVAL) in view of the previous evaluation cycles and considering the comments submitted by CEPEJ members, observers, experts and national correspondents. The aim of this exercise is to increase awareness of judicial systems in the participating states, to compare the functioning of judicial systems in their various aspects, as well as to have a better knowledge of the trends of the judicial organisation in order to help improve the efficiency of justice. The evaluation questionnaire and the analysis of the results becomes a genuine tool in favour of public policies on justice, for the sake of the European citizens.

### **Instruction :**

The ways to use the application and to answer the questions are guided by two main documents:

- User manual
- Explanatory note

While the explanatory note gives definitions and explanations on the CEPEJ evaluation questionnaire and the methodology needed for replying, the User manual is a tool to help you navigate through this application. You can download the Explanatory note as a whole on the CEPEJ website. The specific explanations are also accessible for each question within this application under the tab "Explanatory note". This will serve as immediate consultation tool when answering questions. The user manual is accessible in the "Documentation" tab of the application.

In case you have any questions related to these documents or on the use of the application, please do not hesitate to contact the Secretariat.

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## **1.General information**

### **1.1.Demographic and economic data**

#### **1.1.1.Inhabitants and economic general information**



**001. Number of inhabitants (if possible on 1 January of the reference year +1)**

[ 8739806 ]

Comments

**002. Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €)**

	Amount
State or federal level	179133000000 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Regional / federal entity level (total for all regions / federal entities)	149840681 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

**003. Per capita GDP (in €) in current prices for the reference year**

[ 40420 ]

Comments

**004. Average gross annual salary (in €) for the reference year**

[ 31752 ]

NA

Comments

**005. Exchange rate of national currency (non-Euro zone) in € on 1 January of the reference year +1**

[            ]

Allow decimals : 5

NAP

Comments

**A1. Please indicate the sources for answering questions 1 to 5**

Sources: <http://www.statistik.at>

**1.1.2. Budgetary data concerning judicial system**



**006. Annual (approved and implemented) public budget allocated to the functioning of all courts, in € (without the budget of the public prosecution services and without the budget of legal aid). If you cannot separate the budget allocated to the courts from the budgets of public prosecution services and/or legal aid, please go to question 7. If you are able to answer this question 6, please answer NAP to the question 7.**

Approved budget (in €)	Implemented budget (in €)
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<b>TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Annual public budget allocated to (gross) salaries</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Annual public budget allocated to computerisation (equipment, investments, maintenance)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Annual public budget allocated to court buildings (maintenance, operating costs)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>5. Annual public budget allocated to investments in new (court) buildings</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>6. Annual public budget allocated to training</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>7. Other (please specify)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main differences:

**007. (Modified question) If you cannot answer question 6 because you cannot isolate the budget allocated to courts from the budget allocated to public prosecution services and/or legal aid, please fill only the appropriate line in the table according to your system:**

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to all courts and the public prosecution services together</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Total annual public budget allocated to all courts and legal aid together</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Total annual public budget allocated to all courts, public prosecution services and legal aid together</b>	937499939 [ ] NA [ ] NAP	1033578643 [ ] NA [ ] NAP

Comments:

**008. Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:**

Litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction ?
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<b>for criminal cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>for other than criminal cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments - If there are exceptions to the rule to pay a court tax or fee, could you please provide comments on those exceptions? The duty to pay court fees arises from the starting of the civil procedure at the court, but the proceedings itself are not dependent on the payment of this fee. The most important (at least preliminary) exemption from court fees is the attribution of legal aid to the claimant according to the respective provisions of the civil procedure code (Zivilprozessordnung – ZPO, in particular §§ 63 and 64) and §§ 8 and 9 of the court fee act (Gerichtsgebührengesetz - GGG). Detailed information can be derived from the legal aid factsheet on the website of the European Network for Civil and Commercial Matters ([http://ec.europa.eu/civiljustice/legal\\_aid/legal\\_aid\\_aus\\_en.htm](http://ec.europa.eu/civiljustice/legal_aid/legal_aid_aus_en.htm)). Other exemptions are laid down in various other provisions as listed in § 10, § 13 and Art. VI Nr. 28 GGG.

### 008-1. Please briefly present the methodology of calculation of court taxes or fees:

- Court fees in Austrian proceedings concerning civil and commercial litigation under the civil procedure code (Zivilprozessordnung – ZPO) depend mostly on the value under dispute between the parties of the proceedings. The amount of the fees is laid down in a list or tariff which forms part of our Gerichtsgebührengesetz (GGG). This Act on court fees also specifies the correct way of calculating these costs (in particular the calculation of the assessment basis for the value under dispute).

According to § 14 GGG the assessment basis for the fees of a given case of litigation is the value under dispute (“Streitwert”) according to §§ 54 to 60 of the Jurisdiktionsnorm (JN) determining the basis for the Court’s jurisdiction and for the mode of appeal. §§ 15 to 18 GGG contain specific provisions regarding the value under dispute for specific cases - for example for actions concerning properties or special proceedings like renting.

The court fee according to the “Streitwert” is laid down in fee items (Tarifposten – TP) 1 to 3 of the tariff appended to the GGG (TP 1 for cases of first instance, TP 2 for the second instance and TP 3 for litigation cases before the Supreme Court). If there are more than two parties to the case a percentage is added to these fees according to § 19a GGG (In cases where there are several claimants or defendants a surcharge has to be paid according to § 19a GGG (of 10 percent for the third party and 5 percent for any further party to the proceedings)). As can be derived from this tariff the charge for a proceeding concerning two parties - e.g. - about a value of 7.000 € is 299 € for the first instance (TP 1 GGG), 544 € for the second instance (TP 2 GGG) and 681 € for the Supreme Court (TP 3 GGG). The court fees for other values can be calculated from the lists respectively.

As a rule court fees for civil lawsuits in Austria are lump sums which cover all costs of the given instance in the case irrespective of the complexity of the case and the concrete amount of expenditure necessary (“Pauschalgebühren”). The list of fees in the tariff is calculated on the average costs and expenditures to maintain the court and its personnel taking also into account the risk for State liability in such cases under the given value of the dispute and social considerations (to allow effective access to justice also for small claims). In Austria the courts have to be maintained by court fees their costs are not provided for by general taxation.

### 008-2. The amount of court fees to commence an action for 3000€ debt recovery:

[ 163 ]

[ ] NA

[ ] NAP

Comments After fee item (Tarifpost) 1 Act on court fees (Gerichtsgebührengesetz – GGG) the court fee would be 163 € for the first instance

### 009. Annual income of court taxes or fees received by the State (in €)

[ 1099812161 ]

NA

NAP

Comments As far as civil cases are concerned, according to § 64 of the Austrian Civil Procedure Order (Zivilprozessordnung, ZPO) legal aid may cover a provisional exemption from court fees, fees for witnesses, experts, interpreters and guardians, costs of the necessary announcements and the cash expenditure of guardians or lawyers, representation by a court official or – if necessary – a lawyer.

In criminal cases:

According to sec 391 par 1 CCP the enforcement of the court's decision on costs has to take into account the ability of the convicted person to bear the costs for the daily life for him/herself and the family as well as the obligation of compensation in regard of the offence. The court may, if the costs cannot be enforced because of an impecunious defendant, declare the costs unrecoverable. If the court assumes that in the future the costs will be recoverable but for the time being they are not, the economic capacity of the person concerned has to be re-examined after a certain period. The statute for limitation to recover the costs is five years after the final decision in the proceeding. If the court decides that the convicted person has to bear the costs of the proceeding and further on he or she is not able to pay the costs the authorities, responsible to recover costs, may prolong the payment deadline, allow to pay instalments, or to abate the costs.

In principle every person who retains a defence lawyer or another representative has to bear the costs him or herself even if the lawyer was appointed ex officio (sec 393 par 1 of CCP). According to sec 61 para 2 CCP the court has to decide on total or partial legal aid on the request of the defendant if the defendant cannot bear the total costs for the defence lawyer without impairment of his/her own or his/her family's maintenance which enables him/her to a simple lifestyle and if it is necessary in the interest of justice in particular in the interest of an adequate defence. In any case legal aid has to be granted during the whole procedure if and as long as the defendant is held in pre trial detention;

- during the entire procedure on the confinement in an institution for mentally abnormal offenders;
- during the trial on the confinement in an institution for addicted offenders in need of curing and on the confinement in an institution for dangerous subsequent offender;
- during the trial in front of a jury or of a court of lay assessors;
- during the trial in front of a single judge if the sentence which may be imposed is more than three years of deprivation of liberty;
- during the appeal procedure against a verdict of a court of jury or a court of lay assessors, in case the European Court for Human Rights has determined a violation of the European Convention on Human Rights or an additional Protocol to it for conducting the request for the reopening of the procedure and for the trial in public;
- if the defendant is blind, deaf, mute or otherwise handicapped or is not able to conduct the defense by him/herself because he/she can do not understand the language at court,
- for the appeal procedure,
- if the factual and legal position is difficult.

Where in any case the defendant needs a defense lawyer, the court has to decide on legal aid ex officio even if the defendant does not request for it but further requirements to provide legal aid are given.

With regard to the decision on legal aid the court has to examine the defendant's economic capacity to bear the costs for a defense lawyer. The economic capacity is determined by the maintenance which enables the defendant and his/her family to a simple lifestyle, and can be identified at the bases of the minimum living wage which may not be garnished given by sec 5 of the act on garnishment of wages and the appropriate maintenance which is higher than the minimum living wage. In particular the income and other assets on the one hand and the number of persons who are entitled to maintenance on the other hand determine the threshold for the court decision on the obligation on costs reimbursement.

## 012. Annual approved public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)</b>	19500000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12.1 for cases brought to court</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

<b>12.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
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Comments A lump sum of € 19.500.000 represents the approved public budget for payment to the bar for “pro bono” representation of parties. The implemented public budget for payment to the bar for “pro bono” representation of parties is € 19.700.000. The difference between these two figures is mainly due to advance payments to the bar for “pro bono” representation in overlong cases.

These figures do, however, not include court fees for expertise or interpretation, which are also covered by legal aid, but not isolated within the budget. Therefore, no figures can be provided as regards the whole regime of legal aid.

### 012-1. Annual implemented public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
<b>TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)</b>	19700000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12-1.1 for cases brought to court</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>12-1.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main differences: A lump sum of € 19.500.000 represents the approved public budget for payment to the bar for “pro bono” representation of parties. The implemented public budget for payment to the bar for “pro bono” representation of parties is € 19.700.000. The difference between these two figures is mainly due to advance payments to the bar for “pro bono” representation in overlong cases.

These figures do, however, not include court fees for expertise or interpretation, which are also covered by legal aid, but not isolated within the budget. Therefore, no figures can be provided as regards the whole regime of legal aid.

### 013. Total annual (approved and implemented) public budget allocated to the public prosecution services, in €.

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the public prosecution services, in €</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget allocated to the public prosecution services, please indicate the main differences: A lump sum of € 19.500.000 represents the approved public budget for payment to the bar for “pro bono” representation of parties. The implemented public budget for payment to the bar for “pro bono” representation of parties is € 19.700.000. The difference between these two figures is mainly due to advance payments to the bar for “pro bono” representation in overlong cases.

These figures do, however, not include court fees for expertise or interpretation, which are also covered by legal aid, but not isolated within the budget. Therefore, no figures can be provided as regards the whole regime of legal aid.

### 014. Authorities formally responsible for the budgets allocated to the courts (multiple options possible):

	Preparation of the total court budget	Adoption/approval of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level
<b>Ministry of Justice</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Other ministry</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Parliament</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Supreme Court</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>High Judicial Council</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP
<b>Courts</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
<b>Inspection body</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
<b>Other</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - If any other Ministry and/or inspection body and/or other, please specify: "other ministry": Ministry of Finance „other“: Higher regional Courts

The Minister of Justice splits the budget allocated by the Federal Financial Law – among others – to the Supreme Court and the Higher regional courts. The president of the Supreme Court and the presidents of the four Higher regional courts manage and evaluate the allocated court budget.

"Other": The provincial government (Länder), Ministry of Finance, Minister for arts and culture, constitution and media; Changes to previous cycle results of newly incorporated Administrative Courts.

## A2. Please indicate the sources for answering questions 6 to 14:

Sources: Source for answering questions 6, 12 and 13: "Haushaltsinformationssystem" (household database) on the basis of the consolidated closing of accounts ("Bundesrechnungsabschluss 2016").

### 1.1.3. Budgetary data concerning the whole justice system

015-1. Annual (approved and implemented) public budget allocated to the whole justice system, in € (this global budget includes the court system as defined under question 6 and also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.).

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the whole justice system in €</b>	1462689939 [ ] NA [ ] NAP	1606971615 [ ] NA [ ] NAP

Please indicate any useful comment to explain the figures provided above and specify if a large portion of the budget allocated to the whole justice system comes from an international organisation. Moreover, if the annual public budget allocated to the whole justice system actually implemented is different from the approved annual public budget allocated to the whole justice system, please indicate the main differences: The higher figure of the implemented budget compared to the approved budget is mainly a result of an increase in costs for health care and hospitalization in the prison system, interpretation, drug rehabilitation, medical or therapeutic follow-up care for former prisoners on probation.

**015-2. (Modified question) Please indicate the budgetary elements that are included in the whole justice system by specifying on the one hand the elements of the judicial system budget (please check the consistency with questions 6, 12 and 13). (Note: NAP means that the element does not exist in your system):**

	Included
<b>Court (see question 6)</b>	( X ) Yes ( ) No [ ] NAP
<b>Legal aid (see question 12)</b>	( X ) Yes ( ) No [ ] NAP
<b>Public prosecution services (see question 13)</b>	( X ) Yes ( ) No [ ] NAP

Comments:

**015-3. (Modified question) On the other hand, please specify the other budgetary elements included in the whole justice system budget. (Note: NAP means that the element does not exist in your system):**

	Included
<b>Prison system</b>	( X ) Yes ( ) No [ ] NAP
<b>Probation services</b>	( X ) Yes ( ) No [ ] NAP
<b>Council of the judiciary</b>	( ) Yes ( ) No [ X ] NAP
<b>Constitutional court</b>	( ) Yes ( X ) No [ ] NAP



Judicial management body	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP
State advocacy	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP
Enforcement services	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Notariat	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Forensic services	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Judicial protection of juveniles	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Functioning of the Ministry of Justice	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Refugees and asylum seekers services	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Immigration Service	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Some police services (e.g. : transfer, investigation, prisoners' security)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - If "other", please specify: This cycle the budget of the whole justice system also includes state funding concerning guardianship (EUR 35.853.000 approved/EUR 36.143.000 implemented) and grants to victim assistance facilities (EUR 5.589.000 approved/EUR 6.850.674 implemented).

### A3. Please indicate the sources for answering questions 15-1, 15-2 and 15-3:

Sources: Source 15-1 and 15-2: "Haushaltsinformationssystem" (household database) on the basis of the consolidated closing of accounts ("Bundesrechnungsabschluss 2016").

## 2. Access to justice and all courts

### 2.1. Legal Aid

## 2.1.1. Scope of legal aid

### 016. Does legal aid apply to:

	Criminal cases	Other than criminal cases
<b>Representation in court</b>	( X ) Yes ( ) No [ ] NA [ ] NAP	( X ) Yes ( ) No [ ] NA [ ] NAP
<b>Legal advice</b>	( X ) Yes ( ) No [ ] NA [ ] NAP	( X ) Yes ( ) No [ ] NA [ ] NAP

Comments

### 017. Does legal aid include the coverage of or the exemption from court fees?

( X ) Yes

( ) No

Comments - If yes, please specify: As far as civil cases are concerned, according to § 64 of the Austrian Civil Procedure Order (Zivilprozessordnung, ZPO) legal aid may cover a provisional exemption from court fees, fees for witnesses, experts, interpreters and guardians, costs of the necessary announcements and the cash expenditure of guardians or lawyers, representation by a court official or – if necessary – a lawyer.

In criminal cases:

According to sec 391 par 1 CCP the enforcement of the court's decision on costs has to take into account the ability of the convicted person to bear the costs for the daily life for him/herself and the family as well as the obligation of compensation in regard of the offence. The court may, if the costs cannot be enforced because of an impecunious defendant, declare the costs unrecoverable. If the court assumes that in the future the costs will be recoverable but for the time being they are not, the economic capacity of the person concerned has to be re-examined after a certain period. The statute for limitation to recover the costs is five years after the final decision in the proceeding. If the court decides that the convicted person has to bear the costs of the proceeding and further on he or she is not able to pay the costs the authorities, responsible to recover costs, may prolong the payment deadline, allow to pay instalments, or to abate the costs.

In principle every person who retains a defence lawyer or another representative has to bear the costs him or herself even if the lawyer was appointed ex officio (sec 393 par 1 of CCP). According to sec 61 para 2 CCP the court has to decide on total or partial legal aid on the request of the defendant if the defendant cannot bear the total costs for the defence lawyer without impairment of his/her own or his/her family's maintenance which enables him/her to a simple lifestyle and if it is necessary in the interest of justice in particular in the interest of an adequate defence. In any case legal aid has to be granted during the whole procedure if and as long as the defendant is held in pre trial detention; •during the entire procedure on the confinement in an institution for mentally abnormal offenders; •during the trial on the confinement in an institution for addicted offenders in need of curing and on the confinement in an institution for dangerous subsequent offender;

•during the trial in front of a jury or of a court of lay assessors;

•during the trial in front of a single judge if the sentence which may be imposed is more than three years of deprivation of liberty;

•during the appeal procedure against a verdict of a court of jury or a court of lay assessors, in case the European Court for Human Rights has determined a violation of the European Convention on Human Rights or an additional Protocol to it for conducting the request for the reopening of the procedure and for the trial in public;

•if the defendant is blind, deaf, mute or otherwise handicapped or is not able to conduct the defense by him/herself because he/she can do not understand the language at court,

•for the appeal procedure,

•if the factual and legal position is difficult.

Where in any case the defendant needs a defense lawyer, the court has to decide on legal aid ex officio even if the defendant does not request for it but further requirements to provide legal aid are given.

With regard to the decision on legal aid the court has to examine the defendant's economic capacity to bear the costs for a defense lawyer. The economic capacity is determined by the maintenance which enables the defendant and his/her family to a simple lifestyle, and can be identified at the bases of the minimum living wage which may not be garnished given by sec 5 of the act on garnishment of wages and the appropriate maintenance which is higher than the minimum living wage. In particular the income and other assets on the one hand and the number of persons who are entitled to maintenance on the other hand determine the threshold for the court decision on the obligation on costs reimbursement.

**018. Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?**

Yes

No

Comments - If yes, please specify:

**019. Can legal aid be granted for other costs (different from those mentioned in questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc.)?**

	Criminal cases	Other than criminal cases
Legal aid granted for other costs	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If yes, please specify:

**2.1.2. Quantitative information on legal aid**

**020. (Modified question) Please indicate the number of cases for which legal aid has been granted:**

	Cases brought to court	Cases not brought to court / non-litigious cases
<b>TOTAL</b>	20465 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>In criminal cases</b>	4842 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>In other than criminal cases</b>	15623 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - Please specify when appropriate: Legal aid can not be granted for cases that have not been brought to court. Analysis of the non-litigious cases for which legal aid has been granted is not available.

**021. In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?**

	Assisted by a free of charge lawyer
Accused individuals	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<b>Victims</b>	( X ) Yes ( ) No
----------------	---------------------

Comments - If yes, please specify: According to section 61 CCP someone who cannot pay the costs of proceedings, without causing a risk to his/her daily subsistence, will receive legal-aid Support upon application. This means that he/she is fully or partly (temporarily) exempt from paying fees and (temporarily) assigned a lawyer free of charge. As a result, socially disadvantaged persons also have access to the law. He/She must pay these costs only to the extent and as soon as his/her financial situation has improved. For further details please see answer to question 17. According to sec 67 CCP victims have the right to claim reimbursement for the damage caused by the criminal act or compensation for the impairment of their legally protected interests. In cases where these victims do not get upon their request psycho-social or legal assistance during court proceedings according to section 66 para 2 CCP, they may under the conditions mentioned above have the right to receive legal-aid support instead.

**022. If yes, are individuals free to choose their lawyer within the framework of the legal aid system?**

- ( ) Yes  
( X ) No

Comments

**023. (Modified question) Does your country have an income and assets evaluation for granting (full or partial) legal aid to the applicant? The answer NAP means that there is no income and/or assets evaluation system for granting legal aid.**

	Annual income value (for one person), (in €)	Annual assets value (for one person), (in €)
<b>Full legal aid for criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Full legal aid for other than criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Partial legal aid for criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Partial legal aid for other than criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If yes, please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could explain the figures provided above: As far as civil cases are concerned, according to § 63 of the Austrian Civil Procedure Order (Zivilprozessordnung, ZPO) legal aid is granted to a party as a whole or partly, if the costs of the proceeding otherwise would compromise the necessary maintenance.

Legal aid is granted only as the applicant - according to his income, assets and maintenance obligations - is unable to bear (any or part of) the costs of the proceeding without endangering the minimum subsistence level necessary to allow a simple standard of living.

According to sec 61 para 2 CPO the court has to decide on total or partial legal aid on the request of the defendant if the defendant cannot bear the total costs for the defence lawyer without impairment of his/her own or his/her family's maintenance which enables him/her to a simple lifestyle and if it is necessary in the interest of justice in particular in the interest of an adequate defence. In any case legal aid has to be granted during the whole procedure if and as long as the defendant is held in pre trial detention; •during the entire procedure on the confinement in an institution for mentally abnormal offenders; •during the trial on the confinement in an institution for addicted offenders in need of curing and on the confinement in an institution for dangerous subsequent offender; •during the trial in front of a jury or of a court of lay assessors; •during the trial in front of a single judge if the sentence which may be imposed is more than three years of deprivation of liberty; •during the appeal procedure against a verdict of a court of jury or a court of lay assessors, in case the European

Court for Human Rights has determined a violation of the European Convention on Human Rights or an additional Protocol to it for conducting the request for the reopening of the procedure and for the trial in public;

- if the defendant is blind, deaf, mute or otherwise handicapped or is not able to conduct the defense by him/herself because he/she can do not understand the language at court,
- for the appeal procedure,
- if the factual and legal position is difficult.

With regard to the decision on legal aid the court has to examine the defendant's economic capacity to bear the costs for a defense lawyer. The economic capacity is determined by the maintenance which enables the defendant and his/her family to a simple lifestyle, and can be identified at the bases of the minimum living wage which may not be garnished given by sec 5 of the act on garnishment of wages and the appropriate maintenance which is higher than the minimum living wage. In particular the income and other assets on the one hand and the number of persons who are entitled to maintenance on the other hand determine the threshold for the court decision on the obligation on costs reimbursement.

**024. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?**

- Yes  
 No

Comments - If yes, please explain the exact criteria for denying legal aid: Granting legal aid depends not only on the income and on the financial situation of the party; in fact, it is possible to refuse legal aid if the claim or defence of the applicant is manifestly unfounded or not brought in good faith. Moreover, the court must withdraw legal aid, if it is established that the initial conditions under which legal aid was granted have ceased to apply (e.g. there are changes in the party's circumstances or the claim proves to be unfoundedly manifested or not brought in good faith) or there is proof that the conditions for granting legal aid were not met even at the time when legal aid was granted. In the latter case the party must pay back the amounts received.

**025. In other than criminal cases, is the decision to grant or refuse legal aid taken by (one option only):**

- the court  
 an authority external to the court  
 a mixed authority (court and external bodies)

Comments

**026. Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?**

- Yes  
 No

Comments - If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

**027. Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared:**

	Judicial decisions direct how legal costs will be shared
in criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
in other than criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**B1. Please indicate the sources for answering questions 20 and 23 :**

Sources: XXX

**2.2.Users of the courts and victims**

**2.2.1.Rights of the users and victims**

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

	Yes, please indicate the internet adresse(es)	No
legal texts (e.g. codes, laws, regulations, etc.)	( X ) www.ris.bka.gv.at	( )
case-law of the higher court/s	( X ) www.ris.bka.gv.at	( )
other documents (e.g. downloadable forms, online registration)	( X ) www.justiz.gv.at; www.help.gv.at; www.findok.bmf.gv.at; www.vwgh.gv.at/service;	( )

Comments - Please specify what documents and information the addresses for “other documents” include: Tool for finding competent courts

List of public prosecution offices

List of courts

Information concerning Federal Act on the Re-Use of Public Sector Information

Database of official publications [Ediktsdatei] (publications of the Business Register, real property auctions, insolvency database, etc.)

Land Register

Commercial Register

List of experts and interpreters

List of mediators

List of insolvency administrators

www.justiz-auktion.at in accordance with the provisions of the Austrian Enforcement Code

Documents submission service

Form sheets/Online submissions (www.eingaben.justiz.gv.at)

Access to Electronic Legal Communication

Access to http://ec.europa.eu/odr (online out-of-court settlement)

Public announcements of Justice

**029. (Modified question) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?**

( ) Yes, always

( X ) No

Yes, only in some specific situations

Comments - If yes, only in some specific situations, please specify:

**030. Is there a public and free-of-charge specific information system to inform and to help victims of crime?**

Yes

No

Comments - If yes, please specify: Opfernotruf 0800 112 112 (116 006); www.opfer-notruf.at

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

	Information mechanism	Special arrangements in hearings	Other specific arrangements
Victims of sexual violence/rape	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Victims of terrorism	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Minors (witnesses or victims)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Victims of domestic violence	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Ethnic minorities	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Disabled persons	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Juvenile offenders	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments - If "other vulnerable person" and/or "other special arrangements", please specify:

**031-1. Is it possible for minors to be a party to a judicial proceeding:**

Yes

No

Comments - If yes, please specify which procedures can be concerned (civil, criminal, administrative / normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.): As far as civil cases are concerned, minors can be a party to judicial proceedings, but have to be represented by their legal guardian. In exceptional cases minors over the age of 14 years can act on their own behalf, e.g. disputes regarding their own income from employment. Nevertheless they can choose to be represented by their legal guardian in those cases too. If there is a conflict of interests between the interests of the minor and its legal guardian (e.g. maintenance disputes), a curator has to be appointed. Legal aid can be granted to minors, which also may cover the costs of a lawyer. Concerning criminal cases minors have the same rights as other (grown up) victims.

**032. Does your country allocate compensation for victims of crime?**

Yes, please specify for which kind of offences: According to the Crime Victims Act ("Verbrechensopfergesetz"), Austrian

citizens, citizens of other EU- or EEA-Member States as well as others who stay legally in Austria or on an Austrian (air)ship at the moment of the crime, are entitled to economic compensation and social benefits (like psychological care) under certain conditions, if they suffered bodily harm caused by an intentionally committed offence for which a sentence of more than six months of imprisonment is provided. Furthermore, anybody who claims to have suffered damage deriving from an alleged offence is in principle entitled to claim compensation for this damage within the criminal proceeding.

No

Comments

**032-1. (New question) Is a court decision necessary in the framework of the compensation procedure?**

Yes

No

Comments

**033. If yes, does this compensation come from:**

a public fund

damages and interests to be paid by the person responsible

a private fund

Comments

**034. Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?**

Yes

No

Comments - If yes, please illustrate with available data concerning the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

**035. Do public prosecutors have a specific role with respect to the victims (protection and assistance)?**

Yes

No

Comments - If yes, please specify: Section 10 of the CCP obliges the prosecution to take the victim's rights and interests into account and to inform them about their rights including the legal possibilities to get compensation. Furthermore victims are to be informed about the release of the alleged perpetrator from prison or pre-trial detention. Victims who are emotionally strongly affected, which include, persons who, by means of a criminal offence, might have been exposed to violence, dangerous threat or infringement of their sexual integrity, have a special standing in the proceedings which has to be respected by the prosecuting bodies ex officio. They are entitled to assistance during the proceedings which shall be granted upon request if and to the extent that psychosocial and legal assistance during the proceedings is required in order to make the stresses and strains of the proceedings bearable for the victim and to guarantee that he or she can exercise his or her procedural rights. Relatives of a victim, who died because of a criminal offence, have the same rights. Victims should be informed about their essential rights and the prerequisites for assistance during proceedings at the latest prior to their first interrogation. In particular in applying measures of diversion (payment of a sum of money, probationary period with or without certain obligations, community service, victimoffender-mediation) the public prosecutor has to take into account the needs and interests of the victim and, in particular, to include compensation of the victim into the arrangement designed to discontinue proceedings under certain conditions and with the consent of the suspect.

**036. Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a**



case? Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a decision by a judge". (The answer NAP means that the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge is needed.)

Yes

No

NAP

Comments - If necessary, please specify: According to sec.195 the court may order the continuation of the investigative proceedings on application of the victim if the law wasn't applied correctly or has been infringed, if significant doubts arise concerning the correctness of facts, on which the decision to discontinue the case was based or if new circumstances or means of evidence are discovered after such a decision. A Senate of three judges decides about such a request (see Sections 190 to 192 and 195 CCP). According to sec 66 CCP victims – independent of their position as civil claimants – have the right to be represented (sec 73), to inspect the file (sec 68), to be informed about the topic of the proceeding and their essential rights prior to their questioning (sec 70 para. 1), to be informed about the ongoing of the case (sec 25 para. 3, 177 para. 5, 194, 195 para. 3, 206 and 208 para. 3), to receive translation aid, for which section 56 applies correspondingly, to participate in the adversary hearing of witnesses and accused (sec 165), in the fact findings (section 127 para. 2) and in the reconstruction of the criminal act (section 150 para. 1), to be present during the main proceeding, to question the accused, the witnesses and experts and to be heard concerning their claims, to request the proceeding of a case terminated by the office of public prosecution (section 195 para. 1).

According to sec 67 CCP victims have the right to claim reimbursement for the damage caused by the criminal act or compensation for the impairment of their legally protected interests. The extent of the damage or the impairment has to be established ex officio as far as this can be done on the basis of the results of the criminal proceeding or with the help of additional simple investigations. If for the assessment of a bodily injury or damage to the health of a person an expert is appointed, he/she also has to be requested to establish the periods of pain.

## 2.2.2. Confidence of citizens in their justice system



037. (Modified question) Is there a system for compensating users in the following circumstances:

	Number of requests for compensation	Number of condemnations	Total amount (in €)
<b>Total</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Excessive length of proceedings</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Non-execution of court decisions</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful arrest</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Wrongful conviction</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): The Public Authority's Liability Act

(Amtshaftungsgesetz) provides for liability of the state (and other legal entities) for misconduct of their employees in the exercise of public authority, including court proceedings and court decisions, causing damage to persons or property by excessive length of proceedings, wrongful arrest and/or wrongful condemnation. The liability presupposes both wrongfulness and fault. In the case of wrongful arrest or wrongful criminal condemnation, compensation can also be obtained according to the Penal Law's Compensation Act (Strafrechtliches Entschädigungsgesetz) without proving fault of the Authorities. The compensation procedure is laid down in para. 8 ff. Amtshaftungsgesetz and para. 9 ff. Strafrechtliches Entschädigungsgesetz. The injured person may demand – free of costs - of the legal entity against which the claim for damages is to be raised to forward her/him within a three months' term a written statement indicating as to whether it accepts or partially or totally rejects the claim for damages. If the claim is partially or totally rejected, the complaint can still be filed at court.

The exclusive jurisdiction over the claim of the injured person against the legal entity rests in the first instance with the regional court (Landesgericht) in charge of civil matters in whose range of jurisdiction the infringement of law occurred. Compensation is funded by the Public Authority's general budget. The liability is unlimited, indemnity is to be paid in terms of money only. To make sure that compensation is paid following the concrete circumstances of each individual case, there is no such thing as a daily tariff or a flat compensation sum. The amount of compensation depends solely on the magnitude of damage suffered by the victim and the degree of fault attributable to the Public Authority.

**038. (Modified question) Did your country implement surveys aimed at legal professionals and court users to measure their trust in justice and their satisfaction with the services delivered by the judicial system? If yes, how frequently and up to what level?**

	National level	Court level
<b>1. (Satisfaction) surveys aimed at judges</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>2. (Satisfaction) surveys aimed at court staff</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>3. (Satisfaction) surveys aimed at public prosecutors</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>4. (Satisfaction) surveys aimed at lawyers</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>5. (Satisfaction) surveys aimed at the parties</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>6. (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>7. (Satisfaction) surveys aimed at victims</b>	<input type="checkbox"/> Annual <input checked="" type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc
<b>8. Other not mentioned</b>	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input checked="" type="checkbox"/> Ad hoc

Comments - Please, indicate the references and links to the satisfaction surveys you mentioned above:

**040. Is there a national or local procedure for making complaints about the functioning of the judicial system? (for example the handling of a case by a judge or the duration of a proceeding)**

Yes

No

Comments

**041. (Modified question) If yes, please specify certain aspects of this procedure:**

	Authority responsible for dealing with the complaint	Time limit for dealing with the complaint
<b>Court concerned</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Higher court</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Ministry of Justice</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Council of the Judiciary</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Other external bodies (e.g. Ombudsman)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**041-1. (Modified question) Please specify further certain aspects of this procedure:**

	Number of complaints	Compensations amount granted to users
<b>Court concerned</b>	24 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Higher court</b>	351 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Ministry of Justice</b>	5500 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Council of the Judiciary</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other external bodies (e.g. Ombudsman)</b>	1940 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment: Figures in other contain now all complaints including Administrative Courts and "Ombudsstelle", resulting in higher number compared to previous cycle.

### 3.Organisation of the court system

#### 3.1.Courts

##### 3.1.1.Number of courts

**042. Number of courts considered as legal entities (administrative structures) and geographic locations**

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	129 [ ] NA [ ] NAP
42.2 First instance specialised courts (legal entities)	18 [ ] NA [ ] NAP
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	103 [ ] NA [ ] NAP

Comments

**043. Number (legal entities) of first instance specialised courts (or specific judicial order)**

	Number of courts
Total (must be the same as the data given under question 42.2)	19 [ ] NA [ ] NAP
Commercial courts (excluded insolvency courts)	2 [ ] NA [ ] NAP
Insolvency courts	[ ] NA [X] NAP
Labour courts	1 [ ] NA [ ] NAP
Family courts	[ ] NA [X] NAP
Rent and tenancies courts	[ ] NA [X] NAP
Enforcement of criminal sanctions courts	2 [ ] NA [ ] NAP
Fight against terrorism, organised crime and corruption	[ ] NA [X] NAP
Internet related disputes	[ ] NA [X] NAP
Administrative courts	11 [ ] NA [ ] NAP

<b>Insurance and / or social welfare courts</b>	1 [ ] NA [ ] NAP
<b>Military courts</b>	[ ] NA [ X ] NAP
<b>Other specialised 1st instance courts</b>	2 [ ] NA [ ] NAP

Comments - If "other specialised 1st instance courts", please specify: On principal every court has to deal with all judicial issues; in the biggest Austrian cities certain courts are specialised, i.e. five in Vienna (civil cases, criminal cases, commercial cases [2 x], employment- and social welfare cases) and two in Graz (criminal cases, remaining cases)

**044. Is there a foreseen change in the structure of courts [for example a reduction of the number of courts (geographic locations) or a change in the powers of courts]?**

- Yes  
 No

Comments - If yes, please specify: It is planned to reduce the number of courts by 3 in 2018 (-1) and 2019 (-2)

**045. Number of first instance courts (geographic locations) competent for a case concerning:**

	Number of courts
<b>a debt collection for small claims</b>	115 [ ] NA [ ] NAP
<b>a dismissal</b>	16 [ ] NA [ ] NAP
<b>a robbery</b>	16 [ ] NA [ ] NAP

Comments

**045-1. (New question) Is your definition for small claims the same as the one in the Explanatory note?**

- Yes  
 No, please give your definition for small claims: .....

Comments

**045-2. (New question) Please indicate the value in € of a small claim:**

[ 15000 ]

Comments

**C. Please indicate the sources for answering questions 42, 43 and 45:**

Sources: Civil Procedure Code

## 3.2. Court staff

### 3.2.1. Judges and non-judge staff



**046. Number of professional judges sitting in courts (if possible on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts**

	Total	Males	Females
<b>Total number of professional judges (1 + 2 + 3)</b>	2397 [ ] NA [ ] NAP	1215 [ ] NA [ ] NAP	1182 [ ] NA [ ] NAP
<b>1. Number of first instance professional judges</b>	1935 [ ] NA [ ] NAP	938 [ ] NA [ ] NAP	997 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) professional judges</b>	328 [ ] NA [ ] NAP	183 [ ] NA [ ] NAP	145 [ ] NA [ ] NAP
<b>3. Number of supreme court professional judges</b>	134 [ ] NA [ ] NAP	94 [ ] NA [ ] NAP	40 [ ] NA [ ] NAP

Comment - Please provide any useful comment for interpreting the data above: This cycle administrative courts were taken into account for the first time.

The administrative courts were established January 1st 2014. After their establishment the data of the administrative courts is introduced this cycle for the first time.

**047. Number of court presidents (professional judges). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts**

	Total	Males	Females
<b>Total number of court presidents (1 + 2 + 3)</b>	84 [ ] NA [ ] NAP	51 [ ] NA [ ] NAP	33 [ ] NA [ ] NAP
<b>1. Number of first instance court presidents</b>	61 [ ] NA [ ] NAP	37 [ ] NA [ ] NAP	24 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) court presidents</b>	20 [ ] NA [ ] NAP	11 [ ] NA [ ] NAP	9 [ ] NA [ ] NAP
<b>3. Number of supreme court presidents</b>	3 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

Comments This cycle administrative courts were taken into account for the first time.

The administrative courts were established January 1st 2014. After their establishment the data of the administrative courts is introduced this cycle for the first time.

**048. Number of professional judges sitting in courts on an occasional basis and who are paid as**

such (if possible on 31 December of the reference year):

	Figure
Gross figure	[ ] NA [ X ] NAP
In full-time equivalent	[ ] NA [ X ] NAP

Comments - If necessary, please provide comments to explain the answer provided: NAP

**048-1. (New question) Do these professional judges sitting in courts on an occasional basis deal with a significant part of cases?**

( ) Yes, please give specifications on the types of cases and an estimate in percentage. ....

( X ) No

Comments NAP

**049. (Modified question) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December of the reference year) (e.g. lay judges and “juges consulaires”, but not arbitrators and persons sitting in a jury):**

	Figure
Gross figure	823 [ ] NA [ ] NAP
In full time equivalent	[ X ] NA [ ] NAP

Comments

**049-1. If such non-professional judges exist in first instance in your country, please specify for which types of cases:**

	Yes	No	Echevinage
in criminal law cases	( )	( )	( X )
- severe criminal cases	( )	( )	( X )
- misdemeanour and/or minor criminal cases	( )	( X )	( )
in family law cases	( )	( X )	( )
in civil cases	( )	( X )	( )
in labour law cases	( )	( )	( X )

in social law cases	( )	( )	( X )
in commercial law cases	( )	( )	( X )
in insolvency cases	( )	( X )	( )
other	( )	( )	( X )

Comments - If "other", please specify:

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

Yes

No

Comments

**050-1. (New question) If yes, for which type of case(s)? (Please, for severe criminal cases and misdemeanour cases refer to the CEPEJ definitions)**

Severe criminal cases

Misdemeanour cases

Other cases

Comments

**051. Number of citizens who were involved in such juries for the year of reference:**

[ ]

NA

NAP

Comments

**052. Number of non-judge staff who are working in courts (on 31 December of the reference year) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled)**

	Total	Males	Females
<b>Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)</b>	5544 [ ] NA [ ] NAP	1623 [ ] NA [ ] NAP	3921 [ ] NA [ ] NAP
<b>1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal</b>	837 [ ] NA [ ] NAP	335 [ ] NA [ ] NAP	502 [ ] NA [ ] NAP
<b>2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)</b>	494 [ ] NA [ ] NAP	98 [ ] NA [ ] NAP	396 [ ] NA [ ] NAP



<b>3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)</b>	686 [ ] NA [ ] NAP	241 [ ] NA [ ] NAP	445 [ ] NA [ ] NAP
<b>4. Technical staff</b>	52 [ ] NA [ ] NAP	28 [ ] NA [ ] NAP	24 [ ] NA [ ] NAP
<b>5. Other non-judge staff</b>	3475 [ ] NA [ ] NAP	921 [ ] NA [ ] NAP	2554 [ ] NA [ ] NAP

Comments - If "other non-judge staff", please specify: This cycle administrative courts were taken into account for the first time. The administrative courts were established January 1st 2014. After their establishment the data of the administrative courts is introduced this cycle for the first time.

**053. (Modified question) If there are Rechtspfleger (or similar bodies) in your judicial system, please specify in which fields do they have a role:**

- legal aid
- family cases
- payment orders
- registry cases (land and/or business registry cases)
- enforcement of civil cases
- enforcement of criminal cases
- other cases not mentioned (please describe in comment)
- non-litigious cases

Comments - Please briefly describe their status and duties: "Rechtspfleger" are judicial officers with a special training and special qualifications, who are assigned the handling of certain first-instance transactions under civil law. They are bound to the instructions of the judge responsible for the case according to the distribution of court business, who may also reserve the handling of the legal case to themselves at any time and at any stage. "Rechtspfleger" may only issue court orders. The judges themselves may grant appeals against these orders, but there is also the legal remedy of requiring submission of the case to a judge. The scope of competences of "Rechtspfleger" comprises, inter alia, default actions, confirming the legal effect and enforceability of rulings by judges in their field of work, decisions on applications for legal aid in court-clerk proceedings and performing official acts on the basis of a request for judicial assistance by a domestic court or a domestic authority.

"Rechtspfleger" have a particularly comprehensive workload in forced-collection proceedings and in personal bankruptcy cases. In addition, they maintain the land register and the trade register. Other areas of responsibility are probate and custody proceedings (non-litigious matters). Only court officers are admitted to the training as "Rechtspfleger". They must have passed the secondary-school leaving examination (Matura), or the career examination for civil servants. They must also have worked in a court office for two years and passed the court-office examination and the specialservice examination. The training lasts three years.

**054. Have the courts outsourced certain services, which fall within their powers, to private providers?**

- Yes
- No

Comments

**054-1. (New question) If yes, please specify which services have been outsourced:**

- IT services
- Training of staff
- Security
- Archives
- Cleaning
- Other types of services (please specify):Caretaker

Comments

**C1. Please indicate the sources for answering questions 46, 47, 48, 49 and 52**

Sources: MIS of PM-SAP  
 Law, specific statistics in the field of personnel monitoring and Controlling (managed bei the MoJ)

**3.3. Public prosecution**

**3.3.1. Public prosecutors and staff**



**055. Number of public prosecutors (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts.**

	Total	Males	Females
<b>Total number of prosecutors (1 + 2 + 3)</b>	360 [ ] NA [ ] NAP	178 [ ] NA [ ] NAP	182 [ ] NA [ ] NAP
<b>1. Number of prosecutors at first instance level</b>	318 [ ] NA [ ] NAP	151 [ ] NA [ ] NAP	167 [ ] NA [ ] NAP
<b>2. Number of prosecutors at second instance (court of appeal) level</b>	24 [ ] NA [ ] NAP	16 [ ] NA [ ] NAP	8 [ ] NA [ ] NAP
<b>3. Number of prosecutors at supreme court level</b>	18 [ ] NA [ ] NAP	11 [ ] NA [ ] NAP	7 [ ] NA [ ] NAP

Please indicate any useful comment for interpreting the data above:

**056. Number of heads of prosecution offices (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions.**

Total	Males	Females

<b>Total number of heads of prosecution offices (1 + 2 + 3)</b>	30 [ ] NA [ ] NAP	20 [ ] NA [ ] NAP	10 [ ] NA [ ] NAP
<b>1. Number of heads of prosecution offices at first instance level</b>	24 [ ] NA [ ] NAP	15 [ ] NA [ ] NAP	9 [ ] NA [ ] NAP
<b>2. Number of heads of prosecution offices at second instance (court of appeal) level</b>	5 [ ] NA [ ] NAP	4 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Number of heads of prosecution offices at supreme court level</b>	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP

Please provide any useful comment for interpreting the data above:

### 057. Do other persons have similar duties to public prosecutors?

Yes, please specify their number (in full-time equivalent): 161

No

Comments - If yes, please specify their title and functions: The agents of public prosecutor's offices ("Bezirksanwälte") are judicial officers with legal training, and are allowed to act for the public prosecutor's offices under the supervision of a public prosecutor (Quite similar to the "Rechtspfleger", but with a lower range of competence).

### 059. If yes, is their number included in the number of public prosecutors that you have indicated under question 55?

Yes

No

Comments

### 059-1. Do prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

Yes

No

Comments

### 060. Number of staff (non-public prosecutors) attached to the public prosecution service (on 31 December of the reference year) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

	Total	Males	Females
<b>Number of staff (non-public prosecutors) attached to the public prosecution service</b>	346 [ ] NA	64 [ ] NA	282 [ ] NA

Comments

### C2. Please indicate the sources for answering questions 55, 56 and 60

Sources: Specific statistics in the field of personnel Monitoring and Controlling (managed by the MoJ)

### 3.4. Management of the court budget

#### 3.4.1. Court budget

##### 061. Who is entrusted with responsibilities related to the budget within the court?

	Preparation of the budget	Arbitration and allocation of the budget	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Court President	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Court administrative director	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Head of the court clerk office	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments - If "other", please specify: The Minister of Justice splits the budget allocated by the Federal Financial Law – among others – to the Supreme Court and the Higher regional courts. The president of the Supreme Court and the presidents of the four Higher regional courts are entrusted with the management and evaluation of the allocated court budget.

Changes to previous cycle result to the newly incorporated Administrative Courts.

### 3.6. Performance and evaluation

#### 3.6.1. National policies applied in courts and public prosecution services

##### 066. Are quality standards determined for the judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

Yes

No

Comments - If yes, please specify:

##### 067. Do you have specialised court staff that is entrusted with these quality standards?

Yes

No

Comments

##### 068. Is there a national system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan agreed beforehand?

Yes

No

Comments

068-1. (New question) If yes, please specify the frequency of this evaluation:

- Annual
- Less frequent
- More frequent

Comments - If "less frequent" or "more frequent", please specify:

**069. Is there a system for monitoring and evaluating the performance of the public prosecution service?**

- Yes
- No

Comments - If yes, please give further details: The monitoring of the performance of the prosecution services is similar to the monitoring of the performance of the Courts.

**3.6.2. Performance and evaluation of courts**

**070. Do you have, within the courts, a regular monitoring system of court activities concerning:**

- number of incoming cases
- number of decisions delivered
- number of postponed cases
- length of proceedings (timeframes)
- age of cases
- other (please specify):e.g. certain kinds of decisions, clearance rate (annually)

Comments

**071. Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:**

- civil law cases
- criminal law cases
- administrative law cases

Comments

**072. Do you have an evaluation process to monitor waiting time during court procedures?**

- Yes
- No

Comments - If yes, please specify: Supreme administrative Court: Statistic of incoming cases, number of decisions delivered, number of postpones cases, length of proceedings (timeframes) and age of cases

**073. Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?**

- Yes
- No

Comments

**073-0. (New question) If yes, please specify the frequency:**

- Annual
- Less frequent
- More frequent

Comments - If "less frequent" or "more frequent", please specify: Operational Information System (BIS) annually  
 Periodic check lists (on October 1st of every year)  
 Internal audit examination all 4 to 7 years (less frequent)  
 Monthly statistics about incoming and closed cases ("Kurzstatistik") (more frequent)

**073-1. Is this evaluation of the court activity used for the later allocation of means to this court?**

- Yes
- No

Comments

**074. Are there performance targets defined at the level of the court?**

- Yes
- No

Comments

**075. (Modified question) Please specify the main targets applied to the courts:**

- to increase efficiency / to shorten the length of proceedings
- to improve quality
- to improve cost efficiency / productivity
- Other (please specify): .....

Comments

**076. Who is responsible for setting the targets for the courts?**

- Executive power (for example the Ministry of Justice)
- Legislative power
- Judicial power (for example High Judicial Council, Higher Court)
- President of the court
- Other (please specify):committees

Comments

**077. Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 79)**

- Yes
- No

Comments

**078. If yes, please select the main performance and quality indicators that have been defined:**

- incoming cases

- length of proceedings (timeframes)
- closed cases
- pending cases and backlogs
- productivity of judges and court staff
- percentage of cases that are processed by a single sitting judge
- enforcement of penal decisions
- satisfaction of court staff
- satisfaction of users (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- number of appeals
- other (please specify): .....

**079. Who is responsible for evaluating the performance of the courts (multiple options possible) :**

- High Council of judiciary
- Ministry of Justice
- Inspection authority
- Supreme Court
- External audit body
- Other (please specify): President of the Administrative Courts and the Supreme Administrative Court, Committees

Comments

**3.6.3. Court activity and administration**

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

- Yes (please indicate the name and the address of this institution): Federal Computing Centre of Austria (Bundesrechenzentrum GmbH)
- No

Comments

**080-1. Does this institution publish statistics on the functioning of each court:**

- Yes, on internet
- No, only internally (in an intranet website)
- No

Comments

**081. Are individual courts required to prepare an activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?**

Yes

No

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended):

**081-1. If yes, please specify in which form this report is released:**

Internet

Intranet (internal) website

Paper distribution

Comments Administrative Courts: the activity report is prepared once a year by every court and publicly available. The Report contains, among others, incoming and resolved cases, which cases were still open at the end of the year, type of proceedings, duration of proceedings, number of staff etc. They are published.

Administrative Supreme Court: the activity report includes general remarks, personnel structure, statistics of pending and completed cases and a selection from the case law. The Report is transmitted to the Federal Chancellor and other important authorities.

**081-2. (New question) If yes, please, indicate the periodicity at which the report is released:**

Annual

Less frequent

More frequent

Comments

**082. (Modified question) Is there a process or structure of dialogue between the public prosecutor service and courts as regards the way cases are presented before courts (for example the organisation, number and planning of hearings, on-call service for urgent cases, selection of simplified procedures of prosecution...)?**

Yes

No

Comments - If yes, please specify: Pursuant to Art. 87 para 3 B-VG and section 32 seqq of the Law of Court Organization (Gerichtsorganisationsgesetz = GOG), Austrian Federal Law Gazette No 217/1896, in the version of Austrian Federal Law Gazette I 94/2015 all judicial duties have to be allocated amongst the judges of a court in advance for a period of one year (principle of fixed allocation of cases). These fixed court rules are determined by the staff panels. The parameters for the allocation of cases have to be determined exactly by abstract court rules. The allocation of cases can be conducted by a random assignment of cases or according to alphabetical order determined beforehand. If the case allocation is done through the random system (= Allgemeines Verteilungssystem= AVS), a mathematical algorithm principle of random selection of the judge is used. According to Art. 87 para 3 B-VG cases may only be withdrawn from judges to a very limited extent only: only in the event the judge is unable to pursue his/her duties or he/she will not be able to deal timely with the case because of an already existing caseload and only by a decision of the staff panel.

**082-1. (Modified question) Is there a process or structure of dialogue between lawyers and courts as regards the way cases are presented before courts in other than criminal matter (e.g. organisation, number and planning of hearings, on-call service for urgent cases)?**

Yes

No

Comments - If yes, please specify:



### 3.6.4. Performance and evaluation of judges

**083. Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?**

Yes

No

Comments Provincial Administrative Courts: Maximum 150 cases a year per judge (average value).

Federal Finance Court:

No performance targets, which are seen in conflict with the independence. However based on a continuous transparent controlling the possibility of benchmarking exists. In addition regular dialogues with the judges regarding their performance are held.

**083-1. Who is responsible for setting the targets for each judge?**

Executive power (for example the Ministry of Justice)

Legislative power

Judicial power (for example the High Judicial Council, Supreme Court)

President of the court

Other (please specify): Committees

Comments Answer counts only for the administrative courts.

For the other courts, no performance targets, which are seen as a conflict with the independence of courts.

### New node

## 4. Fair trial

### 4.1. Principles

#### 4.1.1. Principles of fair trial

**084. Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a lawyer)?**

[            ]

NA

NAP

Comments

**085. Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?**

Yes, number of successful challenges in a year NA

No

Comments - Please could you briefly specify: NA

**086. Is there in your country a monitoring system for the violations related to Article 6 of the European Convention on Human Rights?**

	Monitoring system
For civil procedures (non-enforcement)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
For civil procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
For criminal procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - Please, specify what are the terms and conditions of this monitoring system (information related to violations at the State/courts level; implementation of internal systems to remedy the established violation; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations: The Ministry of Justice disseminates current information to all courts and prosecution services about the jurisprudence of the ECtHR by annual circular letters. Judgments of the ECtHR are discussed on a regular basis in the advanced training courses for judges on fundamental rights and in seminars for candidate judges and legal trainees. Article 363a of the Code of Criminal Proceedings (StPO) provides, that a retrial shall be held on application in so far as it cannot be ruled out that a violation of the ECHR or one of its Protocols, which was established in a judgment of the ECtHR on account of a decision or order of a criminal court, might have affected the decision in a manner detrimental to the person concerned. According to the jurisprudence of the Supreme Court (13 Os 135/06m), an application under Article 363a StPO may be lodged with the Supreme Court even prior to an application with the ECtHR, because Article 363a StPO must not be interpreted as permitting a retrial only in cases where a violation of Convention rights has already been established in a judgment against Austria by the ECtHR. The ECtHR considers an application under Article 363a StPO an effective and appropriate remedy for the purposes of Article 35 of the Convention (ECtHR 6.10.2015, ATV Privatfernseh GmbH, Appl.no. 58842/09).

## D1. Please indicate the sources for answering questions in this chapter.

Sources: NA

## 4.2. Timeframe of proceedings

### 4.2.1. General information

#### 087. Are there specific procedures for urgent matters as regards:

- civil cases
- criminal cases
- administrative cases
- There is no specific procedure

Comments - If yes, please specify: in civil cases:

“Einstweilige Verfügung” (“Urgent order”)

Concerning criminal cases sec. 9 CCP states that criminal proceedings in general shall be handled without undue delay (para. 1); according to para. 2 cases of pretrial detention shall be dealt with even more swiftly.

in administrative cases:

e.g. Deportation detention, aliens' legislation - special regulation.

**088. Are there simplified procedures for:**

- civil cases (small disputes)
- criminal cases (misdemeanour cases)
- administrative cases
- There is no simplified procedure

Comments - If yes, please specify: Civil Cases:

Payment orders up to € 75.000,-, proceedings under Regulation No. 861/2007 establishing a European Small Claims Procedure

Criminal Cases:

According to Sec 491 CCP (entered into force on 1.1.2015) in proceedings before the District Court and the Regional Court as a single judge the sentence can be set by written penal order without a previous trial if

1. it is only a misdemeanour (threat of punishment prison sentence up to three years), the accused person was under the examination to the criminal charge and expressly waives a trial,
2. there is no reason for a different kind of ending the proceedings (diversion or abatement of action),
3. the results of the investigation are sufficient for the assessment of all relevant circumstances and the rights and legitimate interests of victims are not affected (“Mandatsverfahren”).

The written penal order has to be confined to fines or prison sentences up to one year on probation.

**088-1. (Modified question) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?**

- civil cases
- criminal cases
- administrative cases

Comments - If yes, please specify: See the answer to Q88.

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

- Yes
- No

Comments - If yes, please specify:

**4.2.2. Case flow management – first instance**



**091. (Modified question) First instance courts: number of other than criminal law cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court (Please insert NA for category 2)
<b>Total of other than criminal law cases (1+2+3+4)</b>	524240 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3284414 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3298090 <input type="checkbox"/> NA <input type="checkbox"/> NAP	510564 <input type="checkbox"/> NA <input type="checkbox"/> NAP	21845 <input type="checkbox"/> NA <input type="checkbox"/> NAP

<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	33222 [ ] NA [ ] NAP	84708 [ ] NA [ ] NAP	86398 [ ] NA [ ] NAP	31532 [ ] NA [ ] NAP	4411 [ ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	388908 [ ] NA [ ] NAP	2641124 [ ] NA [ ] NAP	2656631 [ ] NA [ ] NAP	373401 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	356361 [ ] NA [ ] NAP	1670674 [ ] NA [ ] NAP	1676141 [ ] NA [ ] NAP	350894 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	32556 [ ] NA [ ] NAP	970450 [ ] NA [ ] NAP	980490 [ ] NA [ ] NAP	22507 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.1. Non litigious land registry cases</b>	28491 [ ] NA [ ] NAP	683624 [ ] NA [ ] NAP	693404 [ ] NA [ ] NAP	18711 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	4056 [ ] NA [ ] NAP	286826 [ ] NA [ ] NAP	287086 [ ] NA [ ] NAP	3796 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.3. Other registry cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ X ] NA [ ] NAP
<b>2.3. Other non-litigious cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative law cases</b>	48297 [ ] NA [ ] NAP	56583 [ ] NA [ ] NAP	51395 [ ] NA [ ] NAP	53485 [ ] NA [ ] NAP	12917 [ ] NA [ ] NAP
<b>4. Other cases</b>	53813 [ ] NA [ ] NAP	501999 [ ] NA [ ] NAP	503666 [ ] NA [ ] NAP	52146 [ ] NA [ ] NAP	4517 [ ] NA [ ] NAP

Comments Due to the low absolute numbers of pending cases on 1 Jan./31 Dec. high deviations in percentage are normal.

**092. If courts deal with “civil (and commercial) non-litigious cases”, please indicate the case categories included:**

- . Se, S, MSch, PSch, P-Vorgänge, Pg-Vorgänge, Ps-Vorgänge, Pu-Vorgänge, SW)
- Commence of bankruptcy proceedings
- Bankruptcy proceedings
- Composition proceedings
- Non-litigious proceedings about rent, non profit cooperative association for housing, home ownership
- Proceedings about Lease of farm land

Wardship cases in connection with administration of assets, custody and maintenance  
 Uncontested payment orders  
 Enforcement Cases

**093. Please indicate the case categories included in the category "other cases":**

. (JV, A, T, G, Uh, Hc, Nc, Ha, Fam, Rv)  
 Probate Proceedings  
 Cases concerning the Administration of justice  
 Cancellation proceedings and proceedings in connection with [official] declaration of death authentication of signatures  
 proceedings to render legal assistance in civil matters for other courts (also international ones)  
 General civil proceedings, that are not allocated to other categories of cases  
 Some Non litigious family matters

**094. (Modified question) First instance courts: number of criminal law cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
<b>Total of criminal law cases (1+2)</b>	14689 [ ] NA [ ] NAP	53104 [ ] NA [ ] NAP	53311 [ ] NA [ ] NAP	14482 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Severe criminal cases</b>	5530 [ ] NA [ ] NAP	22939 [ ] NA [ ] NAP	23078 [ ] NA [ ] NAP	5391 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	9159 [ ] NA [ ] NAP	30165 [ ] NA [ ] NAP	30233 [ ] NA [ ] NAP	9091 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences":

**4.2.3. Case flow management – second instance**

**097. (Modified question) Second instance courts (appeal): Number of “other than criminal law” cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court (Please insert NA for category 2)
<b>Total of other than criminal law cases (1+2+3+4)</b>	5248 [ ] NA [ ] NAP	27320 [ ] NA [ ] NAP	27567 [ ] NA [ ] NAP	5001 [ ] NA [ ] NAP	19 [ ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.3. Other registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.3. Other non-litigious cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative law cases</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>4. Other cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments In the area of appeal cases concerning other than criminal law cases only the categories of general civil law, labour law and

social law are gathered. The administrative cases are NAP in second instance since they are presented in first and final instance.

**098. (Modified question) Second instance courts (appeal): number of criminal law cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
<b>Total of criminal law cases (1+2)</b>	1527 [ ] NA [ ] NAP	9897 [ ] NA [ ] NAP	10139 [ ] NA [ ] NAP	1285 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Severe criminal cases</b>	1135 [ ] NA [ ] NAP	7687 [ ] NA [ ] NAP	7826 [ ] NA [ ] NAP	996 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	392 [ ] NA [ ] NAP	2210 [ ] NA [ ] NAP	2313 [ ] NA [ ] NAP	289 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments There is significant discrepancy in the number of incoming and resolved misdemeanour cases because the administrative criminal cases of second instance are included in third instance.

**4.2.4. Case flow management – Supreme Court**



**099. (Modified question) Highest instance courts (Supreme Court): number of “other than criminal law” cases.**

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court (Please insert NA for category 2))
<b>Total of other than criminal law cases (1+2+3+4)</b>	2935 [ ] NA [ ] NAP	6703 [ ] NA [ ] NAP	7152 [ ] NA [ ] NAP	2486 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.1. Non litigious land registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.2 Non-litigious business registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.2.3. Other registry cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2.3. Other non-litigious cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Administrative law cases</b>	2148 [ ] NA [ ] NAP	4250 [ ] NA [ ] NAP	4642 [ ] NA [ ] NAP	1756 [ ] NA [ ] NAP	118 [ ] NA [ ] NAP
<b>4. Other cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments The big variation is due to the fact that this cycle the administrative cases were included.

The administrative courts were established January 1st 2014. After their establishment the data of the administrative courts is introduced this cycle for the first time.

**099-1. At the level of the Highest court (Supreme Court), is there a procedure of manifest inadmissibility?**

( ) Yes, please indicate the number of cases closed by this procedure: .....

( X ) No

Comments Natural and legal persons may Petition for Review of rulings by lower administrative Courts if These involve legal questions of fundamental importance.

**100. (Modified question) Highest instance courts (Supreme Court): number of criminal law cases.**

<b>Pending cases on 1 Jan. ref. year</b>	<b>Incoming cases</b>	<b>Resolved cases</b>	<b>Pending cases on 31 Dec. ref. year</b>	<b>Pending cases older than 2 years from the date the case came to the Supreme court</b>



<b>Total of criminal law cases (1+2)</b>	510 [ ] NA [ ] NAP	1443 [ ] NA [ ] NAP	1500 [ ] NA [ ] NAP	453 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>1. Severe criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments The big variation is due to the fact that this cycle the administrative cases were included.

The administrative courts were established January 1st 2014. After their establishment the data of the administrative courts is introduced this cycle for the first time.

#### 4.2.5. Case flow management – specific cases

101. (Modified question) Number of litigious divorce cases, employment dismissal cases, insolvency, robbery cases, intentional homicide cases, cases relating to asylum seekers and cases relating to the right of entry and stay for aliens received and processed by first instance courts.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
<b>Litigious divorce cases</b>	2765 [ ] NA [ ] NAP	5782 [ ] NA [ ] NAP	5930 [ ] NA [ ] NAP	2617 [ ] NA [ ] NAP
<b>Employment dismissal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Insolvency</b>	10150 [ ] NA [ ] NAP	23556 [ ] NA [ ] NAP	24158 [ ] NA [ ] NAP	9548 [ ] NA [ ] NAP
<b>Robbery case</b>	142 [ ] NA [ ] NAP	525 [ ] NA [ ] NAP	534 [ ] NA [ ] NAP	133 [ ] NA [ ] NAP
<b>Intentional homicide</b>	23 [ ] NA [ ] NAP	67 [ ] NA [ ] NAP	68 [ ] NA [ ] NAP	22 [ ] NA [ ] NAP
<b>Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)</b>	221 [ ] NA [ ] NAP	1581 [ ] NA [ ] NAP	1559 [ ] NA [ ] NAP	271 [ ] NA [ ] NAP
<b>Cases relating to the right of entry and stay for aliens</b>	7690 [ ] NA [ ] NAP	21383 [ ] NA [ ] NAP	14119 [ ] NA [ ] NAP	14986 [ ] NA [ ] NAP

Comments

101-1. (New question) Could you briefly describe the system in your country dealing with judicial remedies relating to asylum seekers (refugee status under the 1951 Geneva Convention) and the right of entry and stay for aliens:

. See [http://fra.europa.eu/sites/default/files/fra\\_uploads/1022-asylum\\_factsheet\\_Austria\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1022-asylum_factsheet_Austria_en.pdf)

102. Average length of proceedings, in days (from the date the application for judicial review is lodged). The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.

	% of decisions subject to appeal	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)	% of cases pending for more than 3 years for all instances
<b>Litigious divorce case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	155 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Employment dismissal case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	167 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Insolvency</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments % of cases pending for more than 3 years for all instances are not available, because Austria is Monitoring "pending for more than 1 year" and "pending for more than 2 years" only.

103. Where appropriate, please indicate the specific procedure as regards divorce cases (litigious and non-litigious):

. NAP

104. How is the length of proceedings calculated for the five case categories of question 102? Please give a description of the calculation method.

. The figure mentioned for litigious divorces is showing precisely only this kind of procedure. The figure for Employment dismissal cases is taken from the average length (median) of litigious procedures in civil labour categories as they go along with. The figures concerning the length of procedure are calculated as follows: Median length in months x 4,33 x 7.  
 % of pending cases for more than 3 years: pending cases for more than 3 years divided by incoming cases = 1,3%

**4.2.6. Case flow management – public prosecution**

105. Role and powers of the public prosecutor in the criminal procedure (multiple options

**possible):**

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to request investigation measures from the judge
- to charge
- to present the case in court
- to propose a sentence to the judge
- to appeal
- to supervise the enforcement procedure
- to discontinue a case without needing a decision by a judge (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers (please specify): .....

Comments With the entry into force of the Code of Criminal Procedures Amending Act (Strafprozessreformgesetz) on 1st January 2008 the public prosecutor has got the right to conduct investigations himself.

The public prosecutor has to refrain from requesting a concrete term of sentence. However, he has the right to plea with regard to the sentence, thus meaning inter alia he can refer to the mitigating and aggravating grounds to be applied or if a sentence under probation is admissible or not.

In Austria, the public prosecutor cannot impose or negotiate a penalty. However, measures of diversion (“diversionelle Erledigungen”), which are proposed to the suspect by the public prosecutor without a judicial decision, can be regarded as sanctions (but not penalties) and should be mentioned in this context. The suspect is free to accept such a proposal or to reject it (there is no room for negotiations, for example if the suspect would prefer another type of measure of diversion). In the latter case, the proceeding is continued, that means the suspect is indicted.

**106. (Modified question) Does the public prosecutor also have a role in:**

- civil cases
- administrative cases
- insolvency cases

Comments - If yes, please specify: Only in few, certain, exactly defined cases, the public prosecutor has the right to file an action before a civil court to have a marriage declared null and void, inter alia in the case of bigamy or if the marriage was merely or predominantly concluded to obtain the nationality or the family name of one spouse by the other. Furthermore, the public prosecutor represents the public interest in judicial proceedings, with which a person is declared dead. Inter alia he has the opportunity to give a statement before such a decision and has to request the nullification or the amendment of such a declaration, if a person has been declared dead but still is alive or has died on a different day than the day stated in the declaration of death.

**107. Cases processed by the public prosecutor - Total number of first instance criminal cases:**

	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
<b>Total number of first instance cases processed by the public prosecutor</b>	516415	420638	19079	65662
	<input type="checkbox"/> NA	<input type="checkbox"/> NA	<input type="checkbox"/> NA	<input type="checkbox"/> NA
	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP

Comments

107-1. (Modified question) If the guilty plea procedures exist, how many cases were brought to court by the prosecutor through this procedure?

	Number of guilty plea procedures
<b>Total</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Before the court case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>During the court case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

108. Total cases which were discontinued by the public prosecutor:

	Number of cases
<b>Total cases which were discontinued by the public prosecutor (1+2+3)</b>	420638 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Discontinued by the public prosecutor because the offender could not be identified</b>	264120 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation</b>	141981 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Discontinued by the public prosecutor for reasons of opportunity</b>	14627 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

109. Do the figures include traffic offence cases?

Yes

No

Comments

D2. Please indicate the sources for answering questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 107-1 and 108.

Sources: Betriebliches Informationssystem 2016 (Business Information System = BIS), Kurzstatistik 2016, Court Automation, Data Warehouse

Q101 (ad robbery cases and intentional homicide):

Included are only the cases against known offenders.

The intentional homicide cases includes facts of murder, manslaughter, killing on demand, involvement in suicide and killing a child at birth (sec 75 to 79 criminal code)

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## 5. Career of judges and public prosecutors

### 5.1. Recruitment and promotion

#### 5.1.1. Recruitment and promotion of judges

##### 110. (Modified question) How are judges recruited?

- [ X ] mainly through a competitive exam (open competition)
- [ X ] mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)
- [ ] a combination of both (competitive exam and working experience)
- [ ] other (please specify): .....

Comments Provincial Administrative Courts:

For the appointment as a judge at an administrative court, a five year professional experience and the (previous) passing Service exam or an authorisation to teach at University is required. Only the best of the applicants are selected to be represented in the shortlist of three candidates created by the competent judicial committee of the administrative Courts.

##### 110-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

- ( X ) Yes
- ( ) No

Comments - If yes, please specify: The answer "Yes" Counts only for the judges at the administrative Courts:

Regulation regarding the Action plan for Promotion of women at the Supreme Administrative Court of Austria, BGBl II Nr. 167/2016. Provincial Administrative Courts: According to staff regulations, in case of underrepresentation of women, they have to be preferred in case of same qualification. Federal Finance Court:

An equal-treatment officer may attend the Hearings of the applicants and has the possibility to make a Statement.

##### 111. Authority(ies) responsible for recruitment. Are judges initially/at the beginning of their career recruited and nominated by:

- [ ] an authority made up of judges only
- [ ] an authority made up of non-judges only
- [ X ] an authority made up of judges and non-judges

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles: Appointment by the Federal President (High judges) or by the Federal Minister of Justice based upon a Nomination by an authority composed of judges.

At the administrative courts, judges are appointed by the responsible supreme Body of Administration (Federal President, provincial government) based on the (non-binding) shortlist of three candidates created by the competent judicial committee.

Supreme Administrative Court: NAP, within the Supreme Administrative Court there aren't any "Young professionals"/"recent graduates".

##### 112. Is the same authority (Q111) competent for the promotion of judges?

- ( ) Yes
- ( X ) No

Comments At the administrative Courts there is - apart from in the Service law clearly defined advancements - no promotion; judges can apply for the Position of a judge at the Supreme Administrative Court, but that would require a new appointment.

**112-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?**

- Yes
- No

Comments - If yes, please specify:

**113. What is the procedure for judges to be promoted? (multiple answers possible)**

- Competitive test / Exam
- Other procedure (interview or other)
- No special procedure

Comments - Please specify how the promotion of judges is organised (especially if there is no competition or examination): General nondiscrimination rules apply (in case of equally qualified applicants, the female applicant has to be appointed).

**113-1. Please indicate the criteria used for the promotion of a judge? (multiple answers possible)**

- Years of experience
- Professional skills (and/or qualitative performance)
- Performance (quantitative)
- Assessment results
- Subjective criteria (e.g. integrity, reputation)
- Other
- No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): "No criteria" for the administrative Courts.

**114. (Modified question) Is there a system of qualitative individual assessment of the judges' work?**

- Yes
- No

Comments

**114. If yes, please specify the frequency of this assessment:**

- Annual
- Less frequent
- More frequent

**5.1.2. Status, recruitment and promotion of prosecutors**

**115. What is the status of prosecution services?**

- statutory independent
- under the authority of the Minister of justice or another central authority
- other (please specify): .....

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...).

**115-1. Does the law or another regulation prevent specific instructions to prosecute or not, addressed to a prosecutor in a court.**

Yes

No

Comments - If yes, please specify:

**116. How are public prosecutors recruited?**

mainly through a competitive exam (open competition)

mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)

a combination of both (competitive exam and working experience)

other (please specify): .....

Comments Only judges or prosecutors can be appointed as prosecutors.

They have to meet the requirements for being appointed as a professional judge.

**117. Authority(ies) responsible for recruitment. Are public prosecutors initially/at the beginning of their career recruited by:**

an authority composed of public prosecutors only

an authority composed of non-public prosecutors only

an authority composed of public prosecutors and non-public prosecutors

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles: See question 116. Applicants have to meet the same requirements and complete the same training periods and exams as judges before they can apply for a post as prosecutor.

**117-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?**

Yes

No

Comments - If yes, please specify: No necessity as the number of female judges already exceeds that of male judges, general nondiscrimination rules apply.

**118. Is the same authority (Q.117) formally responsible for the promotion of public prosecutors?**

Yes

No, please specify which authority is competent for promoting public prosecutors .....

Comments In Austria "promoting" means exclusively the appointment to higher posts like the chief of a public prosecution, a General Advocate or a prosecutor of second instance. The Federal President appoints public prosecutors upon proposal by the staff commission. However, for most established (lower) public prosecutor posts he has delegated the right of appointment to the Federal Minister of Justice.

**119. What is the procedure for prosecutors to be promoted? (multiple answers possible)**

Competitive test / exam

Other procedure (interview or other)

No special procedure

Comments - Please, specify the procedure (especially if it is a procedure different from a competitive test or an exam): See question 116. In the proposal which includes a ranking of the applicants the staff commission has to consider the professional experience, the appropriate application, organizational skills and the appraisals of the applicants.

### **119-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?**

Yes

No

Comments - If yes, please specify: General nondiscrimination rules apply (in case of equally qualified applicants, the female applicant has to be appointed).

### **119-2. Please indicate the criteria used for the promotion of a prosecutor:**

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please, specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"):

### **120. Is there a system of qualitative individual assessment of the public prosecutors' work?**

Yes

No

Comments

## **5.1.3. Mandate and retirement of judges and prosecutors**

### **121. Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

Yes, please indicate the compulsory retirement age:65

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: A judge has to be temporary retired if,

- he/she is away sick for more than one year
- he/she does not fulfil the requirements anymore
- he/she becomes a member of an Regional Administrative Court ("Landesverwaltungsgericht")

A judge has to be permanently retired if he/she has a negative review of his/her work for two years straight.

A judge loses his/her job automatically if,

- he/she loses the Austrian citizenship

- he/she gets dismissed as a disciplinary sanction

- he/she is convicted (3 possibilities)

1. to imprisonment for more than one year

2. to imprisonment and the not suspended sentence exceeds half a year



3. because of abuse of authority (in a sexual context)  
Different retirement age at the Administrative Court: in Vorarlberg 68.

**121-1. Can a judge be transferred (to another court) without his/her consent:**

For disciplinary reasons

For organisational reasons

For other reasons (please specify modalities and safeguards): Ad for organisational reasons: In case of court closures/mergers the transfer has to be regulated by federal law. This has never been necessary so far because affected judges usually apply for other posts in time. Ad Other reasons: A judge has to be transferred if nonprofessional circumstances (that haven't been inflicted by him-/herself) permanently damage his/her reputation and ability to perform the duties of his/her post to an extent that he/she would not be able to function as a judge at that post anymore. Furthermore in cases of adoption of the judge by another judge of the same district court, adoption of another judge of the same district court by the judge or marriage or non-marital relationship of judges of the same district court.

No

Comments Answer is NO for the Administrative Courts.

**122. Is there a probation period for judges (e.g. before being appointed "for life")? If yes, how long is this period?**

Yes, duration of the probation period (in years): .....

No

NAP

Comments

**123. Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

Yes, please indicate the compulsory retirement age:65, deferment of five years is possible.

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: Comment :

A public prosecutor has to be temporary retired if,

- he/she is away sick for more than one year

- he /she does not fulfil the requirements anymore

- he /she becomes a member of an Regional Administrative Court ("Landesverwaltungsgericht")

A public prosecutor has to be permanently retired if he/she has a negative review of his/her work for two years straight.

A public prosecutor loses his/her job automatically if,

- he/she loses the Austrian citizenship

- he/she gets dismissed as a disciplinary sanction

- he/she is convicted (3 possibilities)

1. to imprisonment for more than one year

2. to imprisonment and the not suspended sentence exceeds half a year

3. because of abuse of authority (in a sexual context).

**124. Is there a probation period for public prosecutors? If yes, how long is this period?**

Yes, duration of the probation period (in years): .....

No

Comments

**125. If the mandate for judges is not for an undetermined period (see question 121), what is the length of the mandate (in years)? Is it renewable?**

Yes, what is the length of the mandate (in years)? .....

No

Comments NAP

**126. If the mandate for public prosecutors is not for an undetermined period (see question 123), what is the length of the mandate (in years)? Is it renewable?**

Yes, what is the length of the mandate (in years)? .....

No, what is the length of the mandate (in years)?NAP

Comments

## 5.2. Training

### 5.2.1. Training of judges

**127. Types of different trainings offered to judges**

	Compulsory	Optional	No training proposed
<b>Initial training (e.g. attend a judicial school, traineeship in the court)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>General in-service training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for management functions of the court (e.g. court president)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for the use of computer facilities in courts</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

**128. Frequency of the in-service training of judges:**

	Frequency of the judges training
<b>General in-service training</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

<b>In-service training for management functions of the court (e.g. court president)</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for the use of computer facilities in courts</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the continuous training of judges: Occasional (as needed) for the administrative Courts.

## 5.2.2. Training of prosecutors

### 129. Types of different trainings offered to public prosecutors

	Compulsory	Optional	No training proposed
<b>Initial training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>General in-service training</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for specialised functions (e.g. public prosecutors specialised on organised crime)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for management functions in the courts (e.g. Head of prosecution office, manager)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>In-service training for the use of computer facilities in office</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments ---

### 130. Frequency of the in-service training of public prosecutors :

	Frequency of the in-service training
<b>General in-service training</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
<b>In-service training for management functions in office (e.g. Head of prosecution office, manager)</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

<b>In-service training for the use of computer facilities in office</b>	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
---	--

Comments - Please indicate any information on the periodicity of the in-service training of prosecutors:

**131. Do you have public training institutions for judges and / or prosecutors?**

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One institution for prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One single institution for both judges and prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

**131-0. (Modified question) If yes, what is the budget of such institution(s)?**

	Budget of the institution for the reference year, in €
One institution for judges	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One institution for prosecutors	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One single institution for both judges and prosecutors	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments ---

**131-1. If judges and/or prosecutors have no compulsory initial training in such institutions, please indicate briefly how these judges and/or prosecutors are trained?**

. In Austria candidates for judges and prosecutors get the same initial training. After education the candidate is free to choose either between a career as a judge or as a prosecutor. The initial training takes about four years and is conducted by judges. All the candidates also get practice at the Public Prosecutions Office. The initial training is compulsory for each candidate. After four years of practice at Court and the Public Prosecutions Office and initial training the candidates are allowed to make the Judge Office Examination (in writing and orally), which is held by examination commissions established at each Court of appeal.

The continuous training is based on a balanced decentralized and centralized judicial training system. After having passed the examination both judges and prosecutors are free to take part in continuing education offered by the presidents of the four courts of appeal, the Public Prosecution Offices, the Judges Association and the Federal Ministry of Justice/Training Unit for Judges and Prosecutors. An annual Training Programme for judges and prosecutors is published as a booklet and distributed to every judge and prosecutor and it also can be found on the homepage of the Federal Ministry of Justice. The general in-service training offered by the judicial authorities mentioned above is taken up by more than 70% of the judges and prosecutor every year.

## 5.3.Practice of the profession

### 5.3.1.Salaries and benefits of judges and prosecutors

#### 132. Salaries of judges and public prosecutors on 31 December of the reference year:

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
First instance professional judge at the beginning of his/her career	51962 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	51962 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	126594 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	126594 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
Public prosecutor at the beginning of his/her career	55139 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	55136 [ ] NA [ ] NAP	[ X ] NA [ ] NAP
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Attorney General).	126594 [ ] NA [ ] NAP	[ X ] NA [ ] NAP	126594 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments Because of the requirement of numerical values the numerical values in the table above are rounded. the correct and exact answer is:

Gross annual Salary in € on 31 Dec 2016 (= Gross annual Salary in local currency on 31 dec 2016):

First instance professional judge at the beginning of his/her career: 59 962,40

Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President): 126 594,16

Public prosecutor at the beginning of his/her career: 55 139

Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General): 126 594,16

#### 133. Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	( ) Yes ( X ) No	( ) Yes ( X ) No
Special pension	( ) Yes ( X ) No	( ) Yes ( X ) No
Housing	( ) Yes ( X ) No	( ) Yes ( X ) No
Other financial benefit	( X ) Yes ( ) No	( ) Yes ( X ) No

Comments Judges at Administrative Courts get the same benefits as officials (i.e. anniversary reward, child allowance, possibly costs of

living Bonus, travel fees or Transportation allowance).

**134. If “other financial benefit”, please specify:**

--

NAP

**135. Can judges combine their work with any of the following other functions/activities?**

	With remuneration	Without remuneration
Teaching	( X ) Yes ( ) No	( X ) Yes ( ) No
Research and publication	( X ) Yes ( ) No	( X ) Yes ( ) No
Arbitrator	( X ) Yes ( ) No	( X ) Yes ( ) No
Consultant	( X ) Yes ( ) No	( X ) Yes ( ) No
Cultural function	( X ) Yes ( ) No	( X ) Yes ( ) No
Political function	( X ) Yes ( ) No	( X ) Yes ( ) No
Other function	( X ) Yes ( ) No	( X ) Yes ( ) No

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. §63a RStDG

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008187>

**137. Can public prosecutors combine their work with any of the following other functions/activities?**

	With remuneration	Without remuneration
Teaching	( X ) Yes ( ) No	( X ) Yes ( ) No
Research and publication	( X ) Yes ( ) No	( X ) Yes ( ) No
Arbitrator	( ) Yes ( X ) No	( ) Yes ( X ) No
Consultant	( X ) Yes ( ) No	( X ) Yes ( ) No
Cultural function	( X ) Yes ( ) No	( X ) Yes ( ) No

<b>Political function</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Other function</b>	( X ) Yes ( ) No	( X ) Yes ( ) No

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. §63a RStDG

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008187>

**139. Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time) or cases examination?**

( ) Yes

( X ) No

Comments - If yes, please specify the conditions and possibly the amounts:

**5.4. Disciplinary procedures**

**5.4.1. Authorities responsible for disciplinary procedures and sanctions**

**140. Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?**

[ ] Court users

[ X ] Relevant Court or hierarchical superior

[ ] High Court / Supreme Court

[ ] High Judicial Council

[ ] Disciplinary court or body

[ ] Ombudsman

[ ] Parliament

[ X ] Executive power (please specify): .....

[ X ] Other (please specify): Disciplinary lawyer of the administrative court

[ ] This is not possible

Comments According to the jurisprudence of the Supreme Court (Ds 1/16, 3/16, 4/16), prerequisite for disciplinary proceedings against judges (or public prosecutors) is the employer’s will, i.e. the Federal Minister of Justice or the subordinated administrative authorities. Based on these disciplinary complaints, the disciplinary court decides whether to initiate formal disciplinary proceedings or not.

**141. Who is authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):**

[ ] Citizens

[ ] Head of the organisational unit or hierarchical superior public prosecutor

[ ] Prosecutor General /State public prosecutor

[ ] Public prosecutorial Council (and Judicial Council)

[ ] Disciplinary court or body

- Ombudsman
- Professional body
- Executive power (please specify): .....
- Other (please specify): .....
- This is not possible

Comments According to the jurisprudence of the Supreme Court (Ds 1/16, 3/16, 4/16), prerequisite for disciplinary proceedings against judges (or public prosecutors) is the employer’s will, i.e. the Federal Minister of Justice or the subordinated administrative authorities. Based on these disciplinary complaints, the disciplinary court decides whether to initiate formal disciplinary proceedings or not.

**142. Which authority has disciplinary power over judges? (multiple options possible)**

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power (please specify): .....
- Other (please specify): Disciplinary lawyer of the administrative court

Comments

**143. Which authority has disciplinary power over public prosecutors? (multiple options possible):**

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power (please specify): .....
- Other (please specify): .....

Comments

**5.4.2. Number of disciplinary procedures and sanctions**

**144. Number of disciplinary proceedings initiated during the reference year against judges and public prosecutors. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

Judges	Prosecutors
--------	-------------



<b>Total number (1+2+3+4)</b>	<b>14</b> [ ] NA [ ] NAP	<b>3</b> [ ] NA [ ] NAP
<b>1. Breach of professional ethics</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Professional inadequacy</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Criminal offence</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Other</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If “other”, please specify: Austria does not differentiate between the categories mentioned above (numbers 1 to 4). Therefore, we can only refer to the number of disciplinary cases as a whole.

### 145. Number of sanctions pronounced during the reference year against judges and public prosecutors:

	<b>Judges</b>	<b>Prosecutors</b>
<b>Total number (total 1 to 9)</b>	<b>2</b> [ ] NA [ ] NAP	<b>1</b> [ ] NA [ ] NAP
<b>1. Reprimand</b>	<b>1</b> [ ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>2. Suspension</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>4. Fine</b>	[ X ] NA [ ] NAP	<b>1</b> [ ] NA [ ] NAP
<b>5. Temporary reduction of salary</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>6. Position downgrade</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>7. Transfer to another geographical (court) location</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>8. Resignation</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>9. Other</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - If "other", please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons. ---

### E3. Please indicate the sources for answering questions 144 and 145:

Sources: Annual Reports by the prosecution Offices at the high Courts (Oberstaatsanwaltschaft) about all disciplinary cases.

## 6.Lawyers

### 6.1.Profession of lawyer

#### 6.1.1.Status of the profession of lawyers



#### 146. Total number of lawyers practising in your country:

[ 6132 ]

[ ] NA

[ ] NAP

Comments Statistic from the Austrian Bar (Österreichischer Rechtsanwaltskammertag) of 31st December 2016 (available at [www.rechtsanwaelte.at](http://www.rechtsanwaelte.at)).

The data only includes lawyers registered in the list of Austrian lawyers (6.132), lawyers registered in the list of established European lawyers (84) registered by 31st of December 2016. It does not include solicitors nor legal advisors as such professions/types of service providers do not exist in Austria.

#### 147. Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

Yes ( )

No ( X )

Comments Statistic from the Austrian Bar (Österreichischer Rechtsanwaltskammertag) of 31st December 2016 (available at [www.rechtsanwaelte.at](http://www.rechtsanwaelte.at)).The data only includes lawyers registered in the list of Austrian lawyers (6.132), lawyers registered in the list of established European lawyers (84) registered by 31st of December 2016. It does not include solicitors nor legal advisors as such professions/types of service providers do not exist in Austria.

#### 148. Number of legal advisors who cannot represent their clients in court:

[            ]

[ ] NA

[ X ] NAP

Comments

#### 149. (Modified question) Do lawyers have a monopoly on legal representation in (multiple options are possible):

First instance	Second instance	Highest instance court (Supreme Court)
----------------	-----------------	---

<b>Civil cases</b>	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP	(X) Yes ( ) No [ ] NAP
<b>Dismissal cases</b>	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP	(X) Yes ( ) No [ ] NAP
<b>Criminal cases - Defendant</b>	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP
<b>Criminal cases - Victim</b>	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP
<b>Administrative cases</b>	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP	( ) Yes (X) No [ ] NAP
<b>There is no monopoly</b>	(X) Yes ( ) No [ ] NAP	(X) Yes ( ) No [ ] NAP	( ) Yes (X) No [ ] NAP

Comments - Please, indicate any useful clarifications regarding the content of lawyers' monopoly: Civil cases/Dismissal Cases: No monopoly; only in proceedings before district courts (Bezirksgerichte) when the litigation value exceeds € 5000 or before the higher courts, in appeal cases and before the Civil Supreme Courts representation by a lawyer is mandatory.

Criminal cases: No monopoly; In qualified criminal cases listed in Art 61 Code of Criminal Procedure (Strafprozessordnung) only by defence counsels (Verteidiger; i.a. lawyers, other persons authorised by law to represent in criminal proceedings or university professors for criminal and criminal procedural law); Possible representation by Member of family. In other cases also the defendant him-/herself or a legal representative. By victim protection associations (Opferschutzeinrichtungen).

Administrative Cases: No monopoly; only for appeals against decisions of the last instance and for applications and complaints lodged before the constitutional court representation by a lawyer is mandatory. Possible representation by Member of family, NGO, e.g. the party itself, each person able to represent him-/herself.

**149-0. (New question) If there is no monopoly, please specify the organisations or persons that may represent a client before a court:**

	<b>First instance</b>	<b>Second instance</b>	<b>Highest instance court (Supreme Court)</b>
<b>Civil society organisation</b>	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP
<b>Family member</b>	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP
<b>Self-representation</b>	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP
<b>Trade union</b>	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP
<b>Other</b>	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP	( ) Yes ( ) No [X] NAP

Comments - If "other", please specify. In addition, please specify for the categories mentioned, the types of cases concerned by this/these

representation(s):

**149-1. In addition to the functions of legal representation and legal advice, can a lawyer exercise other activities?**

- Notarial activity
- Arbitration / mediation
- Proxy / representation
- Property manager
- Real estate agent
- Other law activities (please specify): .....

Comments e.g. receiver in insolvency, custodian, special guardian

**149-2. What are the statuses for exercising the legal profession in court?**

- Self-employed lawyer
- Staff lawyer
- In-house lawyer

Comments Source: Bar Association

**150. Is the lawyer profession organised through:**

- a national bar association
- a regional bar association
- a local bar association

Comments

**151. Is there a specific initial training and/or exam to enter the profession of lawyer?**

- Yes
- No

Comments - If not, please indicate if there are other specific requirements as regards diplomas or university degrees:

**152. Is there a mandatory general system for lawyers requiring in-service professional training?**

- Yes
- No

Comments

**153. Is the specialisation in some legal fields linked to specific training, levels of qualification, specific diploma or specific authorisations?**

- Yes
- No

Comments - If yes, please specify:

**F1. Please indicate the sources for answering questions 146 and 148:**

### 6.1.2. Practicing the profession

**154. Can court users establish easily what the lawyers' fees will be (i.e. a prior information on the foreseeable amount of fees)?**

Yes

No

Comments

**155. Are lawyers' fees freely negotiated?**

Yes

No

Comments

**156. Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?**

Yes laws provide rules

Yes standards of the bar association provide rules

No neither laws nor bar association standards provide rules

Comments

### 6.1.3. Quality standards and disciplinary procedures

**157. Have quality standards been determined for lawyers?**

Yes

No

Comments - If yes, what are the quality criteria used? Austrian and European professional law provides high quality standards for lawyers. The relevant provisions are found in the Lawyers' Act (Rechtsanwaltsordnung), the European and International Lawyers Act (EIRAG) and the Disciplinary Statute (Disziplinarstatut), all of which are federal laws, the Directives on the exercise of the lawyer's profession (Richtlinien für die Ausübung des Rechtsanwaltsberufes), a regulation enacted by the Assembly of Representatives (Vertreterversammlung) of the Austrian Bar within its powers delegated by the Lawyers' Act and the CCBE Code of Conduct. These laws and directives provide in particular the following quality standards: - profound academic and professional education and training, which is required in order to become a lawyer (4 years of academic and 5 years of professional training, participation in training seminars and bar exam)

- obligation to continuous professional training
- obligation to professional secrecy, integrity and independence
- prevention of conflicts of interest
- duty to represent the clients' interests with eagerness, loyalty and diligence
- prohibition of using means not complying with the law, integrity and custom
- obligatory professional indemnity insurance
- obligation to pay clients funds/money into separate bank accounts

- obligation to manage their firms with diligence and caution
- obligation to use acknowledged secure e-signatures
- supervision, disciplinary proceedings and sanction by the competent Bar when lawyers do not comply with their duties
- possibility for clients to complain about the performance of lawyers
- increased liability according to civil law

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

- the bar association
- the Parliament
- other (please specify): .....

Comments

**159. Is it possible to file a complaint about:**

- the performance of lawyers
- the amount of fees

Comments - Please specify: A complaint can be directed at the competent regional Bar (where the respective lawyer is registered) or the Disciplinary Council (Disziplinarrat) of this regional Bar. A complaint about the amount of fees can be directed at the board of the competent regional Bar.

**160. Which authority is responsible for disciplinary procedures?**

- the judge
- the Ministry of Justice
- a professional authority
- other (please specify): .....

Comments In the first instance the Disciplinary Council of each regional Bar exercises the disciplinary authority. The Supreme Court (Oberster Gerichtshof) is the appellate body in disciplinary and professional matters (e.g. refusal of entry in the list of lawyers, challenging an election, etc) of lawyers and trainee lawyers.

**161. Disciplinary proceedings initiated against lawyers. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings
<b>Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)</b>	640 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Breach of professional ethics</b>	52 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Professional inadequacy</b>	525 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Criminal offence</b>	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other</b>	63 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify: No details known, "other" may also include some criminal offences. The large number of disciplinary proceedings initiated by professional inadequacy mostly co-occurs (about 90 %) with breach of professional ethics.

## 162. Sanctions pronounced against lawyers.

	Number of sanctions
<b>Total number of sanctions (1 + 2 + 3 + 4 + 5)</b>	627 [ ] NA [ ] NAP
<b>1. Reprimand</b>	19 [ ] NA [ ] NAP
<b>2. Suspension</b>	7 [ ] NA [ ] NAP
<b>3. Withdrawal from cases</b>	0 [ ] NA [ ] NAP
<b>4. Fine</b>	89 [ ] NA [ ] NAP
<b>5. Other</b>	512 [ ] NA [ ] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons. Settlement without punishment

## 7. Alternative dispute resolutions

### 7.1. Mediation

#### 7.1.1. Details on mediation procedures and other ADR

**163. Does the judicial system provide for judicial mediation procedures? If this is not the case you will go directly to question 168.**

Yes

No

Comments

**163-1. In some fields, does the judicial system provide for mandatory mediation procedures?**

Before going to court

Ordered by a judge in the course of a judicial proceeding

Comments - If there are mandatory mediation procedures, please specify which fields are concerned:

**164. Please specify, by type of cases, the organisation of judicial mediation:**

Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor

<b>Civil and commercial cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Family law cases (ex. divorce)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Administrative cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Employment dismissals</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criminal cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments Court annexed mediation is newly tried out as pilot "Einigungsverfahren"  
<http://www.einigungsverfahren.at/index.php/vertraulichkeit>

**165. Is there a possibility to receive legal aid for judicial mediation procedures?**

- Yes  
 No

Comments - If yes, please specify:

**166. Number of accredited or registered mediators who practice judicial mediation:**

[ 2562 ]

- NA  
 NAP

Comments

**167. Number of judicial mediation procedures.**

	<b>Number of judicial mediation procedures</b>
<b>Total number of mediation cases (total 1 + 2 + 3 + 4 + 5)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>1. Civil and commercial cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Family cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Administrative cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Employment dismissal cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>5. Criminal cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - Please indicate the source:



**168. Does the legal system provide for the following alternative dispute resolutions (ADR):**

- mediation other than judicial mediation
- arbitration
- conciliation
- other ADR (please specify): .....

Comments Comment: Law on Mediation in Civil Matters (Zivilrechts-Mediations-Gesetz); § 107 Abs. 3 Non litigious Procedure Code (Außerstreitgesetz)  
Sec. 198 – 209 CPC

**G1. Please indicate the source for answering question 166:**

Source: <http://www.mediatorenliste.justiz.gv.at>

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**8.Enforcement of court decisions**

**8.1.Execution of decisions in civil matters**

**8.1.1.Functioning**



**169. Do you have enforcement agents in your judicial system?**

- Yes
- No

Comments

**170. Number of enforcement agents**

- 346 ]
- NA
- NAP

Comments

**171. Are enforcement agents (multiple options are possible):**

- judges
- bailiffs practising as private professionals under the authority (control) of public authorities
- bailiffs working in a public institution
- other

Comments - Please specify their status and powers: see answers below

**171-1. Do enforcement agents have the monopoly in exercising their profession?**

- Yes
- No

Comments - Please indicate any useful clarifications regarding the content of the enforcement agents' monopoly or on the opposite regarding the competition they have to deal with:

**171-2. Can the enforcement agent carry out the following civil enforcement proceedings:**

	Option
<b>Seizure of movable tangible properties</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of immovable properties</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure from a third party of the debtor claims regarding a sum of money</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of remunerations</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of motorised vehicles</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Eviction measures</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Enforced sale by public tender of seized properties</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Other</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP

Comments

**171-3. Apart of the enforcement of court decisions, what are the other activities that can be carried out by enforcement agents?**

- [ X ] Service of judicial and extrajudicial documents
- [ ] Debt recovery
- [ X ] Voluntary sale of moveable or immoveable property at public auction
- [ X ] Seizure of goods
- [ X ] Recording and reporting of evidence

- Court hearings service
- Provision of legal advice
- Bankruptcy procedures
- Performing tasks assigned by judges
- Representing parties in courts
- Drawing up private deeds and documents
- Building manager
- Other

Comments

**172. Is there a specific initial training or exam to become an enforcement agent?**

- Yes
- No

Comments

**172-1. Is there a system of mandatory general continuous training for enforcement agents?**

- Yes
- No

Comments

**173. Is the profession of enforcement agents organised by (the answer NAP means that the profession is not organised):**

- a national body
  - a regional body
  - a local body
- NAP

Comments

**174. Are enforcement fees easily established and transparent for the court users?**

- Yes
- No

Comments

**175. Are enforcement fees freely negotiated?**

- Yes
- No

Comments

**176. Do laws provide any rules on enforcement fees (including those freely negotiated)?**

- Yes
- No

## H0. Please indicate the sources for answering question 170

Source: XXX

### 8.1.2. Efficiency of enforcement services

**177. Is there a body entrusted with supervising and monitoring the enforcement agents' activity?**

Yes

No

Comments

**178. Which authority is responsible for supervising and monitoring enforcement agents?**

a professional body

the judge

the Ministry of Justice

the public prosecutor

other (please specify): .....

Comments

**179. Have quality standards been determined for enforcement agents?**

Yes

No

Comments - If yes, what are the quality criteria used?

**180. If yes, who is responsible for establishing these quality standards?**

a professional body

the judge

the Ministry of Justice

other (please specify): .....

Comments Controlling Units at the four Courts of Appeal (Vienna, Graz, Linz and Innsbruck)

**181. Is there a specific mechanism for executing court decisions rendered against public authorities, including supervising such execution?**

Yes

No

Comments - If yes, please specify: As a rule, execution of court decisions rendered against public authorities follows the same procedure as any other execution.

However, a specific provision states that property that is indispensable for public duties is exempt from any execution of monetary claims

against a public authority. It is up to the decision of the administrative authorities whether any property is indispensable for public duties or not.

**182. Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?**

Yes

No

Comments - If yes, please specify: Analysis of several key indicators by steering and controlling units of the courts of Appeal.

**183. What are the main complaints made by users concerning the enforcement procedure? Please indicate a maximum of 3.**

no execution at all

non execution of court decisions against public authorities

lack of information

excessive length

unlawful practices

insufficient supervision

excessive cost

other (please specify): .....

Comments Inadequate behavior toward parties (e.g. obligated party).

**184. Has your country prepared or established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?**

Yes

No

Comments - If yes, please specify: The Reform of Law Enforcement (“FEX-project”), see <http://www.coe.int/T/dghl/cooperation/cepej/events/EDCJ/Cristal/ProjetAustria2005.pdf>

**185. Is there a system measuring the length of enforcement procedures:**

	Existence of the system
for civil cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
for administrative cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

**186. As regards a decision on debt collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits (one option only):**

between 1 and 5 days

( ) between 6 and 10 days

( ) between 11 and 30 days

( ) more (please specify): .....

Comments NAP

**187. Number of disciplinary proceedings initiated against enforcement agents. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)**

	Number of disciplinary proceedings initiated
<b>Total number of initiated disciplinary proceedings (1+2+3+4)</b>	1 [ ] NA [ ] NAP
<b>1. For breach of professional ethics</b>	[ ] NA [X] NAP
<b>2. For professional inadequacy</b>	[ ] NA [X] NAP
<b>3. For criminal offence</b>	[ ] NA [X] NAP
<b>4. Other</b>	[ ] NA [X] NAP

Comments - If "other", please specify: Austria does not differentiate between the categories mentioned above (numbers 1 to 4). Therefore, we can only refer to the number of disciplinary cases as a whole

**188. Number of sanctions pronounced against enforcement agents:**

	Number of sanctions pronounced
<b>Total number of sanctions (1+2+3+4+5)</b>	0 [ ] NA [ ] NAP
<b>1. Reprimand</b>	[ ] NA [X] NAP
<b>2. Suspension</b>	[ ] NA [X] NAP
<b>3. Withdrawal from cases</b>	[ ] NA [X] NAP
<b>4. Fine</b>	[ ] NA [X] NAP
<b>5. Other</b>	[ ] NA [X] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons:

## H1. Please indicate the sources for answering questions 186, 187 and 188:

Source: All disciplinary proceedings against public officials are recorded in an own register for disciplinary proceedings. The Federal Ministry of Justice administrates this register. The data for questions 187 and 188 comes both from this register and from the electronic file system, which the Ministry of Justice uses (ELAK).

## 8.2. Execution of decisions in criminal matters

### 8.2.1. Functioning of execution in criminal matters

189. Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority (please specify): .....

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions). A "court of enforcement" ("Vollzugsgericht"; court dealing with criminal matters in first instance in the area enforcing the prison sentence) is established. As a rule, such decisions are taken by a single judge. However, a court composed of three judges is competent with regard to decisions concerning parole unless the judgment to be enforced was rendered by a single judge or the decision merely affects the issuing of instructions, the appointment of a probation officer, or the release after having served the full term of the sentence (in these cases also such decisions are taken by single judges).

190. Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

- Yes
- No

Comments

191. If yes, what is the recovery rate?

- 80-100%
- 50-79%
- less than 50%

Comments - Please indicate the source for answering this question:

## 9. Notaries

### 9.1. Profession of notary

#### 9.1.1. Number and status of notaries

**192. Number and type of notaries in your country. If you do not have notaries skip to question 197.**

	Number of notaries
<b>TOTAL</b>	506 [ ] NA [ ] NAP
<b>Private professionals (without control from public authorities)</b>	[ ] NA [ X ] NAP
<b>Private professionals under the authority (control) of public authorities</b>	[ ] NA [ X ] NAP
<b>Public agents</b>	[ ] NA [ X ] NAP
<b>Other</b>	506 [ ] NA [ ] NAP

Comments - If "other", please specify the status:

**192-1. What are the access conditions to the profession of notary:**

- diploma
- payment of a fee (e.g. purchasing office)
- co-opting of peers
- other

Comments

**192-2. (Modified question) What is the duration of appointment of a notary?**

- Limited duration, please indicate it in years: .....
- Unlimited duration

Comments

**194. Do notaries have duties (multiple options possible):**

- within the framework of civil procedure
- in the field of legal advice
- to certify the authenticity of legal deeds and certificates
- in the field of mediation
- other (please specify): .....

Comments In addition to the above described activities, notaries provide various legal services within the frame work of real estate transactions and corporate affairs. Under a further amendment to the notary act, authentic instruments can be set up electronically. The notary plays an important role for the e-government. Austrian civil notaries operate important electronic archives and have a leading position in this field.

Furthermore notaries act as Probate Commissioner for winding up estates and in connection with parts of real estate transactions and corporate affairs.



**194-1. Do notaries have the monopoly when exercising their profession:**

- in civil procedure
- in the field of legal advice
- to authenticate deeds/certificates
- in the field of mediation
- other

Comments - Please indicate any useful clarifications regarding the content of the notaries' monopoly or on the opposite regarding the competition they have to deal with:

**194-2. As well as these activities, what are the other ones that can be carried out by notaries?**

- Real estate transaction
- Settlement of estates
- Legality control of gambling activities
- Authentication of documents
- Translations
- Signatures
- Other

Comments

**195. Is there an authority entrusted with supervising and monitoring the notaries' work?**

- Yes
- No

Comments

**196. If yes, which authority is responsible for supervising and monitoring notaries?**

- a professional body
- the judge
- the Ministry of Justice
- the public prosecutor
- the Ministry of Interior
- other (please specify): .....

Comments

**196-1. Is there a system of general continuous training mandatory for all notaries?**

- Yes
- No

Comments

**I1. Please indicate the sources for answering question 192:**

Sources: XXX
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## 10. Court interpreters

### 10.1. Details on profession of court interpreter

#### 10.1.1. Status of court interpreters

##### 197. Is the title of court interpreters protected?

Yes

No

Comments

##### 198. Is the function of court interpreters regulated by legal norms?

Yes

No

Comments

##### 199. Number of accredited or registered court interpreters:

[ 786 ]

NA

NAP

Comments

##### 200. Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

Yes

No

Comments - If yes, please specify: and no - see below

##### 201. Are the courts responsible for selecting court interpreters?

Yes, for recruitment and/or appointment for a specific term of office

Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

No, please specify which authority selects court interpreters .....

Comments General Comment In general, the judge (or public prosecutor in preliminary proceedings) is responsible for choosing an Interpreter in a proceeding, who is usually a Certified Court Interpreter (i.e. "allgemein beeideter und gerichtlich zertifizierter Dolmetscher", "Sworn and Certified Court Interpreter"), which means that he is registered in the List of Court Interpreters because of his specific knowledge. The swearing in and certification are part of a judicial administrative procedure applying strict selection criteria. "Sworn" means that the interpreter is permanently under oath for all proceedings in which he/she takes a part, as opposed to a mere "ad hoc" interpreter, who is put under oath only in exceptional cases for specific proceedings. The Federal Law on Sworn and Certified Court Experts and Interpreters (SDG) amended the requirements for registration in this List to the extent that applicants must prove professional experience for several years as interpreters and/or translators. In addition, knowledge of the principles of Austrian legal and court procedures and of those of the country where the chosen language is the official language, as well as extensive knowledge of the legal and commercial terminology of law and commerce both in German and the foreign language is required.

The Application for Registration in the List of Sworn and Certified Court Interpreters must be submitted to the president of the court of first instance in the district of the applicant's regular residence or place of professional activity ('centre of economic interests'). In the

course of the registration proceedings the certifying authority will charge a commission with preparing an expert opinion on whether qualifications are fulfilled.

Since July 2011 at two large Courts (Court for Criminal Law Vienna, Social and Labour Court Vienna) there also work permanently employed interpreters, which are educated Certified Court Interpreters paid on a regular basis (not for their individual performance).

## J1. Please indicate the sources for answering question 199

Sources: .

## 11. Judicial experts

### 11.1. Profession of judicial expert

#### 11.1.1. Status of judicial experts

### 202. In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

"expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,

"technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,

"legal experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

Other (please specify): .....

Comments

### 202-1. Are there lists or databases of technical experts registered?

Yes

No

Comments - Please, indicate any useful comment regarding these lists of experts if they do exist (e.g. : who decide of the registration on the list ? Is the registration limited in time ? does the expert take the oath ? how is his/her skill evaluated ? by whom ?) The presidents of the regional courts administrate a federal electronic list of specialists who, in view of their areas of expertise, may be appointed as experts ("Sworn and Certified Court Expert"; "Sworn" means that the expert is permanently under oath for all proceedings in which he/she takes a part, as opposed to a mere "ad hoc" expert, who is put under oath only in exceptional cases for specific proceedings). They remain on the list for five years. At the expert's request and on the basis of proven quality the registration can always be extended to five years. This List of Sworn and Certified Court Experts established by the Federal Ministry of Justice is publicly accessible via the homepage of the aforementioned Ministry ([www.sdgliste.justiz.gv.at](http://www.sdgliste.justiz.gv.at)).

A person who applies for a registration on this list has to prove her or his qualifications. Before adding the applicant to this list, the presidents of the regional courts have to take advice from committees made up of judges and experts, who assess the candidates' qualifications. With regard to the extension of the registration (recertification) the president of a regional court to whom the relevant expert is attached has to verify that the expert's qualifications are still extant. To achieve this, the judicial expert must provide the president of the regional court with a report on her or his activities in court and his further training. To take a committee's advice prior to the recertification is possible, but not demanded by law. The codes of civil and criminal procedure primarily provide for the assignment of experts from the list mentioned, but nevertheless judges have full discretion, even if, and in practice, most of them do designate an expert from the list.

**203. Is the title of judicial experts protected?**

Yes

No

Comments - If appropriate, please explain the meaning of this protection:

**203-1. Does the expert have an obligation of training?**

	Obligation of training
<b>Initial training</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Continuous training</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

**203-2. If yes, does this training concern:**

the proceeding

the profession of expert

other

Comments

**204. Is the function of judicial experts regulated by legal norms?**

Yes

No

Comments

**204-1. On the occasion of a mission entrusted to him/her, does the expert have to report any potential conflicts of interest?**

Yes

No

Comments

**205. Number of accredited or registered judicial / technical experts:**

[ 9489 ]

NA

NAP

Comments

**205-1. Who sets the expert remuneration?**

- The remuneration of experts appointed by courts is governed by the Fees Claim Act (Gebührenanspruchsgesetz). It is fixed by the court on the basis of the time and effort expended, taking into account the income the experts can expect in their professional lives. In some proceedings, among others on nonlitigious matters, proceedings in which one of the parties receives legal aid, and in criminal cases some experts charges have to be fixed according to rates determined by law.

The expert is furthermore compensated for costs such as travel expenses, assistants etc. The remuneration of the expert as part of the costs of litigation is paid by the litigant(s) having lost the case In civil cases. In criminal proceedings the State has to pay the expert, which is final following an acquittal; a convicted person is liable to bear these costs.

**206. Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?**

- Yes
- No

Comments - If yes, please specify, in particular the given time to provide a technical report to the judge: The time limit to provide the technical report has to be set out by the judge in any particular case

**207. Are the courts responsible for selecting judicial experts?**

- Yes, for recruitment and/or appointment for a specific term of office
- Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
- No, please specify which authority selects judicial experts .....

Comments see also answer to Q202.1

**207-1. Does the judge control the progress of investigations?**

- Yes
- No

Comments

**K1. Please indicate the sources for answering question 205**

Sources: List of Sworn and Certified Court Experts, available via the internet:  
<http://www.sdgliste.justiz.gv.at/>  
to Q203.1  
yes and no to Initial training: to get on the List of Sworn and Certified Court Experts, the expert has to proof professional experience in his area of expertise for at least ten years and knowledge of the principles of Austrian legal and court procedures and expert practices & principles.

**12.Reforms in judiciary**

**12.1.Foreseen reforms**

**12.1.1.Reforms**

**208. Can you provide information on the current debate in your country regarding the functioning**



**of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged at this stage. Have innovative projects been implemented? If possible, please observe the following categories:**

1. (Comprehensive) reform plans Ongoing implementation of centralized service units (“Justiz-Servicecenter”), providing information and speeding up customer service;  
Consequently speeding up justice;  
Raising the effectiveness of electronic communication between courts and experts/translators and in regard of civil enforcement;  
Establishment of a system of quality-management according to “customer-expectations” with measurable indicators;  
Digitalization of records of court-hearings (planned)  
ICT support within the field of economic criminal proceedings (investigation of data which are available on confiscated electronic storage media by intelligent software – planned)  
Optimising the public services by the enhanced use of IT-supported tools

2. Budget XXX

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings) Small district courts have been merged in 2013, 2014 and 2017 in five Austrian states to create a more efficient court structure and improve quality of judicial services. There are plans to merge several small district courts in two Austrian states in 2018 and 2019.

3.1. Access to justice and legal aid Small district courts have been merged in 2013, 2014 and 2017 in five Austrian states to create a more efficient court structure and improve quality of judicial services. There are plans to merge several small district courts in two Austrian states in 2018 and 2019  
Currently a reform of the legal aid system in criminal cases is not intended. A reform of the legal aid system in other than criminal cases is currently not intended either.

4. High Judicial Council Currently there are no plans to form a Judicial Council.

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training,

etc. Currently there are no plans to reform the organisation or the education of judges or public prosecutors.

As regards the profession of lawyers, amendments on the provisions on the temporary substitute of a lawyer are currently in preparation. Furthermore, the Directive (EU) 2015/849 requires amendments of the Lawyers' Act and the Notarial Code by enlarging the risk assessment and risk management as well as by introducing more detailed provisions on the duties of care in the framework of combating money laundering and financing of terrorism. Also some Articles of the Directive (EU) 2013/55 have to be transposed into the Austrian professional regulations governing lawyers.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities The Ministry of Justice disseminates current information to all courts and prosecution services about the jurisprudence of the ECtHR by annual circular letters. Judgments of the ECtHR are discussed on a regular basis in the advanced training courses for judges on fundamental rights and in seminars for candidate judges and legal trainees. Article 363a of the Code of Criminal Proceedings (StPO) provides, that a retrial shall be held on application in so far as it cannot be ruled out that a violation of the ECHR or one of its Protocols, which was established in a judgment of the ECtHR on account of a decision or order of a criminal court, might have affected the decision in a manner detrimental to the person concerned. According to the jurisprudence of the Supreme Court (13 Os 135/06m), an application under Article 363a StPO may be lodged with the Supreme Court even prior to an application with the ECtHR, because Article 363a StPO must not be interpreted as permitting a retrial only in cases where a violation of Convention rights has already been established in a judgment against Austria by the ECtHR. The ECtHR considers an application under Article 363a StPO an effective and appropriate remedy for the purposes of Article 35 of the Convention (ECtHR 6.10.2015, ATV Privatfernseh GmbH, Appl.no. 58842/09).

Rules for the case Management in child Abduction cases have been amended and placed in the Non-Contestual-procedure-Act instead of a self-standing implementation Act. It is hoped that the return procedures can be dealt now in a more efficient way.

In the field of copyright law, the Act on Collecting Management Organizations, which transposes the Directive 2014/26/EU entered into force on 1st June 2016. It stipulates i.a. detailed requirements for the membership in a collecting management organisation, the duties towards rightholders and users, transparency and reporting obligations as well as provisions for complaint procedures, dispute resolution and supervision.

As concerns cartel and competition law, preparations for the transposition of Directive 2014/104/EU were undertaken. On this occasion, a follow-up of the reform of cartel law in 2012 was arranged to further strengthen the transparency of rulings in this field and competition in general.

The European Regulation (EU) 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, which entered into force on 17.8.2015 required some adaptations of provisions on jurisdiction of courts in succession matters, on the choice of law- rules and of provisions on the procedure in succession matters. These provisions – part of the law on the revision of succession law 2015 (law gazette I 87/2015) are in force since 17.8.2015.

The ratification of the 1965 Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters and of the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI) is envisaged.

Concerning civil procedure there are ongoing attempts to discuss the possibilities of enlarging the use of video-technology. Besides there are discussions to shift the competent jurisdiction in specific matters from judges to so called "Rechtspfleger" (judicial officers).

With regard to criminal procedure the national parliament passed a bill in 2014 with the following amendments : •Clear differentiation between suspected and accused persons and persons against who an (unsubstantiated) complaint has been filed; •Further improvement of the rights of the accused (e.g. with regard to undue delay of the criminal investigation a control of the competent court has been introduced) and legal remedies;

•Implementation of higher rates for the compensation of the costs of the defence in case of an acquittal;

•Implementation of new provisions strengthening the objective position of experts in criminal proceedings as well as involvement of defence with regard to the appointment of the expert

On 1.11.2014 a project, based on the maorian "family group conferencing", that was introduced at 4 courts since 2012 and was

evaluates since then, started all over Austria. There are two different types of these so called “Sozialnetzkonferenzen - conferences of the social net of benefits”. One could be started by a judge to evaluate, if a suspect could be released from (pre trial) detention. Therefore the social net of benefits (family members, teacher, youth welfare etc) tries to work out a (kind of) contract to “reboot” the life of the juvenile. All results can be taken under consideration at the trial and for the judgement. The second type deals with the eligibility for parole. It also includes the social net of benefits to find out, if a prisoner could be released on parole. These conferences are to be regularised within an upcoming reform of the juvenile justice code in 2015.

As regards the professional law of lawyers (Lawyers’ Act) and civil law notaries (Notarial Code), several amendments have recently been implemented with the law “Berufsrechts-Änderungsgesetz 2016”, which mainly entered into force at the beginning of 2017. A significant part of this law relates to obligations due to the implementation of the Fourth Anti-Money Laundering Directive (EU) 2015/849. The provisions provide for various due diligence measures for lawyers and civil law notaries. They aim at preventing and further reducing criminal activities in the field of money laundering and terrorist financing. In addition the provisions concerning the representation of a lawyer in case his entitlement to practise as a lawyer lapses or he is absent for a longer period of time were updated. Further amendments to the Lawyers’ Act and the Notarial Code as part of the above-mentioned approved law improve reconciliation of professional and family life for these professionals.

Since 2010 child legal advocates (“Kinderbeistand”) are intended to assist the child as contact and confidential persons and to be the “voice of the child”, inasmuch as the child can or will not articulate itself.

2013 a new body was established to assist the Court. The Family Court Assistance („Familiengerichtshilfe“) helps the judges in taking evidence, providing information to the parties and encouraging amicable solutions. In Contact Cases they may also act as a Visitation Mediator („Besuchsmittler“). In addition orders for mandatory participation of the parent(s) in Family, Parents or Care Counselling, first information meetings about Mediation or Conciliation or Anger Management Courses are possible.

On 1.11.2014 a project, based on the Maorian “family group conferencing” started all over Austria. There are two different types among many of these so called “Sozialnetzkonferenzen - conferences of the social net of benefits”, that have been evaluated. One could be started by a judge to evaluate, if a suspect could be released from (pre trial) detention. Therefore the social net of benefits (family members, teacher, youth welfare etc) tries to work out a (kind of) contract to “reboot” the life of the juvenile. All results can be taken under consideration at the trial and for the judgement. The second type deals with the eligibility for parole. It also includes the social net of benefits to find out, if a prisoner could be released on parole. These conferences have regularised within a major reform of the juvenile justice code which came into force on 1 Jan. 2016 (Jugendgerichtsgesetzänderungsgesetz 2015, BGBl I 154/2015).

The regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) entered into force on 26 June 2017. With the “Insolvenzrechtsänderungsgesetz 2017 - IRÄG 2017”, law gazette I 122/2017, this regulation was implemented into national law.

7. Enforcement of court decisions In discussion is the revision of the law of enforcement (“Exekutionsordnung”), including the improvement of seizing claims of the debtor.

According to the discussed reform plans applicants should file for salary and chattel executions in a first step (execution package 1), while bailiffs are responsible for the implementation ex officio. In a second step they should file for other executions (execution package 2), while so called administrators collect debts ex officio. The administrator should find assets by studying the documents of the debtor and should have access to the assets immediately, instead of gathering this information (too late) of the inventory of property delivered by the debtor.

8. Mediation and other ADR Concerning the criminal procedure there are no plans for further reforms.



9.1. Prison system a) Starting from growing criticism regarding forensic detention one by the Federal Minister of Justice in the summer of 2014 appointed interdisciplinary group of experts for the evaluation of the forensic detention submitted around 90 recommendations in January 2015, whose implementation is currently being examined. The main recommendations include:

- detention of perpetrators of unsound mind exclusively in psychiatric hospitals or other suitable institutions.
- detention of severely mentally disturbed offenders and perpetrators exclusively in therapeutic centers in accordance with the called-by the ECHR "indemnity rule".
- removing the possibility of detention in a branch office of prisons.
- raising the threat of punishment as a threshold for the admission in a forensic detention in accordance with § 21 of the Austrian Criminal Code on more than three years and exclusion of particular groups of criminal acts by retaining the provisions of § 21 para. 3 of the Austrian Criminal Code.
- exclusion of potentially lifelong admission for juveniles.
- improving existing and creating new suitable aftercare facilities, in order to reduce the duration of detention by earlier conditional releases.
- Creation of an independently law concerning forensic detention, which is based on § 66c of the German Criminal Code.
- detentions over five years (in § 21 para. 2 of the Austrian Criminal Code) or six years (at § 21 para. 1 of the Criminal Code) only at high likelihood of committing further serious offenses.
- conditional release of those, who spent more than a year in a preparation for release.
- admission of expert lay judges from the field of forensic detention in Court Senates responsible for the conditional release.
- In the dismissal procedures, the requirement of necessary defense analogously to § 61 of the Austrian Code of Criminal Procedure should be created.
- Strengthened implementation of Social Network Conferences in the process on conditional release.
- Implementation and maintenance of the "indemnity rule" in all facets (separation, intensification, individualization).

A first step was taken with the installation of a special department system for severely mentally disturbed offenders.

After a operation period of one year the results of this pilot project have been evaluated and found as positive. Therefore these special departments will be established in the course of 2017 as the new structure dealing with mentally disturbed offenders. As a further step it is intended to develop a new category of institutions within in the prison system, the so called forensic therapeutic centres. These institutions should be aligned by their personal and organisational structures especially on the treatment of mentally disturbed offenders.

b) The terrorist attacks in Europe from 2015 to 2016 brought the topic "Violent Extremism and Radicalisation" back to the agenda. All European States were called to reinforce their actions to prevent all types of extremism that leads to violence. In the relevant debates prisons are often described as "breeding grounds" for radicalization and violent extremism. This is not surprising as prisons are "places of vulnerability", which offer nearly optimum conditions for the prospering of radical often religiously orientated ideologies.

Hence the Austrian Prison administration established a series of training programs and tools for all prison staff, in order to respond appropriately to potential vulnerable individuals at risk of radicalisation. All represented professional groups, like teachers, social workers, psychiatrists and psychologists, administrative staff and armed officers, have been well informed about the appearing kinds of extremism and been trained to be able to prevent or to react in a suitable manner on it. Austrian Prison Administration is aware of the broad picture of terrorism, the mind set and narratives used by understanding the pathways and levels of radicalisation, the recruitment tactics used within the prison environment and the indicators on how to identify vulnerable people at risk of radicalisation. Prison staff has been identified as key players in the process of learning and rehabilitation.

To be prepared for the challenges linked with the new situation a "Task Force De-Radicalisation in Prisons" was formed in Austria. Its tasks are development and efficient implementation of necessary prevention and deradicalisation as well as training measures and to ensure good cooperation and information between the stakeholders involved. Members of the Task Force are 13 senior prison

Management staff, who meet several times a year, an enlarged committee involving external experts and an Executive Team, which coordinates the activities in this area, develops strategies and enforcement proposals and provides information. Finally the Executive Team has to foster the cooperation with other relevant Ministries, the Probation Service and non-governmental organisations on domestic and international level, e.g. EuroPris as Member of the Expert Group "Radicalisation", the Middle Europe Corrections Roundtable (MECR), the Radicalisation Awareness Network (RAN), that founded recently "RAN Austria-Regional Working Group" and on international level the International Corrections and Prisons Association (ICPA).

The following concrete steps have been taken by Austrian prisons administration:

- Development of practical instructions on how to proceed with recognizable radical tendencies (e.g. reporting to the prison management, internal relocation, restriction of opportunities to contact other inmates, involvement of specialized services and of the pastoral care).
- The staff has been instructed to observe particularly closely prisoners, who are detained for terrorist offences or are suspected to be radicalized. Such prisoners are – regardless of any obligation to complicity separation – not housed together.
- Single accommodation will be – not in every case (e.g. suicide risk) and not in the long run – possible and also necessary. If there are no recognizable radical tendencies, a complete separation from other prisoners cannot be justified in the long run. There would otherwise be the danger that radical tendencies are even favoured or solidified.
- For specific perpetrators running a law enforcement plan and therefore the implementation of a risk and needs assessment has been mandatory. This does not apply to prisoners on remand.

9.2 Child friendly justice The Family Court Assistance („Familiengerichtshilfe“) was established 2013-2014 as a new body to assist the Court. It helps the judges in taking evidence, providing information to the parties and encouraging amicable solutions. In Contact Cases they may also act as a Visitation Mediator („Besuchsmittler“). Child legal advocates (“Kinderbeistände“) are intended to assist the child as contact and confidential persons and to be the "voice of the child", in as much as the child can or will not articulate itself.

9.3. Violence against partners XXX

#### 10. New information and communication technologies STRATEGIC INITIATIVE JUSTIZ 3.0

The initiative aims to find the best possible IT support for all the different user groups up to all-electronic handling of cases in the light of current technical trends and possibilities. With participation of a wide array of employees from different lines of business working groups focused for example on business processes like „inbox and file structure“, „decisions and decrees“ or „working place of decision-makers“, defining status quo and target state. In addition to and based upon the findings of these working groups the prospective architecture of information systems and technologies was drafted. The overall report concluding phase 1 of Justiz 3.0 was published and communicated in June 2014. Based on this report and its implementation plan phase 2 of Justiz 3.0 is well underway, right now with a number of parallel projects to establish the foundations and basic functions for digital file management, among them organization, application and infrastructure for incoming scan and OCR, file system and DMS as well as workflow system. According to the latest plans, a first pilot run of digital file management will be available by April 2016, on the basis of which fine tuning with the various user groups can be done.

11. Other XXX