



COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE
(CEPEJ)

QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES 2009

Pays : Slovénie

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1. Données démographiques et économiques

1. 1. Généralités

1. 1. 1. Habitants et informations économiques

1) Nombre d'habitants

2025866

2) Dépenses publiques totales annuelles de l'Etat / le cas échéant dépenses publiques des collectivités territoriales ou entités fédérales (en €)

	Montant
Niveau national	8470049312
Niveau territorial / entités	

3) PIB par habitant (en €)

18637

4) Salaire moyen brut annuel (en €)

16692

5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2009

Veillez indiquer les sources des réponses aux questions 1 à 4 et tout commentaire relatif à l'interprétation des données fournies, le cas échéant:

1., 3. and 4. - Statistical Office of the Republic of Slovenia, Slovenia in figures 2008 and Slovenia in figures 2009

2. - Ministry of Finance, Draft final account of the budget for 2008

1. The number of inhabitants is valid for the date 31.12.2007.

2. If presented in accordance with the EUROSTAT ESA 95 methodology, the public expenditure would include also the Pension and Disability Insurance Institute of the Republic of Slovenia (ZPIZ), the Health Insurance Institute of the Republic of Slovenia (ZZZS), the public expenditure of the municipalities, public institutes, public funds and public agencies that get more than 50% from public resources, the Slovenian restitution society (SOD) and Capital society (KAD). According to this methodology, the State public expenditure would be much higher: 16424000000 EUR (Source – Statistical Office of the Republic of Slovenia).

1. 2. Données budgétaires relatives au système judiciaire

1. 2. 1. Budgets (tribunaux, ministère public, aide judiciaire, frais)

6) Budget total annuel approuvé et alloué à l'ensemble des tribunaux (en €)

162282837

7) Veuillez préciser

The Courts Act prescribes:

"The scope of the finances for the wages of the judges and the court personnel, as well as for the costs of the activities of the courts in the framework of the state budget of the Republic of Slovenia, based on the financial plans of the individual courts are provided in the budget user Supreme Court of the Republic of Slovenia for all courts" and "In the framework of the state budget of the Republic of Slovenia, the scope of the finances for the equipment of the courts and provision of spatial conditions for the courts, excluding the finances for wages, is formed and provided in the ministry responsible for justice, while for the computerisation of the courts in the Supreme Court of the Republic of Slovenia."

Besides the above-cited amount there's also a part of the Ministry of Justice budget dedicated to the investments and the rentals in justice sector (courts, prosecution, state attorneys), but there's no data available as to the share dedicated to the courts. The courts, in their financial plans, include only so called "small" investments, which are the investments that are not included in the Ministry of Justice plan and cannot exceed a certain value.

As already mentioned, there is one exception: the computerisation of the judiciary is in the authority of the Supreme Court which means, that investments in hardware are included in the financial plan of the latter.

This means that the cited amount includes only the finances for the functioning and the informatization of the courts. On the other hand, it does not include the budget dedicated to the investments and the rentals in justice sector and the resources that are provided for education of judges and court staff by the Ministry of Justice to its Judicial Training Centre. The Judicial Training Centre, part of the Ministry of Justice, spent 442590 EUR in 2008 for the education of judges, court staff, prosecutors and state attorneys.

The resources in the cited amount (budget allocated to all courts) do not cover other organs of the judiciary (the Judicial Council, the Ministry of Justice, State Prosecutor's Offices, State Attorney's Office, prisons, etc.).

The annual public budget allocated to investments in new (court) buildings (60000 EUR) is not part of the budget allocated to the Supreme Court (which is 162222837 EUR), but of the budget of the Ministry of Justice. However, it is included in the total amount under question 6.

8) Le budget approuvé pour les tribunaux inclut-il les postes suivants? Veuillez préciser pour chaque poste (ou pour certains d'entre eux) les montants concernés ou indiquer NA (non disponible) dans le cas où ce montant est impossible à évaluer:

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

Budget public annuel alloué aux salaires (bruts)	☒ Oui	116500189
Budget public annuel alloué aux nouvelles technologies de l'information (équipements, investissements, maintenance)	☒ Oui	4710655
Budget public annuel alloué aux frais de justice	☒ Oui	32374344
Budget public annuel alloué aux bâtiments (maintenance, budget de fonctionnement)	☒ Oui	6801841
Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)	☒ Oui	60000
Budget public annuel alloué à la formation	☒ Oui	1835808
Autres (Veuillez préciser)	☐ Oui	

Commentaire :

The budget covering training and education (1835808 EUR) does not include the resources that are provided for education of judges and court staff by the Ministry of Justice to its Judicial Training Centre.

The Judicial Training Centre, part of the Ministry of Justice, spent 442590 EUR in 2008 for the education of judges, court staff, prosecutors and state attorneys.

The annual public budget allocated to investments in new (court) buildings (60000 EUR) is not part of the budget allocated to the Supreme Court (which is 162222837 EUR), but of the budget of the Ministry of Justice. However, it is included in the total amount under question 6.

9) Le budget public annuel alloué à l'ensemble des tribunaux a-t-il été modifié (augmentation – diminution) lors des cinq dernières années ?

☒ Oui

☐ Non

Si oui, veuillez préciser (par exemple en fournissant une indication sur l'augmentation ou la diminution du budget lors des cinq dernières années):

Budget for the year 2004: 109 mio EUR

Budget for the year 2005: 137 mio EUR

Budget for the year 2006: 134 mio EUR

Budget for the year 2007: 145 mio EUR

Budget for the year 2008: 162 mio EUR

10) Existe-t-il une règle générale selon laquelle une personne doit payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun :

☐ en matière pénale ?

☒ en matière autre que pénale ?

Si oui, existe-t- il des exceptions ? Veuillez préciser:

Art. 11 of the Courts Fees Act allows the court to decide on the exemption from payment in certain cases:

The court shall exempt from payment of court fees a party, if such payment would significantly affect the funds needed for the maintenance of the party or his/her family members.

The Labour and Social Courts Act specifies that in collective labour disputes and social disputes no court tax is required.

11) Si oui, veuillez préciser le montant annuel des frais (ou taxes) perçus par l'Etat (en €)

36041000

12) Budget total annuel approuvé pour l'ensemble du système de justice (en €)

Veuillez préciser les éléments composant ce budget de l'ensemble du système judiciaire:

.

☒ Montant

246000000

Commentaire :

The whole sum of 246 million EUR is divided into the following programs:

- 0901 - Coordination of the justice system and general administrative tasks: 28 million EUR;
- 0902 – Coordination of the Supreme Court and the functioning of courts: 162 million EUR;
- 0903 – Functioning of the State Prosecutor’s Office and the State Attorney’s Office: 25 million EUR;
- 0904 – Management and maintenance of prisons: 31 million EUR;

The following figure should not be included in the annual budget to the whole justice system:

- 0905 - Restitutions: 7 million EUR.

13) Budget public annuel approuvé et alloué à l’aide judiciaire (en €)

Veillez ajouter tout commentaire utile pour l’interprétation des données ci-dessus:

. ☒ Montant 2821428

Commentaire :

Comparing to the year 2006 there was a big increase in the budget allocated to legal aid, probably because of a better knowledge of the general public and a more widespread use of this procedure. The uniform Free Legal Aid procedure was introduced in the last quarter of the year so it had no greater impact on the figures.

14) Si possible, veuillez préciser (dans les cas où les données ne sont pas disponibles (NA) ou ne s’appliquent pas (NAP), veuillez l’indiquer en utilisant les bonnes abréviations).

	Budget public annuel alloué à l’aide judiciaire dans les affaires pénales	Budget public annuel alloué à l’aide judiciaire dans les affaires autres que pénales
Montant	NA	NA

Commentaire :

Until the 1.9.2008 there were two “systems” of providing legal aid in Slovenia: a) the system governed by the Free Legal Aid Act (FLAA), which covers all legal fields and b) the system governed by the Criminal Procedure Act (CPA), which covers criminal procedures only.

While the numbers on legal aid under FLAA were available, numbers on legal aid under CPA were not.

With the amendments to the Free Legal Aid Act (FLAA), the two systems (criminal and non criminal cases) were merged into one uniform system. Before, the Criminal Procedure Act contained provisions on free legal aid in criminal cases (both for the obligatory defence and for the defence in the interest of justice in case of defendants without necessary means). The relevant provisions of the Criminal Procedure Act that regarded legal aid in case of social inadequacy were valid until the 1.9.2008, from when on they were no longer valid. Now, only the provisions of the Free Legal Aid are applicable, as the new FLAA derogated the relevant provisions on free legal aid of the CPA.

15) Le budget public annuel alloué à l’aide judiciaire est-il compris dans le budget des tribunaux ?

- ☒ Oui
☐ Non

16) Budget public annuel approuvé et alloué au Ministère public (en €)

Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:
☒ Montant

17811140

Commentaire :

17) Le budget public annuel alloué au Ministère public est-il compris dans le budget des tribunaux ?
☐ Oui

☒ Non
18) Instances formellement responsables des budgets alloués aux tribunaux :

	Préparation du budget global des tribunaux	Adoption du budget global des tribunaux	Gestion et répartition du budget entre les tribunaux	Evaluation de l'utilisation du budget au niveau national
Ministère de la justice	Non	Non	Non	Non
Autre ministère	Oui	Non	Non	Non
Parlement	Non	Oui	Non	Non
Cour Suprême	Oui	Non	Oui	Oui
Conseil Supérieur de la Magistrature	Non	Non	Non	Non
Tribunaux	Oui	Non	Non	Oui
Organisme d'inspection	Non	Non	Non	Non
Autre	Non	Non	Non	Oui

19) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (au regard de la question 18) :

The legal basis for the procedure for adoption of the budget are the Public Finance Act and the Regulation for the Bases and Procedures for the Preparation of the Proposal State Budget.

The establishing of the budget may be shown through an eight step scheme:

- Establishing of a macroeconomic framework
- Specifying of the development priorities and tasks of the Government
- Setting up of a framework cross section of the budget in accordance with the program and the plans
- Budgetary Manual of the Ministry of Finance
- Preparing of detailed financial plans of direct budget users
- Negotiations with the Ministry of Finance
- Governmental proposal of the state budget
- Discussion and adoption of the budget and the Law on Execution of the Budget, within Parliament.

The Supreme Court as the entity proposing the financial plans of all the courts has a specific role in this process. Although the Courts Act provides that "the volume of financial resources for the salaries of judges and judicial personnel, and for the operation costs of courts, shall be provided within the framework of the state budget of the Republic of Slovenia for all courts on the basis of financial plans of individual courts at the budget user, the Supreme Court of the Republic of Slovenia", the Supreme Court has limited access to the first four phases, which are crucial. Once the priorities are set, it is impossible to reach important changes in the volume of financial resources during budget negotiations. During these four phases it is only the Ministry of Justice that can influence the decisions of the Government, but it has not sufficient knowledge of the needs of the courts, the Supreme Court has some influence only by informal ways.

The Supreme Court enters the process between the fourth and fifth phase. It proposes a cross section of the budget quota specified by the Government of RS, regarding the judiciary for the following two years.

The budget quotas are determined on the level of individual courts, whereby in addition to the initial rules determined by the budget manual, the following criteria are also taken into consideration:

- level of the financial plan of the user for the current year;
- semester realization of the financial plan of the user in the current year.

The Supreme Court also prepares internal manuals for the users as well as internal forms for budgetary items, which may reflect any additional needs for funds along with a short explanation, which is used as a basis for subsequent negotiations with the Ministry of Finance. Then, each court prepares its own financial plan within the framework of the assigned quota in line with the budget items up to the level of a sub-account and submits it to the Supreme Court. During this process job allocation schedules are also prepared, because they have to be adjusted to the proposed budget. The Supreme Court examines every court's financial plan proposal and based on the gathered data and internal forms with appropriate explanations which reflect the additional needs of the users, prepares a new assessment of the needed funds to facilitate a smooth operation of the courts within the following two years.

In addition, a complex analysis is prepared of the budgetary expenses and a dialogue is established between the users in regard to a concept for future negotiations.

The negotiations with the Ministry of Finance may occur in several phases depending on the divergence between the posed requests on one hand and the possibilities or the constraints posed by Ministry of Finance.

If the Ministry of Finance agrees, the additionally provided funds shall be distributed among the courts in line with the proposed priorities. However, if no agreement is reached, the proposed budget of the courts shall be submitted to Parliament, which takes the final decision.

Vous pouvez indiquer ci-dessous :

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système budgétaire et les réformes majeures mises en œuvre au cours des deux dernières années**
- **si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires**

Veillez indiquer les sources des réponses aux questions 6, 8, 11, 12, 13, 14 et 16

Financial and accounting department of the Supreme Court of the Republic of Slovenia
Draft Financial Statement of the Budget 2008
The Supreme State Prosecutor's Office

2. Accès à la justice et à l'ensemble des tribunaux

2. 1. Aide judiciaire

2. 1. 1. Principes

20) L'aide judiciaire concerne-t-elle :

	Affaires pénales	Affaires autres que pénales
Représentation devant les tribunaux	Oui	Oui
Conseil juridique	Oui	Oui
Autres	Oui	Oui

21) Si autres, veuillez préciser (au regard de la question 20):

Legal aid also covers costs such as cost of experts etc.

22) L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice?

- ☒ Oui
☐ Non

Si oui, veuillez préciser:

The law specifically provides the exoneration of court fees (Free Legal Aid Act, Article 1).

23) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice ?

- ☒ Oui
☐ Non

24) Nombre d'affaires ayant bénéficié de l'aide judiciaire publique octroyée au niveau national, régional ou local (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP), veuillez l'indiquer en utilisant les bonnes abréviations).

	Nombre
Total	6541
en matière pénale	852
en matière autre que pénale	NA

Commentaire :

Regarding question 23:

The law prescribes, that legal aid can be granted in any proceedings before the court, i.e. also in the proceedings of the execution of judicial decisions (Free Legal Aid Act, Article 7).

25) En matière pénale, toute personne qui n'en a pas les moyens peut-elle bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ?

- ☒ Oui
- ☐ Non

26) Votre pays procède-t-il à un examen des revenus et biens du demandeur avant d'octroyer l'aide judiciaire :

	Oui	Montant en €
en matière pénale	Yes	426 *
en matière autre que pénale ?	Yes	426

Commentaire :

- The Free Legal Aid Act prescribes that:

"It shall be deemed that the social position of the applicant and his or her family is put at risk by the costs of the judicial proceeding, if the monthly income of the applicant (personal income) or average monthly income per family member (personal family income) does not exceed the amount of 2 times the basic amount of the minimum wage, laid down in the act governing the minimum wage (hereinafter referred to as: minimum income)." The basic amount being 213 EUR on January 2008, so the monthly income or the average monthly income per family member must not exceed 426 EUR.

- The Criminal Procedure Act states: "If the accused does not have the means to retain a lawyer, the state shall, upon his request, provide him with defence counsel at the expense of the state and under conditions defined by the present Act...If defence is not mandatory, a defendant who by reason of his material situation cannot afford to retain a lawyer may upon request have defence counsel appointed for him ex officio, if that is in the interest of justice. The defendant may file a request from the preceding paragraph after the indictment has been served." * – This provision of the Criminal Procedure Act was valid until the 1.9.2008, from when on it was no longer valid. Now, only the provisions of the Free Legal Aid are applicable.

- According to the Free Legal Aid Act, the applicant has to give evidence of his assets with a statement (the court then gets all the relevant data from the different authorities that have evidence of the wealth of the applicant).

27) En matière autre que pénale, est-il possible de refuser l'aide judiciaire pour absence de bien- fondé de l'action (par exemple pour caractère abusif de l'action en justice)?

- ☒ Oui
- ☐ Non

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

The Free Legal Aid Act expressly states that when deciding upon granting legal aid, the first criteria that regards the case is that "the matter is not obviously irrational or that the applicant has a probable chance of success" (Article 24).

28) Si oui, la décision pour accorder ou refuser l'aide judiciaire est-elle prise par :

- ☒ le tribunal ?
- ☐ une instance extérieure au tribunal ?
- ☐ une instance mixte tribunal/organe externe?

29) Existe-t-il un système privé d'assurance de protection juridique permettant aux justiciables de financer une action en justice?

- ☒ Oui
☐ Non

Veillez préciser:

Out of 15 insurance companies, listed by the Insurance Supervision Agency, 7 offer legal expense insurance to individuals. Both reinsurance companies offer it as well. The arrangements regarding the legal expense insurance differ according to the type of case (civil, criminal, commercial, etc.) and according to the company. The company ARAG (www.arag.si) offers only this type of insurance, others have it together with other, regular types of insurance.

30) La décision judiciaire peut-elle porter sur la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés :

	Oui (la décision judiciaire peut porter sur la manière dont les frais de justice sont payés par les parties)
en matière pénale ?	Oui
en matière autre que pénale ?	Oui

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'aide judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

Until the 1.9.2008 there were two "systems" of providing legal aid in Slovenia: a) the system governed by the Free Legal Aid Act (FLAA), which covers all legal fields and b) the system governed by the Criminal Procedure Act (CPA), which covers criminal procedures only.

While the numbers on legal aid under FLAA were available, numbers on legal aid under CPA were not.

With the amendments to the Free Legal Aid Act (FLAA), the two systems (criminal and non criminal cases) were merged into one uniform system. Before, the Criminal Procedure Act contained provisions on free legal aid in criminal cases (both for the obligatory defence and for the defence in the interest of justice in case of defendants without necessary means). The relevant provisions of the Criminal Procedure Act that regarded legal aid in case of social inadequacy were valid until the 1.9.2008, from when on they were no longer valid. Now, only the provisions of the Free Legal Aid are applicable, as the new FLAA derogated the relevant provisions on free legal aid of the CPA.

Veillez indiquer les sources des réponses aux questions 24 et 26:

Court Statistics, Ministry of Justice, 2008
 Free Legal Aid Act
 Criminal Procedure Act

2. 2. Usagers des tribunaux et victimes

2. 2. 1. Droit des usagers et victimes

31) Existe-t-il des sites/portails Internet officiels (ex: Ministère de la Justice, etc.) à

partir desquels le public a accès gratuitement:

- ☐ aux textes juridiques (codes, lois, règlements, etc.) ? adresse Internet: ☒ Oui <http://zakonodaja.gov.si> (Register of legal texts) <http://dz-rs.si> (General Assembly) <http://mp.gov.si> (Ministry of Justice) <http://dt-rs.si> (Supreme State Prosecutor's Office)
- ☐ à la jurisprudence des hautes juridictions ? adresse Internet: ☒ Oui http://www.sodisce.si/znanje/sodna_praksa/iskalnik_po_bazah/
- ☐ à d'autres documents (par exemple formulaires) ? adresse Internet: ☒ Oui <http://www.sodisce.si> (Slovenian Courts)

32) Votre système prévoit-il une obligation d'information des parties concernant les délais prévisibles de la procédure judiciaire ?

- ☐ Oui
- ☒ Non

Si oui, veuillez préciser:

33) Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions?

- ☒ Oui
- ☐ Non

Si oui, veuillez préciser:

The Police informs victims of crimes of their rights and keeps them informed on the course of the investigations.

34) Existe-t-il des modalités favorables particulières applicables, au cours des procédures judiciaires, aux catégories de personnes vulnérables suivantes :

	Dispositif d'information	Modalités d'audition	Droits procéduraux	Autres
Victimes de viol	Non	Oui	Non	Non
Victimes du terrorisme	Non	Oui	Non	Non
Enfants/Témoins/Victimes	Oui	Oui	Oui	Oui
Victimes de violence domestique	Non	Non	Oui	Non
Minorités ethniques	Non	Oui	Non	Non
Personnes handicapées	Non	Oui	Non	Non
Délinquants mineurs	Non	Oui	Oui	Oui
Autres	Non	Non	Non	Non

Commentaire :

35) Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?

- ☒ Oui
☐ Non

36) Si oui, cette procédure d'indemnisation consiste-t-elle en

- ☒ un dispositif public ?
☐ une décision du tribunal ?
☐ un dispositif privé ?

Si oui, quels sont les types d'affaires entrant dans le cadre de cette procédure ?

The Crime Victims Compensation Act prescribes (inter alia):

Formal conditions (Article 5):

Formal conditions for access to the compensation hereunder are fulfilled if the applicant is a:

- Citizen of the Republic of Slovenia or
- Citizen of any other Member State of the European Union.

Material conditions (Article 6):

The material conditions for access to the compensation hereunder are:

- The applicant was a victim of a violent intentional crime (hereafter: the crime),
- The crime was committed on the territory of the Republic of Slovenia, on a Slovene ship or on a Slovene airplane, regardless of the location when the crime is committed,
- The crime was noted or notified to the competent authority as a criminal offence,
- There are no circumstances on the part of the applicant for which no application for compensation may be submitted under the Code of Obligations,
- Due to the crime the applicant sustained a bodily injury, impairment of health or suffering,
- Due to the crime the applicant incurred the damage recognized herewith.

37) Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts prononcés par les juridictions pour les victimes?

- ☐ Oui
☒ Non

Si oui, veuillez préciser :

38) Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance)

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Prosecutors can have a special role, when victims are interrogated as witnesses in court.

The role of prosecutor is very important in the case, when procedural measures for protection of witnesses are used and when the procedure for implementation of witness protection programme is initiated.

39) Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire ?

☒ Oui

☐ Non

Si oui, veuillez préciser :

They have the right to prosecute the case on their own within 8 days (Criminal Procedure Act, Article 60).

2. 2. 2. Confiance des citoyens dans leur justice

40) Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :

☒ durée excessive de la procédure ?

☐ non exécution des décisions de justice?

☒ arrestation injustifiée ?

☒ condamnation injustifiée ?

Si oui, veuillez préciser (dispositif, tarif journalier) :

The Act on the protection of the right to trial without undue delay gives a party to court proceedings the right to have his rights, duties and any charges brought against him in his case before the court to be decided upon by the court without undue delay.

The legal remedies that are available to protect the right are three:

- supervisory appeal;
- motion for a deadline and
- claim for just satisfaction.

The purpose of the first two remedies is to expedite the proceedings. On the other hand, the claim for just satisfaction can only be filed, if the supervisory appeal was granted or if the motion for a deadline was filed.

Just satisfaction can be provided by:

1. payment of monetary compensation for damage caused by a violation of the right to a trial without undue delay;
2. a written statement of the State Attorneys' Office that the party's right to a trial without undue delay was violated;
3. the publication of a judgement that the party's right to a trial without undue delay was violated.

Monetary compensation is payable for non-pecuniary damage caused by a violation of the right to a trial without undue delay. The strict liability for damage caused lies with the Republic of Slovenia. The amount of monetary compensation for an individual case is limited by law to the figures between 300 and 5000 EUR.

When deciding on the amount of compensation, the criteria that are taken into account are in particular the complexity of the case, actions of the State, actions of the party and the importance of the case for the party.

The procedure of compensation in the case of wrongful arrest and wrongful condemnation is regulated by the Criminal Procedure Act. Chapter 32 is entitled Proceedings for compensation, rehabilitation and the exercise of other rights of unjustifiably convicted or arrested persons.

The Act gives the right to seek the recovery of damages inflicted by an unjustified judgement of conviction. Similarly, the right to compensation is also enjoyed by persons, who were victims of different forms of unfounded arrest.

The Act states that before filing the claim for damages with the court, the injured person has to address his claim to the Office of the State Attorney General to try and reach agreement about the existence of the damage and the type and extent of compensation. If the request for recovery of damages is not granted or the Office of the State Attorney General and the injured person do not reach accord within three months of the filing of the request, the injured person may file a claim for damages with the court of jurisdiction. The tariff, offered by the State Attorney's Office for wrongful arrest is 300 EUR per day, if the detention lasted from 1 to 3 days, while it is 42 EUR per day for more than 3 days.

41) Votre pays a-t-il mis en place des enquêtes auprès des usagers ou des professions juridiques (juges, avocats, fonctionnaires, etc.) pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ?

- ☐ enquêtes (de satisfaction) auprès des juges
- ☐ enquêtes (de satisfaction) auprès du personnel des tribunaux
- ☐ enquêtes (de satisfaction) auprès des procureurs
- ☐ enquêtes (de satisfaction) auprès des avocats
- ☒ enquêtes (de satisfaction) auprès des citoyens (visiteurs des tribunaux)

☐ enquêtes (de satisfaction) auprès d'autres usagers des tribunaux

Si possible, veuillez préciser leurs titres, comment se les procurer, etc. :

Within the Slovenian Public Opinion Survey (SPOS) public trust in different institutions is surveyed and one question relates also to the courts. (<http://www.cjm.si/>). However, this is a general opinion survey and it does not focus only on citizens, visitors of the court.

The incidental survey at court level has been in use at the District Court of Ljubljana to measure the satisfaction of the parties, involved in the mediation procedures. So far, no other surveys have been carried out.

42) Si possible, veuillez préciser :

	Oui (enquêtes systématiques : par exemple annuelles)	Oui (enquêtes occasionnelles)
Enquêtes au niveau national	Oui	Non
Enquêtes au niveau des tribunaux	Non	Oui

43) Existe-t-il un dispositif national ou local permettant de déposer une plainte concernant le fonctionnement (par exemple le traitement d'une affaire par un juge ou la durée d'une procédure) du système judiciaire?

☒ Oui

☐ Non

44) Si oui, veuillez préciser :

Veuillez donner quelques éléments d'information sur l'efficacité de cette procédure de plainte ?

	Délai pour répondre (Oui)	Délai pour traiter la plainte (Oui)
Tribunal concerné	Oui	Oui
Instance supérieure	Oui	Oui
Ministère de la Justice	Non	Non
Conseil supérieur de la magistrature	Non	Non
Autres organisations extérieures (ex. médiateur)	Non	Non

Commentaire :

Regarding question 42:

The survey at a regular interval is the Slovenian Public Opinion Survey (SPOS) that measures public trust in different institutions (<http://www.cjm.si/>). However, this is a general opinion survey and it does not focus only on citizens, visitors of the court.

The incidental survey at court level has been in use at the District Court of Ljubljana to measure the satisfaction of the parties, involved in the mediation procedures. So far, no other surveys have been carried out.

Regarding question 44:

According to the Act on the Protection of the Right to a Trial without Undue Delay the party in the proceedings who feels that her right has been violated has three legal remedies:

- the supervisory appeal (motion to expedite the hearing of the case);
- the motion for a deadline (motion to set a deadline);
- the claim for just satisfaction.

When deciding on the legal remedies the circumstances of the particular case are taken into account, namely its complexity in terms of facts and law, actions of parties to proceedings, in particular as regards the use of procedural rights and fulfilment of obligations in proceedings, of the compliance with the rules on the set order of resolving cases, statutory deadlines for fixing preliminary hearings or drawing court decisions, the manner in which a case was heard before a supervisory appeal or motion for a deadline were filed, the nature and type of a case and its importance for a party.

If a party considers that the court unduly protracts with the decision-making, he may file a supervisory appeal. If the president of the court rejects the supervisory appeal or fails to answer to the party within two months or fails to send the notification within the said deadline or if appropriate procedural acts were not performed within deadlines set in the notification or ruling of the president of the court, the party may file the motion for a deadline.

If a ruling was issued, the party may file a new supervisory appeal only after six months have elapsed from the receipt of the decision. In the process of supervisory appeal the judge can notify the president of the court in writing that all relevant procedural acts shall be performed or a decision issued within the deadline not exceeding four months following the receipt of the supervisory appeal. In this case the president of the court informs the party thereof and thus concludes the consideration of the supervisory appeal.

If the president of the court establishes that the court is unduly delaying the decision-making of the case, he shall, subject to the state and nature of the case and by way of a ruling, order a deadline for performing certain procedural acts and he may also order that the case be resolved as a priority due to the circumstances of the case, particularly when the matter is urgent. If he orders that the appropriate procedural acts be performed by the judge, he also sets the deadline for their performance, which may not be shorter than fifteen days and not longer than six months, as well as the appropriate deadline for the judge to report on the acts performed.

If the president of the court rejects the supervisory appeal or fails to answer to the party within two months or fails to send the notification within the said deadline or if appropriate procedural acts were not performed within deadlines set in the notification or ruling of the president of the court, the party may file the motion for a deadline.

The president of the higher court in the judicial area covering the local court, district court or other court of first instance, has the competence to decide on the motion for a deadline concerning the cases heard by the local court, district court or other court of first instance. The president of the Supreme Court of the Republic of Slovenia has the competence to decide on the motion for a deadline concerning cases heard by higher court or court having the status of higher court. The president of the Supreme Court of the Republic of Slovenia has the competence to decide on the motion for a deadline concerning cases heard by the Supreme Court of the Republic of Slovenia.

3. Organisation des tribunaux

3. 1. Fonctionnement

3. 1. 1. Tribunaux

45) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques (compléter le tableau). Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

	Nombre total
Tribunaux de droit commun de 1ère instance (entités juridiques)	55
Tribunaux spécialisés de 1ère instance (entités juridiques)	5
Tous les tribunaux (implantations géographiques) (ce chiffre inclut également les cours suprêmes et/ou les juridictions supérieures)	66

46) Veuillez préciser les différentes sphères de spécialisation (et, si possible, le nombre de tribunaux concernés):

Labour and social disputes courts - 4

Administrative court - 1

47) Une réforme dans la structure des tribunaux est-elle envisagée (par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux).

☒ Oui

☐ Non

Si oui, veuillez préciser:

Changes of legislation, regarding the functioning of justice are foreseen till the end of the year 2009. The Amendment of Courts Act of Slovenia, which defines court organisation, is for the present in parliamentary proceedings. The law will come into force on the 1st of January 2010.

The main modifications within the Amendment of Courts Act include:

1. The extension of competences of the Judicial Council - competence in the appointment of presidents of the courts is transferred from the minister of justice to the Judicial Council;
2. The establishing a specialized department for jurisdiction over criminal offences related to organized and economic crime;
3. For the purpose of disburdening the president of the court and setting a more efficient court management a new position of Director of the court is appointed;
4. With the intention of effective and economical administration of courts justice administration for county courts is held by justice administration of district courts;
5. More flexible assigning of county and district judges within the range of the district court by president of the district court.

48) Nombre de tribunaux de 1ère instance compétents pour une affaire concernant (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations):

	Nombre
un recouvrement d'une petite créance.	44
un licenciement	4
un vol avec violence	11

Veuillez préciser ce qu'est une petite créance dans votre pays (ne répondre que si la définition a changé par rapport à l'exercice d'évaluation précédent):

In May 2008 the Civil Procedure Act was amended. The previous value of 200.000 Slovenian tolars (which at the exchange rate of 239,64 SIT for 1 euro meant 834,6 EUR after 1.1.2007) was changed to 2000 EUR. This means that the special simplified procedure, which is valid for small claims, is to be applied in cases, where the value of the claim does not exceed 2000 EUR.

Veuillez indiquer la source pour les réponses aux questions 45 et 48:

Court Statistics, Ministry of Justice, 2008

3. 1. 2. Juges, personnels des tribunaux

49) Nombre de juges professionnels siégeant en juridiction (répondre en équivalent temps plein et pour les postes permanents; si les données ne sont pas disponibles veuillez l'indiquer avec NA)

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

Nombre . 1083

Commentaire :

On the 31.12.2007 there were 1083 judicial posts. This number represents all the posts, which are formally occupied although some posts are de facto vacant, since the judge is actually absent due to e.g. maternity leave (which can last as long as 2 years). According to some estimations of the Ministry of Justice this kind of posts represent around 15 - 20% of all judicial posts.

Accordingly, calculations were made that included the actual number of working hours. These calculations excluded the judges that were on maternity leave, judges on sick leave, but included the annual leave. The final number of judicial posts according to these calculations (937) would be the number of actual working hours in 2008, divided by judges (946), from which 7 judges are subtracted, since they do not perform judicial functions, but they are assigned to other duties (1 general secretary of the Supreme Court, 5 appointed to the Registry Department of the Supreme Court, 1 appointed to the Judicial Council).

50) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel:

	Nombre
--	--------

donnée brute	NAP
si possible, donnée en équivalent temps plein	NAP

51) Veuillez ajouter tout commentaire utile pour l'interprétation de la réponse à la question 50 ci-dessus:

There are no professional judges sitting in courts on an occasional basis, since The Judicial Service Act doesn't allow such posts.

52) Nombres de juges non professionnels, non rémunérés (y compris "lay judges") percevant, le cas échéant, un simple défraiement. Veuillez indiquer NA si les données ne sont pas disponibles.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

	Oui	Nombre
Avez vous dans votre système des catégories de juges non professionnels ?	Yes	4065

Commentaire :

The above number represents a pool of lay-judges, but data on actual sitting days are not available. The number is taken from the Act on setting the number of lay judges at the district courts in the Republic of Slovenia, the number being 2589, together with the number from the Act on setting the number of lay judges at the labour and social courts, the number being 1476. Together, the pool of lay judges is thus that of 4605.

Although lay-judges are in full capacity of a judge as a member of a panel of judges, they can't hear cases on their own and therefore none of the cases can be solved by them without the presence of the professional judge, who also takes care of all the procedures, writing the judgement etc.

According to the Criminal Procedure Act, the district courts try cases involving criminal offences punishable by fifteen or more years of imprisonment before panels of five judges (two professional and three lay judges), and cases of criminal offences punishable by three to fifteen years of imprisonment before panels of three judges (one professional or presiding judge and two lay judges).

Lay judges are involved also in civil trials. The Civil Procedure Act prescribes panels of three judges (one professional or presiding judge and two lay judges) in family law matters and in intellectual property rights disputes.

53) Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?

- ☐ Oui
☒ Non

Si oui, pour quel(s) type(s) d'affaire(s) ?

There is no trial by jury in Slovenia. However, in some cases the panel of judges is composed of lay judges as explained in the previous answer.

54) Si possible, veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence?

NAP

55) Nombre de personnel non juge travaillant dans les tribunaux (répondre en équivalent temps plein et pour les postes permanents). Veuillez indiquer NA si les données ne sont pas disponibles

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

Nombre . 3000

Commentaire :

The number 3000 (valid for the date 31.12.2007) contains the following categories:

- secretaries of courts: 23
- senior judicial advisers: 276
- court clerks: - Local courts – Land register court clerks: 210
- Local courts – Enforcement court clerks: 162
- District courts – Commercial register clerks: 31
- other court staff: 2298

56) Si possible, veuillez distinguer ce personnel selon les 4 catégories suivantes. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

- | | | |
|---|---|-----|
| - personnels non juge (Rechtspfleger ou organes équivalents), chargé de tâches juridictionnelles ou para juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours | ☒ Oui | 403 |
| - personnels non juge chargés d'assister les juges (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) à l'instar des greffiers | | NA |
| - personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des personnels, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation) | | NA |
| - personnels techniques | | NA |

Commentaire :

Judicial advisers are non-judge staff whose task is to assist the judges, since they »in particular matters outside the main proceedings perform the work connected with the hearings of parties, witnesses and experts, perform more complex preparatory work for the main trial proceedings, report at the panel sessions, draft decisions, conduct the main trial proceedings under the guidance of the judge and perform other work under the order of the judge«. These are lawyers with law degree and the Legal State Examination.

Judicial assistants are non-judge staff, who have graduated in law (not necessarily) and assist the judge in various fields, but do not help in preparing decisions for the cases. They mainly help with the preparations of decisions about the costs of proceedings, about execution of the proceedings (summoning witnesses and other participants), etc.

The situation concerning court clerks is explained under question 57.

The data that concern other court staff is not differentiated between administrative staff and technical staff.

57) S'il existe dans votre système la fonction de Rechtspfleger (ou fonction équivalente), veuillez décrire brièvement leur statut et leurs fonctions:

Court clerks are similar to the Rechtspfleger, since they have autonomous competences and their decisions can be subject to appeal. Generally, they are without law degree, and they work at local courts (land register and enforcement cases) and at district courts (commercial register). Their previous title was 'judicial clerk', now they are 'independent judicial assistants' or 'higher judicial assistants'.

The Courts Act states their duties and responsibilities:

Independent judicial assistants and higher judicial assistants lead the proceedings and decide in matters of the commercial court register, they lead enforcement proceedings and issue decisions on enforcement for the recovery of monetary debts, on enforcement on the basis of authentic documents as well as decisions about advance payments, security deposits, costs of the proceedings and court fees. At first instance they decide upon land registration in cases where the registration is not in the competence of the judge of the land register court and decide in inheritance cases of intestate succession, when the object of succession is only movable property.

The decision of the independent judicial assistant or the higher judicial assistant can always be subject to an appeal. It is the judge of the same court who decides upon the appeal.

The figures are the following (for the date 1.1.2008):

- Local courts – Land register court clerks: 210
- Local courts – Enforcement court clerks: 162
- District courts – Commercial register clerks: 31

3. 1. 3. Procureurs

58) Nombre de procureurs (répondre en équivalent temps plein et pour les postes permanents). Si les données ne sont pas disponibles veuillez le préciser (NA).

Nombre . 175

Commentaire :

59) D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Their assistants (20 in total) can replace them, if they are authorised by public prosecutor.

60) Nombre de personnels (non procureurs) attachés au Ministère public (répondre en équivalent temps plein et pour les postes permanents) Si les données ne sont pas disponibles veuillez le préciser (NA)

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

Nombre

□.

216

Commentaire :

3. 1. 4. Budget des tribunaux et nouvelles technologies

61) Qui est responsable du budget du tribunal ?

	Préparation du budget	Arbitrage et répartition du budget	Gestion quotidienne du budget	Evaluation et contrôle de l'utilisation du budget
Conseil d'administration	Non	Non	Non	Non
Président du tribunal	Oui	Oui	Oui	Oui
Directeur administratif du tribunal	Non	Non	Non	Non
Greffier en chef	Non	Non	Non	Non
Autre	Non	Non	Non	Non

62) Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires au sein des tribunaux

Art. 61 of the Courts Act prescribes: Matters of court management shall be the responsibility of the president of the court, unless otherwise determined by this Act. Courts may have a secretary of the court for dealing with matters of court management, who shall meet the conditions for occupying the working post of justice councillor.

Art. 75 of the same Act prescribes: The preparation of financial plans, their implementation and monitoring shall be performed in individual courts. Resources for the work of local courts in the territory of an individual district court shall be planned within the framework of the financial plan of that court, whereby the resources for the work of local courts shall be stated separately. The proposal of the financial plan of district courts for the work of local courts shall be prepared by the President of the district court on the basis of the proposal of the President of the local court one month after the adoption of the budget at the latest. District courts shall coordinate the preparation of financial plans and the use of resources according to particular local courts considering the requirements of local courts and the total financial resources earmarked in the budget. Larger local courts may be independent budget users, if determined so by the public financial regulations. The Supreme Court shall coordinate the preparation of financial plans and the consumption of resources by individual courts with regard to their financial plans and aggregately provided resources in the budget. The president of the Supreme Court and presidents of high and district courts are entitled to determine the allocation of resources to individual courts.

63) Pour l'assistance directe au travail du juge/du greffier, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Traitement de texte	Oui	Non	Non	Non
Base de données électronique pour la jurisprudence	Oui	Non	Non	Non
Dossiers électroniques	Non	Oui	Non	Non
E-mail	Oui	Non	Non	Non

Connexion internet	Oui	Non	Non	Non
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64) Pour l'administration et gestion, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Enregistrement des affaires	Non	Oui	Non	Non
Système d'information sur la gestion du tribunal	Non	Non	Oui	Non
Système d'information financière	Oui	Non	Non	Non

65) Pour la communication entre le tribunal et les parties, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Formulaire électronique	Non	Oui	Non	Non
Site internet spécifique	Oui	Non	Non	Non
Autres moyens de communication électronique	Oui	Non	Non	Non

66) Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux et du système judiciaire?

☒ Oui

☐ Non

Si oui, veuillez préciser le nom et les coordonnées de cette institution:

Ministry of Justice, Župančičeva 3, 1000 Ljubljana

T: +386 (0)1 369 52 00

F: +386 (0)1 369 57 83

E: gp.mp(at)gov.si

<http://www.mp.gov.si/>

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

Regarding question 62:

Under 'Electronic Files' result we assume 'Electronic Case Files', which are in place on over 50% of the courts. In the case of 'Electronic Data Files' the result would be 100%.

Regarding question 65:

Regarding the answer '+ 50% of courts' in the case of 'Electronic web forms', the answer differs significantly from the previous cycle, since the Central department for Execution on the basis of authentic instruments was established at the Local Court of Ljubljana. Since it is the only centralised department, working exclusively in electronic forms and covering the whole country, that is 44 local courts in the system of 66 courts overall, the answer is '+ 50% of the courts'. If we counted the department as one court only, the answer would still be '- 10% of the courts'.

Under 'Other electronic communication facilities' we assume that e-mail communication qualifies, thus the result is 100% (special court & staff mail accounts).

3. 2. Suivi et évaluation

3. 2. 1. Suivi et évaluation

67) Les tribunaux doivent-ils établir un rapport annuel d'activités ?

- ☒ Oui
☐ Non

68) Existe-t-il un système régulier de suivi des activités des tribunaux concernant:

- ☒ le nombre de nouvelles affaires ?
☒ le nombre de décisions rendues ?
☒ le nombre d'affaires faisant l'objet d'un renvoi ?
☒ la durée des procédures (délais)?
☐ autre ?

Veuillez préciser :

Each court monitors the above mentioned data on regular basis, depending on their own decision, but four times a year (prescribed by the Court Rules) these data are collected and published on a national level.

69) Existe-t-il un système régulier d'évaluation de l'activité (en termes de performance, rendement) de chaque tribunal?

- ☒ Oui
☐ Non

Veuillez préciser :

In the process of budget preparation each court has to set targets, the achieving of which is subject of yearly report to the Ministry of Finance. Courts also report to the Ministry of Justice. The Judicial Council evaluates the performance of courts, as it is described below.

70) Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance (si non, veuillez passer à la question 72):

- ☒ Oui
☐ Non

71) Veuillez préciser les 4 principaux indicateurs de performance et de qualité d'une bonne justice :

- ☒ nouvelles affaires
☐ durée des procédures (délais)
☒ affaires terminées

- ☒ affaires pendantes et stocks d'affaires
- ☒ productivité des juges et des personnels des tribunaux
- ☐ pourcentage d'affaires traitées par un juge unique
- ☐ exécution des décisions pénales
- ☐ satisfaction du personnel des tribunaux
- ☐ satisfaction des usagers (au regard des services rendus par les tribunaux)
- ☐ qualités judiciaire et organisationnelle des tribunaux
- ☐ coûts des procédures judiciaires
- ☐ autre

Veillez préciser :

The Judicial Council, the Ministry of Justice and the Supreme Court are responsible for setting the targets. The Judicial Council adopts the measures for quantity and quality of work of judges. On the basis of the Courts Act, the Judicial Council monitors, ascertains and analyses the effectiveness of work of judges and courts, on which it keeps annual reports. The Supreme Court and the Ministry of Justice exercise supervision over the performance of court management in courts. They are responsible for matters of justice administration. The Supreme Court also co-ordinates the preparation of financial plans and aggregately provided resources in the budget.

72) Existe-t-il des objectifs de performance pour chaque juge? (si non, veuillez passer à la question 74)?

- ☒ Oui
- ☐ Non

73) Veuillez préciser qui fixe ces objectifs:

- ☐ pouvoir exécutif (par exemple Ministère de la justice)
- ☐ pouvoir législatif
- ☒ pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)
- ☐ Autre

Si autre, veuillez préciser :

The Judicial Council adopts the measures for quantity and quality of work of judges. The Council thus adopted the Criteria for the minimum expected quantity of work for judges. Regarding quality, the Council also adopted the Criteria for the assessment of quality of work for judges.

74) Existe-t-il des objectifs de performance au niveau des tribunaux (si non, veuillez passer à la question 77)?

- ☒ Oui
- ☐ Non

75) Veuillez préciser qui fixe ces objectifs:

- ☒ pouvoir exécutif (par exemple Ministère de la justice)

☐ pouvoir législatif

☒ pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)

☒ autre

Si autre, veuillez préciser :

The executive power – the Ministry of Justice is involved with the setting of targets in the context of the Lukenda programme. In the joint programme of the Supreme Court and the Ministry of Justice, targets were set in 2005 with the aim of eliminating half of the judicial backlogs by the end of 2010. The programme included a number of targets and planned activities, including additional personnel to help judges.

Otherwise, the Supreme Court is also involved in the setting of targets of individual courts. In the procedure of adoption of the State Budget, individual courts set their own targets, but it is the Supreme Court who, on the basis of the information provided by the individual courts, sets the final targets in the process of adoption of the Budget.

76) Veuillez préciser les principaux objectifs retenus :

The clearance rate, which is the ratio between cases disposed and cases filed.

The Cappelletti-Clark indicator is used to determine procedural time (E. Buscaglia, M. Dakolias, (1999) Comparative International Study of Court Performance Indicators, A Descriptive and Analytical Account, World Bank, Internet

<http://www4.worldbank.org/legal/publications/CourtIndicators-72.pdf>: "This indicator has proven to approximate both the median and the mean actual duration, and thus represents a good "measure of centraltendency." (p. 14).)

77) Quelle est l'autorité chargée d'évaluer ces indicateurs de performance des tribunaux :

☒ Conseil Supérieur de la Magistrature

☒ Ministère de la justice

☐ organe d'inspection

☒ Cour Suprême ?

☐ organe d'audit extérieur ?

☐ autre

Si autre, veuillez préciser :

78) Existe-t-il des standards de qualité (politiques de qualité d'organisation et/ou de qualité judiciaire) définis pour les tribunaux (existence d'un système qualité au sein du système judiciaire) ?

☐ Oui

☒ Non

Si oui, veuillez préciser :

The activities to conduct a pilot project for a quality system within the Slovenian judiciary were started in 2008.

In 2009 the pilot project of self-evaluation with the CAF (Common Assessment Framework) model was launched at three pilot district courts. The CAF model was adapted to the judicial organisation and the self-evaluation will be concluded in early 2010. After the analysis of the outcome it will be decided whether to apply the same model for all courts and how to include the adaptations.

Two employees at the Supreme Court are entrusted with the quality system development and the pilot CAF project, with the aid of the presidents of the involved courts and the Secretary General of the Supreme Court. However, they have other tasks beside the quality policy, so we cannot say they are specialised.

79) Existe-t-il des personnels spécialisés dans les tribunaux responsables d'une politique de qualité et/ou de systèmes de qualité de la justice ?

- ☐ Oui
☒ Non

80) Existe-t-il un système permettant de mesurer le stock d'affaires en cours et de repérer les affaires non traitées dans un délai raisonnable :

- ☒ en matière civile ?
☒ en matière pénale ?
☒ en matière administrative ?

81) Disposez-vous d'un moyen de mesurer les temps morts durant les procédures judiciaires?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Cases that are considered court backlogs are precisely defined by the Court Rules in Article 50 in relation to the time from the matter being filed with the courts, depending on individual types of case. The time frames that define the time limits for backlogs have been changed and different time limits were in force in 2008, 2009 and new time limits are set for 2010.

The time limits for backlogs in 2008 were:

Local Courts:

- Criminal cases - 18 months after case filing
- Criminal investigation activities - 6 months after case filing
- Misdemeanor cases - 12 months after case filing
- Non-contentious cases - 18 months after case filing
- Civil cases - 18 months after case filing
- Inheritance cases - 6 months after case filing
- Enforcement cases - 12 months after case filing
- Land register cases - 1 month after case filing

District Courts:

- Criminal cases - 18 months after case filing
- Criminal investigations - 18 months after case filing
- Juvenile criminal proceedings - 6 months after case filing
- Commercial disputes - 18 months after case filing
- Civil cases - 18 months after case filing
- Labour and social security disputes - 12 months after case filing
- Court register cases - 1 month after case filing

High Courts:

- Criminal cases - 6 months after case filing
- Civil cases - 6 months after case filing
- Commercial disputes - 6 months after case filing

The time limits for backlogs in 2009 were:

Local Courts:

- Criminal cases - 12 months after case filing
- Criminal investigation activities - 6 months after case filing
- Misdemeanor cases - 9 months after case filing
- Non-contentious cases - 12 months after case filing
- Civil cases - 12 months after case filing
- Inheritance cases - 6 months after case filing
- Enforcement cases - 9 months after case filing
- Land register cases - 1 month after case filing

District Courts:

- Criminal cases - 12 months after case filing
- Criminal investigations - 12 months after case filing
- Juvenile criminal proceedings - 6 months after case filing
- Commercial disputes - 12 months after case filing
- Civil cases - 12 months after case filing
- Labour and social security disputes - 12 months after case filing
- Court register cases - 1 month after case filing

High Courts:

- Criminal cases - 6 months after case filing
- Civil cases - 6 months after case filing
- Commercial disputes - 6 months after case filing

In 2010 the time limits for backlogs will shorten again.

82) Existe-t-il un système d'évaluation du fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori ?

- ☒ Oui
☐ Non

Veuillez préciser (y compris en indiquant la fréquence de l'évaluation):

Regarding this question there are three kinds of evaluation of the functioning of the courts:

- the Internal Audit Service at the Supreme Court performs the audit of the functioning of individual courts regularly. The plan is to cover all the courts (66) in five years;

- following the provision of the Courts Act (Article 12: 'A court of higher instance may request from a court of lower instance in its territory the data related to the application of statute, data on problems, which arise during adjudication, and other data necessary to examine particular issues, which occur during its work.') the four higher courts and the Supreme Court examine the application of the law at lower courts. In the framework of implementing the mentioned tasks the president of the court of higher instance, and in specific cases also the president of the court before which the case is heard, may demand the data in connection with the application of statute and examine the files in cases in which a final decision has already been reached, and in other cases only exceptionally (Article 13). However, there is no timetable for this kind of evaluation.

- the Ministry of Justice performs regular supervisions over the proper administration of the registers and books at individual courts.

83) Existe-t-il un dispositif régulier de suivi et d'évaluation de l'activité du Ministère public?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

The Heads of individual State Prosecutor's Offices and the Supreme State Prosecutor's Office are responsible for that. The Supreme State Prosecutor's Office monitors public prosecutor's work by examining concrete cases, file registers, other documentation and by other means (Article 67 of State Prosecutor Act). Concrete cases can be examined on demand or regularly. Regular examination of district state prosecutor's work is made every 3 years. Examiners are supreme and higher state prosecutors and the reports are sent to State Prosecutor General and after that to the Minister of Justice. State prosecutors that are being examined also have the right to receive the report and they can give their remarks on the report. The final report is issued after the meeting between the examiners and the examined state prosecutor's office.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques du système de suivi et d'évaluation des tribunaux

4. Procès équitable

4. 1. Principes

4. 1. 1. Principes généraux

84) Quel est le pourcentage de jugements de première instance en matière pénale dans lesquels le suspect n'est pas présent ou représenté par un professionnel (ex. avocat) durant l'audience (jugements par défaut)? Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

NA

85) Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?

☒ Oui

☐ Non

Si possible, nombre de récusations qui ont abouti (en une année):

NA

86) Veuillez préciser les données suivantes concernant le nombre d'affaires relatives à l'Article 6 de la Convention européenne des Droits de l'Homme (durée et non-exécution), pour l'année de référence. Si les données ne sont pas disponibles veuillez l'indiquer (NA).

	Affaires déclarées irrecevables par la Cour	Règlements amiables	Jugements constatant une violation	Jugements constatant une non violation
Procédures civiles - Article 6§1 (durée)	9	103	7	0
Procédures civiles - Article 6§1 (non- exécution)	0	0	0	0
Procédures pénales - Article 6§1 (durée)	0	0	0	0

4. 2. Durée des procédures

4. 2. 1. Généralités

87) Existe-t-il des procédures spécifiques pour les affaires urgentes :

☒ en matière civile ?

☒ en matière pénale ?

☒ en matière administrative ?

Veuillez préciser:

In each specific act on procedure there are provisions on temporary injunctions.

88) Existe-t-il des procédures simplifiées :

☒ en matière civile (petits litiges) ?

☒ en matière pénale (petites infractions) ?

☐ en matière administrative ?

Veillez préciser (par exemple si une nouvelle loi sur les procédures simplifiées a été adoptée):

89) Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de traitement des affaires (présentation des dossiers, fixation des délais pour conclure et des dates d'audience) ?

☒ Oui

☐ Non

Si oui, veuillez préciser :

The answer 'yes' relates to the general possibility of such agreements, although they are rare. There is at least one example of such an agreement - the Court Annexed Mediation and Accelerated Civil Litigation Programme at District Court of Ljubljana.

Regarding the situation about different methods of Alternative Dispute Resolution and the new Act, adopted in November 2009, go to the comment after question 151.

4. 2. 2. Affaires pénales, civiles, et administratives

90) Nombre total d'affaires en 1ère instance (contentieuses et non contentieuses): veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

	Affaires pendantes au 1 janvier 2008	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives	443133	581904	613598	410639
1 Affaires civiles (et commerciales) contentieuses*	45179	31221	33788	42612
2 Affaires civiles (et commerciales) non contentieuses*	17837	32004	31697	18143
3 Affaires relatives à l'exécution	304265	182529	204279	281716
4 Affaires relatives au registre foncier**	65688	256928	262154	60462
5 Affaires relatives au registre du commerce**	1976	35852	37357	471
6 Affaires administratives*	4917	4299	4931	4285
7 Autres	3271	39071	39392	2950
Nombre total d'affaires pénales (8+9)	104956	97885	117216	85625
8 Affaires pénales (infractions graves)	23022	19386	20505	21903
9 Petites infractions	81934	78499	96711	63722

91) Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales - définition des petites infractions et des infractions graves):

Total of civil, commercial and administrative law cases (litigious and non litigious) – Due to fluctuation in data of civil and commercial non-litigious cases (in particular inheritance cases) and

in data of enforcement cases there is no horizontal consistency of figures.

2 Civil (and commercial) non-litigious cases: Due to fluctuation in data of inheritance cases, which are included among these cases, there is no horizontal consistency of figures.

3 Enforcement cases: Due to fluctuation in data of many enforcement cases, which are considered among these cases, there is no horizontal consistency of figures. Civil and commercial litigious cases in the first instance courts include all civil litigious cases dealt with by the local and district courts and all commercial litigious cases dealt with by the district courts.

All the data is taken from the Court Statistics of the Ministry of Justice. The horizontal inconsistency of figures in the mentioned three categories is already present in the Court statistics of the Ministry of Justice. In particular, the horizontal inconsistency derives from the data on Civil (and commercial) non-litigious cases and Enforcement cases. In some types of cases the sum of incoming and pending cases on 1 Jan. 2008 was higher than the sum of resolved and pending cases on 31 Dec. 2008, namely in the cases with codes VL (difference of 908 cases), D (1 case) and R-i (1 case). In other types of cases the sum of incoming and pending cases on 1 Jan. 2008 was lower than the sum of resolved and pending cases on 31 Dec. 2008, namely in cases with codes I-vl (difference of -32 cases), I-ns (-11 cases), Ig-vl (-4 cases), Ig-ns (-2 cases), In (-59 cases) and Nt (-2 cases). All the data are official data as published by the Slovenian Ministry of Justice on its website, in particular on its web page http://www.mp.gov.si/fileadmin/mp.gov.si/pageuploads/2005/PDF/publikacije/BILTEN_SS_2008-12_junij_09.pdf.

The sum of all differences in horizontal sums of data on these cases thus amounts to 800 cases. This means that there were altogether 800 more cases incoming and pending on 1 Jan. 2008 than there were resolved and pending cases on 31 Dec 2008.

Civil and commercial non-litigious cases in the first instance include all non-litigious civil cases dealt with by the local and district courts, non-litigious commercial cases dealt with by the district courts, cases pursuant to the Inheritance Act dealt with by the local courts, insolvency cases including bankruptcy, liquidation and compulsory composition cases pursuant to the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act dealt with by the district courts.

Enforcement cases in the first instance include all enforcement and commercial enforcement cases pursuant to the Execution of Judgments in Civil Matters and Insurance of Claims Act, which are dealt with by the local courts.

Administrative law cases in the first instance include administrative disputes pursuant to the Administrative Disputes Act, which are dealt with by the Administrative Court, with the exception of other administrative law cases and free legal aid cases.

Other civil law cases in the first instance include other civil and commercial law cases in the first instance courts.

Criminal law cases concerning severe criminal offences include all such criminal cases as defined by the Criminal Code.

Misdemeanour cases and minor offences cases include all minor offences cases as defined by the Minor Offences Act.

92) Nombre total d'affaires en 2ème instance (appel) (contentieuses et non contentieuses): veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

*** Veuillez indiquer (dans les commentaires ci-dessous) quels types d'affaires sont inclus dans le total des affaires civiles, commerciales et administratives**

**** le cas échéant**

Veillez vérifier la cohérence des données tel qu'expliqué à la question 91.

Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales et, si possible les taux d'appel pour certaines catégories d'affaires):

	Affaires pendantes au 1 janvier 2008	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives (contentieuses et non contentieuses)	7629	21502	23322	5809
1 Affaires civiles (et commerciales) contentieuses*	5712	12036	14017	3731
2 Affaires civiles (et commerciales) non contentieuses*	NA	NA	NA	NA
3 Affaires relatives à l'exécution	1385	7070	6710	1745
4 Affaires relatives au registre foncier**	NA	NA	NA	NA
5 Affaires relatives au registre du commerce**	NA	NA	NA	NA
6 Affaires administratives	525	610	810	325
7 Autres	7	1786	1785	8
Nombre total d'affaires pénales (8+9)	1685	10951	10261	2375
8 Affaires pénales (infractions graves)	1222	4794	4916	1100
9 Petites infractions	463	6157	5345	1275

Commentaire :

Civil and commercial litigious cases include all civil litigious cases and all commercial litigious cases in the second instance courts, namely the higher courts.

Enforcement cases in the second instance include all enforcement and commercial enforcement cases in the second instance courts, namely the higher courts.

Administrative law cases in the second instance include appeals in administrative disputes, which are lodged with and dealt with by the highest instance court, namely the Supreme Court of the Republic of Slovenia.

Other civil law cases include other civil and commercial law cases in the second instance courts.

Criminal law cases concerning severe criminal offences include all criminal cases in the second instance with the exception of other criminal cases and misdemeanour and/or minor offences cases.

93) Nombre total d'affaires au niveau des cours suprêmes (contentieuses et non contentieuses: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

*** Veuillez indiquer (dans les commentaires ci-dessous) quels types d'affaires sont inclus dans le total des affaires civiles, commerciales et administratives**

**** le cas échéant**

Veillez vérifier la cohérence des données tel qu'expliqué à la question 88.

Commentaires (y compris concernant les types d'affaires inclus dans le total des affaires civiles, commerciales et administratives et les types d'affaires pénales, ainsi que les possibles limitations des recours devant la plus haute juridiction):

	Affaires pendantes au 1 janvier 2008	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2008
Nombre total d'affaires civiles, commerciales et administratives	4520	3696	3698	4518
1 Affaires civiles (et commerciales) contentieuses*	2057	1929	1655	2331
2 Affaires civiles (et commerciales) non contentieuses*	NA	NA	NA	NA
3 Affaires relatives à l'exécution	NA	NA	NA	NA
4 Affaires relatives au registre foncier**	NA	NA	NA	NA
5 Affaires relatives au registre du commerce**	NA	NA	NA	NA
6 Affaires administratives	1866	1012	1434	1444
7 Autres	597	755	609	743
Nombre total d'affaires pénales (8+9)	268	1023	1080	211
8 Affaires pénales (infractions graves)	217	898	924	191
9 Petites infractions	51	125	156	20

Commentaire :

Civil and commercial litigious cases include all civil litigious cases and all commercial litigious cases in the highest instance court, namely in the Supreme Court of the Republic of Slovenia.

Administrative law cases include all administrative cases in the highest instance court with the exception of appeals in administrative disputes. The latter are considered as the cases in the second instance.

Other cases among civil cases in the highest instance court include cases governed by employment and social (security) law.

Limitations to the appeal to the highest instance court – There are limitations to appeal to the Supreme Court in almost all procedures, excluding the criminal procedure. In labour and social disputes law it was introduced in 2005, in administrative law in 2007 and for civil law disputes in 2008. Regarding civil law, the results of the introduction of the limitation have yet to be seen.

94) Nombre d'affaires de divorces contentieux, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

	Affaires pendantes au 1er janvier 2008	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre 2008
Divorces contentieux	1020	1915	1889	1046
Licenciements	629	885	973	541
Vols avec violence	NA	NA	135	NA
Homicides volontaires	NA	NA	30	NA

95) Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal), nombre d'affaires pendantes de plus de 3 ans et % d'affaires ayant fait l'objet d'un appel: veuillez compléter le tableau Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

	% des décisions ayant fait l'objet d'un appel	% d'affaires pendantes de plus de 3 ans	1ère instance (durée moyenne)	2ème instance (durée moyenne)	Total de la procédure (moyenne durée totale)
Divorces contentieux	2.9	0.8	191	60	NA
Licenciements	8.9	3.9	236	255	NA
Vols avec violence	NA	NA	NA	NA	NA
Homicides volontaires	NA	NA	NA	NA	NA

Commentaire :

Data on robbery cases and intentional homicide cases derive from crime statistical data collected by the Statistical Office of the Republic of Slovenia. These data are collected by means of statistical questionnaires answered by the public prosecutor's office and local and district courts. According to the Statistical Office of the Republic of Slovenia "the data collection begins at the moment when the procedure is finished or when the judgement is final as in this way the observation unit becomes known. The number of observation units is determined by data processing for each calendar year. Observation units are perpetrators of criminal offences. When more than one perpetrator participates in committing one criminal offence, each participant is a separate observation unit. If one perpetrator commits several criminal offences, the attribute of the perpetrator is only the main criminal offence." The data are obtained based on search profile for »Adults against whom the criminal procedure before senate has been finished by sex, criminal offence, type of decision and duration of detention, Slovenia, annually« in year 2008 for murder and robbery.

Litigious divorce cases include the following two types of divorce proceedings: divorces involving children and divorces without children. The data given exclude divorces as a result of mutual agreement between the parties.

Employment dismissal cases include the following types of employment dismissal: cancellation of employment, other terminations of employment, cancellation of employment contract with an offer of a new one, expiration of employment contract, ordinary cancellation of employment contract due to business reasons, ordinary cancellation of employment contract due to inability, ordinary cancellation of employment contract due to reasons of guilt, cancellation of employment contract due to bankruptcy and similar reasons and extraordinary cancellation by employer.

Regarding the differences in the data between 2006 and 2008, the following explanations can be given:

- the number of pending employment dismissal cases decreased from 2006 to 2008 due to the special measures and efforts taken by the courts in order to reduce backlog and to reduce the length of the procedures and other related efforts; another reason is also a decrease in the number of incoming cases amounting up to 18,28% (from 1083 cases in 2006 to 885 in 2008, whereas the previously reported data of 990 incoming cases was not correct and it was also horizontally inconsistent (namely sum of incoming (990) and pending in the beginning (966) amounted to 1956; resolved (1323) and pending at the end (726) amounted to 2049);

- the number of the resolved employment dismissal cases has decreased from 1323 to 973 probably due to the 18,28 % decrease of the incoming cases as well as the 4 % decrease of the number of judges dealing with them (namely decrease from 50 in 2006 to 48 in 2008) and the 4,76 % decrease of all personnel resolving cases (t.i. including professional and non-professional judges).

Regarding the decrease of percentage both of litigious divorce cases and of employment dismissal

cases pending more than 3 years and decrease of the average length of the 2nd instance procedures the explanation could be seen in the special measures taken by the courts to reduce the backlog and to reduce the length of the procedure in accordance with the Court Rules.

96) Le cas échéant, veuillez préciser les procédures propres au divorce (contentieux et non contentieux):

Litigious divorce cases include the following two types of divorce proceedings: divorces involving children and divorces without children. The data given exclude divorces as a result of mutual agreement between the parties (i.e. the non-litigious divorce).

97) Comment est calculé le délai de procédure pour les quatre catégories d'affaires ? Veuillez décrire la méthode de calcul.

The average length of the court proceedings of each category given is calculated as arithmetic mean of the lengths of all the proceedings of certain category resolved in the year observed, wherein the length of each proceeding is calculated in number of days counted from the date of initiation/lodging of the proceeding up to the date of its resolution. Arithmetic mean is calculated by the formulae as follows: " $Y_a = (y_1 + y_2 + \dots + y_N) / N$ ", wherein Y_a is arithmetic mean of the lengths of the proceedings, y_1 is length of proceeding No 1, y_2 is length of proceeding No 2, y_N is length of proceeding No N and N is the number of all proceedings.

98) Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles):

- ☐ diriger ou superviser l'enquête policière
- ☐ mener des enquêtes
- ☒ quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes
- ☒ porter une accusation
- ☒ soumettre l'affaire au tribunal
- ☒ proposer une peine au juge
- ☒ faire appel
- ☐ superviser la procédure d'exécution
- ☒ classer l'affaire sans suite, sans avoir une décision du tribunal
- ☐ clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- ☐ autre attribution significative

Veuillez préciser :

Prosecutors cannot conduct or supervise police investigation, but they can set guidelines for police work by giving directions, expert opinions and proposals.

Prosecutors cannot impose or negotiate a penalty, but they can use some alternative methods when solving cases. For example they can, upon consent of the injured party, suspend a case if the suspect binds himself over to act as instructed by the public prosecutor and to perform certain actions to allay or remove the harmful consequences of the criminal offence. They may also transfer the case into a settlement procedure or propose to the court to issue, without holding a main hearing, a punitive order by which the proposed penal sanction is imposed on the accused.

Other significant powers - prosecutors can apply extraordinary legal remedies against final judicial decisions.

Prosecutors cannot conduct an investigation. However, in 2009 a legislative change was introduced to the Criminal Procedure Code that allows prosecutors to conduct the investigation when a national or international joint investigation team is established.

99) Le procureur a-t-il également un rôle dans les affaires civiles et/ou administratives ?

☒ Oui

☐ Non

Si oui, veuillez préciser :

Supreme state prosecutors can file a "request for protection of legality" against final judicial decisions in civil, administrative and minor offences cases – if there was violation of law or proceedings.

100) Fonctions du procureur concernant les affaires pénales – veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus, et préciser notamment si les données indiquées incluent ou non le contentieux en matière de code de la route:

	Reçues par le procureur	Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié	Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit	Classées sans suite par le procureur pour raison d'opportunité	Terminées par une sanction ou par une mesure imposée ou négociée par le procureur	Portées par le procureur devant les tribunaux
Nombre total d'affaires pénales de 1ère instance	84.026	NAP (50.172)*	11.808	3.484	NAP	15.150

Commentaire :

These data include traffic offences, in which the injured person has more serious injuries (aggravated bodily harm) or dies. Other cases are not criminal offences, but minor offences.

* The public prosecutor cannot discontinue the case, because the offender could not be identified, so the number 50.172 represents all criminal cases in which the offender was not yet identified, but are still open.

The total number of 1st instance cases discontinued by the public prosecutor for reason of opportunity (3484) includes beside the criminal acts of minor importance also the so called 'alternative' (dismissal of the case after the successful postponement of prosecution and settlement).

Vous pouvez indiquer ci-dessous :

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système concernant la durée des procédures et les réformes majeures mises en œuvre au cours des deux dernières années**

Veuillez indiquer les sources pour les réponses aux questions 90 à 95 et 100:

Questions 94 – 96 – Court Administration Service at the Supreme Court. Data on robbery cases and intentional homicide cases derive from crime statistical data collected by the Statistical Office of the Republic of Slovenia.

Question 100 – Supreme State Prosecutor's Office

5. Carrière des juges et procureurs

5. 1. Désignation et formation

5. 1. 1. Recrutement, nomination et promotion

101) Comment les juges sont-ils recrutés ?

- ☐ Par concours (par exemple après un diplôme universitaire en droit)
- ☐ Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- ☐ Une combinaison des deux
- ☒ Autres

Si autres, veuillez préciser:

Judges are elected by the National Assembly (Parliament) upon the proposal by the Judicial Council (body of 11 members, 6 judges and 5 lawyers). Since the election, the career of a judge is in an exclusive competence of the Judicial Council.

Anyone who fulfils the following general conditions may be elected a judge (Article 8, Judicial Service Act):

1. he/she is a citizen of the Republic of Slovenia and has an active command of Slovene language;
2. he/she has the capacity to contract and is in generally good health;
3. he/she is at least thirty years of age;
4. he/she has obtained the professional title of a graduate lawyer in the Republic of Slovenia or has nostrified a law degree obtained abroad in the Republic of Slovenia;
5. he/she has passed the lawyer's state examination;
6. he/she is personally suited to holding judicial office.

Persons who fulfil the listed conditions may be elected to a judicial position at a local court (local judge), if they have at least three years of working experience in legal work after passing the lawyer's state examination.

The Administrative court has the position of a high court, so judges at the Administrative court have to fulfil the conditions for a high court judge. Beside the general conditions, a person can be elected to the position of a high court judge, if he/she has successfully held judicial office for at least six years or has at least nine years of working experience in legal work after passing the lawyer's state examination. Besides that, university lecturers in law who fulfil the general conditions may be elected a high court judge provided they have been elected to a title of assistant professor.

As far as the Supreme Court is concerned, the working experience conditions are judicial office for at least fifteen years or at least twenty years of working experience in legal work after passing the lawyer's state examination. As for the university lecturers, they may be elected a judge of the Supreme Court, if they have been elected to a title of associate professor.

102) Les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :

- ☐ une instance composée seulement de juges?
- ☒ une instance composée seulement de non juges?
- ☐ une instance composée de juges et de non juges?

103) La même instance est-elle compétente pour la promotion des juges ?

- ☐ Oui
- ☒ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des juges
 If the Judicial Council selects a candidate who has never been elected to judicial office, it shall be obliged to propose such candidate to the National Assembly for election in accordance with the provisions of the Judicial Service Act.

If the Judicial Council selects a candidate already elected to judicial office for the judicial position, it shall appoint such candidate to the advertised judicial position and transfer him/her to the court where the position was advertised.

Upon entering judicial service judges shall acquire the right to promotion in accordance with the conditions set out by the Judicial Service Act.

Promotion includes promotion in wage classes within the limits of wage classes for a judicial position, promotion to a superior judicial position and promotion to the position of councillor. It is the president of the court who rules on promotion in wage classes and promotion to the position of councillor at the proposal of the judge after having carried out the procedure for determining the judge's expertise and performance. However, the promotion to a superior judicial position, a more rapid promotion in wage classes within the limits of a judicial position, a more rapid promotion to the position of councillor and an extraordinary promotion to a superior judicial position are decided by the Judicial Council upon proposal of the judge or the president of the court (Article 24, Judicial Service Act).

104) Quels critères et procédures sont utilisés pour promouvoir les juges ? Veuillez préciser:

The procedure is specified in the previous answer.

The criteria that the president and the Judicial Council consider when deciding on the appropriate candidates for election or for promotion that constitute the assessment of judicial service are the following (the criteria listed for promotion are used mutatis mutandis also for election) – (Article 29, Judicial Service Act):

- specialist knowledge (general description, post-graduate studies etc.);
- working abilities (number of solved cases, structure of solved cases, number of solved old cases, respecting time schedules, solving cases by turns, judge's ability to bring parties to the settlement; comments about statistical results – i.e., longer absences, some very difficult cases that required additional time etc.);
- ability of solving legal questions (the success rate at the court of appeal – percentage of appeals dismissed, granted etc.);
- work accomplished on the field of judicial backlogs (this point was added recently due to the backlog problem; the description of judge's activities about solving backlogs, i.e. amount of backlogs in the number of solved cases, solving cases by turns, etc.);
- maintaining the reputation of the judge and the court (judge's behaviour in the courtroom, communication with parties and other participants in the trial, maintaining the independence, impartiality, dignity of the court etc.);
- ability of spoken and written communication (legal, logical and grammatical integrity and correctness of his/her written decisions);
- additional accomplished work (i.e. tutorship to trainees and younger judges, participation in educational process inside and outside of judiciary, published papers in professional journals etc.);
- relationship with co-workers;
- leadership abilities (only for judges who also hold certain leading positions – heads of departments and their deputies, presidents etc.).

105) Comment sont recrutés les procureurs ?

- ☐ Par concours (par exemple après un diplôme universitaire en droit)
- ☐ Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- ☒ Une combinaison des deux
- ☐ Autres

Si autres, veuillez préciser:

Any person that meets the general conditions that apply to all state prosecutorial ranks, as well as special conditions, can be appointed to the post of state prosecutor. The general conditions are that he or she has acquired the national title of university graduate of law or has obtained a degree from a law faculty abroad that has been approved as being valid in Slovenia, has passed the Legal State Examination, is a national citizen and is fluent in the Slovenian language, has a contractual capacity and is in good general health, is at least 30 years of age and is personally suited to carry out prosecutorial functions.

District, higher and supreme state prosecutors are appointed by Government on the recommendation of the Minister of Justice. The State Prosecutor General is elected by parliament on the recommendation of the Government. The length of the mandate is 6 years.

The State Prosecution Council is an important body within the state prosecution system, charged with selecting candidates for the post of state prosecutor. The procedures are conducted by the Ministry of Justice, with the State Prosecution Council giving his opinion on the candidates.

106) Les procureurs sont-ils recrutés et nommés, en début de carrière, par :

- ☐ une instance composée seulement de procureurs ?
- ☐ une instance composée seulement de non procureurs?
- ☒ une instance composée de procureurs et de non procureurs?

107) La même instance est-elle compétente pour la promotion des procureurs ?

- ☐ Oui
- ☒ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des procureurs

There are three different categories of promotion – in salary classes, to the position of councillor and to higher post.

The State Prosecutorial Council (consisted of seven prosecutors) is formally responsible for the promotion of prosecutors in salary classes and to the position of councillor.

The body with the jurisdiction to appoint a state prosecutor (Government) is responsible to decide on promotion to a higher post.

108) Quels critères et procédures sont utilisés pour promouvoir les procureurs? Veuillez préciser.

Professionalism and successfulness of prosecutors are checked prior to the promotion.

109) Le mandat est-il à durée indéterminée pour les juges?

- ☒ Oui
- ☐ Non

Existe-t-il des exceptions ? Veuillez préciser :

110) Une période probatoire est-elle instaurée pour les juges? Si oui, quelle en est la durée?

	Oui	Durée de la période probatoire (en années)
Durée de la période probatoire pour les juges	No	

111) Le mandat est-il à durée indéterminée pour les procureurs?

- ☒ Oui
- ☐ Non

Existe-t-il des exceptions ? Veuillez préciser :

112) Une période probatoire est-elle instaurée pour les procureurs? Si oui, quelle en est la durée?

	Oui	Durée de la période probatoire (en années)
Durée de la période probatoire pour les procureurs	No	

113) Si le mandat n'est pas à durée indéterminée pour les juges/procureurs, qu'elle est la durée du mandat ? Est-il renouvelable?**Veuillez préciser la durée**

- pour les juges? ☐ Oui
- pour les procureurs ☐ Oui

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de sélection et de nomination des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

5. 1. 2. Formation**114) Nature de la formation des juges. Est-elle obligatoire ?**

- ☒ Formation initiale
- ☐ Formation continue générale

- ☐ Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)
- ☐ Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)
- ☐ Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

115) Fréquence de la formation des juges

	Annuelle	Régulière	Occasionnelle
Formation initiale	Non	Oui	Non
Formation continue générale	Non	Oui	Non
Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)	Non	Non	Oui
Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)	Non	Non	Oui
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Non	Oui	Non

116) Nature de la formation des procureurs. Est-elle obligatoire ?

- ☒ Formation initiale
- ☒ Formation continue générale
- ☒ Formation continue spécialisée (ex. procureur spécialisé)
- ☒ Formation continue pour des fonctions spécifiques de gestion (ex. procureur général et/ou gestionnaire)
- ☒ Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

117) Fréquence de la formation des procureurs

	Annuelle	Régulière	Occasionnelle
Formation initiale	Non	Oui	Non
Formation continue générale	Non	Oui	Non
Formation continue spécialisée (ex. procureur spécialisé)	Non	Non	Oui
Formation continue pour des fonctions spécifiques de gestion (ex. procureur général et/ou gestionnaire)	Non	Non	Oui
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Non	Non	Oui

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre

- des commentaires sur l'attention portée dans les curricula à la Convention européenne des Droits de l'Homme et à la jurisprudence de la Cour
- les caractéristiques de votre système de formation des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

Refers to question 114: The initial training for judges refers to the judges-to-be. There is compulsory initial training for graduates of law that want to become judges - after a period of practice they have to pass the bar exam, be 30 years old and have a certain number of years of experience at a legal job after the bar exam (3 years for local court judges, 6 (or 3 years of judicial office) for district court judges, 9 (or 6 years of judicial office) for high court judges and 20 (or 15 years of judicial office) for supreme court judges. However, there is no compulsory training for judges.

Every year, the Judicial Training Centre within the Ministry of Justice organises special schools for judges (e.g. civil law school, criminal law school, etc.). Although these schools are not obligatory for judges the vast majority of judges attend them. The attendance helps judges to deepen their knowledge, while at the same time it is one of the criteria for assessing judges (participation in educational process inside and outside of judiciary).

5. 2. Exercice de la profession

5. 2. 1. Salaires

118) Salaires des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessous:

	Salaire annuel brut (€)	Salaire annuel net (€)
Juge professionnel de 1ère instance au début de sa carrière	26.949	16.402
Juge de la Cour suprême ou de la dernière instance de recours	55.509	29.529
Procureur au début de sa carrière	29.256	17.592
Procureur auprès de la Cour suprême ou de la dernière instance de recours	51.456	27.792

Commentaire :

The data about the first instance judge is the lowest possible one for the year 2008, since it refers to the judge at the beginning of his/her career. On the other hand, the figures given for the Supreme Court judge represent the highest possible salary.

119) Les juges et les procureurs bénéficient-ils des avantages complémentaires suivants :

	Juges	Procureurs
Imposition réduite	Non	Non
Retraite spécifique	Non	Non
Logement de fonction	Non	Non
Autre avantage financier	Non	Non

120) Si autre avantage financier, veuillez préciser:

There are no additional benefits for judges or public prosecutors.

121) Un juge peut-il cumuler son travail avec les autres fonctions suivantes :

	Oui rémunéré	Oui non rémunéré	
Enseignement	Oui	Non	Non
Recherche et publication	Oui	Non	Non
Non	Oui	Non	Non
Consultant	Non	Non	Oui
Fonction culturelle	Oui	Non	Non
Autre fonction	Non	Non	Non

122) Si autre fonction, veuillez préciser :

The Judicial Service Act (Articles 41-43) states the following:

Judges may not perform lawyer's or notary's transactions, or any commercial or other profit-making activities.

Judges may not perform managerial transactions, and may not be a member of the board of directors or supervisory board of any company or other legal person involved in profit-making activities.

Judges may not accept any employment or work that would obstruct them in performing judicial service, or that would be in conflict with the reputation of judicial service or encourage the impression that they are not impartial in performing their judicial service.

Judges may perform teaching, scientific, publishing and research work and other similar work in the legal profession, provided the performance of judicial service is not thereby obstructed.

Judges may not conclude an employment relationship in order to perform the work specified in the previous paragraph or other work that judges may perform in addition to judicial service.

Judges must inform the president of the court in advance in writing of their acceptance of work that judges may perform in addition to judicial service; the president of the court must inform the president of the immediately superior court.

If the president of the court feels that it is a matter of work that pursuant to the provisions of the present act judges may not perform, he/she shall propose that the Judicial Council rule on the incompatibility of the work with judicial office and notify the judge of such.

If the Judicial Council rules that the work is incompatible with judicial office, it shall prohibit the judge from accepting it.

123) Un procureur peut-il cumuler son travail avec les autres fonctions suivantes :

	Oui rémunéré	Oui non rémunéré	
Enseignement	Oui	Non	Non
Recherche et publication	Oui	Non	Non
Non	Non	Non	Oui

Consultant	Non	Non	Oui
Fonction culturelle	Non	Non	Oui
Autre fonction	Non	Non	Oui

124) Si autre fonction, veuillez préciser :

Prosecutors cannot engage in a profitable activity (long term) or take any job that could harm the reputation or independence (impartiality) of their service.

125) Des indemnités sont-elles accordées aux juges en fonction du respect d'objectifs quantitatifs de production de décisions ?

☐ Oui

☒ Non

Si oui, veuillez préciser :

In June 2007 the amendment to the Salary System in the Public Sector Act was passed, allowing bonuses for judges in case of exceeding the minimum expected amount of work. Following a vast opposition from the side of the judges, the law was under scrutiny of the Constitutional Court, which held that in principle, such bonuses are not unconstitutional as long as the criteria are clear and set in advance. Nevertheless, the newly amended version of the Act was in front of the Constitutional Court again in 2008, which deemed that the reform of the wage system was unconstitutional, since it was not giving equal value to the representatives of the three branches of power and thus undermining the independency of judges. In December 2009 new laws were passed that followed the Constitutional Court's decisions. The new laws regulating the wages of judges do not include any bonuses for extra work anymore.

Veuillez indiquer la source pour répondre à la question 118:

Financial and accounting department of the Supreme Court of the Republic of Slovenia
Supreme State Prosecutor's Office

5. 2. 2. Procédures disciplinaires

126) Quelle autorité peut engager des procédures disciplinaires contre les juges et/ou les procureurs ? Veuillez préciser:

For judges - the initiative to introduce disciplinary proceedings may be put forward by the president of the court where the judge performs judicial service, the president of the immediately superior court, the Judicial Council or the Minister of justice. However, the formal proposal for disciplinary sanctioning shall be lodged and presented by the disciplinary prosecutor, in whose absence the deputy thereto shall deputise for. They shall both be judges of the Supreme Court.

For prosecutors – The State Prosecutor General and the Minister of Justice are authorized to initiate disciplinary proceedings.

127) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges et des procureurs ? Veuillez préciser:

For judges - there are only few disciplinary proceedings initiated each year and also within this number some of the proceedings end by judge leaving the post before the final decision is reached.

According to Judicial Service Act a disciplinary sanction may be pronounced upon a judge who wilfully or by negligence breaches the judicial duties prescribed by law and the court rules, or

irregularly performs judicial service.

The disciplinary sanctions are:

1. written warning
2. suspension of promotion
3. wage reduction
4. transfer to another court
5. termination of judicial office.

The Disciplinary Court of First Instance and the Disciplinary Court of Second Instance rule in disciplinary proceedings. The Disciplinary Court of First Instance consists of eight judges: two judges of the Supreme Court, two high court judges, two district judges and two local judges. One of the Supreme Court judges is the President of the Disciplinary Court of First Instance. The Disciplinary court of First Instance rules in an individual case in a panel of three judges, at least one member of which must have a status equal to that of the judge against whom the disciplinary proceedings are being brought. The Disciplinary Court of Second Instance consists of five judge of the Supreme Court.

For prosecutors – The state prosecutor has no disciplinary liability for opinions given by him in the course of his work. The principle of disciplinary liability applies to the state prosecutors in specific cases:

- violation of discipline of a more or less serious nature,
- violation of the reputation and dignity of the post,
- non-conscientious, tardy or negligent performance of his official duties,
- failure to fulfil his official duties,
- unjustified refusal to perform official duties or
- failure to follow instructions given in accordance with the provision of the law,
- violation of regulations on the safeguarding of national and official secrets,
- undignified and offensive conduct towards individuals, state bodies or legal persons in connection with performance of the functions of state prosecutor and outside them,
- an abuse of position or a more serious violation of official powers.

Disciplinary proceedings may be proposed by the state Prosecutor General or the Minister of Justice. Violations are decided by the disciplinary court comprised of the president and 2 members of the disciplinary court for the judges and public prosecutors.

The types of sanctions are:

1. dismissal from the post of state prosecutor,
2. a halt to promotion,
3. a reduction in salary.

128) Nombre de procédures disciplinaires intentées à l'encontre des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

	Juges	Procureurs
Nombre total (1+2+3+4)	3	2
1. Faute déontologique	2	1
2. Insuffisance professionnelle	1	
3. Délit pénal		1
4. Autre		

Commentaire :

In the 3 cases, in which proceedings were initiated against judges, the reasons were:

- action or behaviour on the part of the judge that conflicts with the judge's impartiality or that damages the reputation of the judicial profession;
- breach of the case roster or priority handling of cases defined by law or the court rules;
- failure to achieve the expected work results for more than three months consecutively without justifiable grounds.

In the 2 cases, in which proceedings were initiated against prosecutors, the reasons were:

- inappropriate and offensive behaviour with individuals, state organs or legal persons in connection with the performance of the function of state prosecutor or without connection with the function;
- abuse of the function or heavier breach of official duties.

129) Nombre de sanctions prononcées à l'encontre des juges et des procureurs: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus

	Juges	Procureurs
Nombre total (total 1 à 9)	0	0
1. Réprimande		
2. Suspension		
3. Révocation		
4. Amende		
5. Diminution de salaire temporaire		
6. Rétrogradation de poste		
7. Mutation dans un autre tribunal géographiquement		
8. Démission		
9. Autre		

Commentaire :

For judges – In one case the Disciplinary Court of first instance dropped all charges after the investigation procedure was carried out. In the second case, the disciplinary proceedings were stopped, since the judge left the post before the final decision was reached. In the third case, the Disciplinary Court of Second Instance returned the matter to the Disciplinary Court of First Instance, which has to decide with a new panel of judges. The proceedings are not finished yet.

For prosecutors - In one case the disciplinary proceeding is still not finished and in another case the disciplinary proceeding was stopped, because the prosecutor renounced his service.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de procédures disciplinaires pour les juges et les procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

6. Avocats

6. 1. Statut de la profession

6. 1. 1. Profession

130) Nombre d'avocats exerçant dans votre pays. Si les données ne sont pas disponibles, veuillez l'indiquer (NA).

1169

131) Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ? Si non, veuillez aller à la question 133

- ☐ Oui
- ☒ Non
- ☐ Non applicable

132) Nombre de conseillers juridiques. Si les données ne sont pas disponibles, veuillez l'indiquer (NA)

NA

133) Les avocats ont-ils le monopole de la représentation en justice? (plusieurs options sont possibles)

- ☐ Affaires civiles*
- ☒ Affaires pénales* - Défendeur
- ☐ Affaires pénales* - Victime
- ☐ Affaires administratives*

*Le cas échéant, veuillez préciser si cela concerne tous les niveaux d'instance. En cas de non monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, membre de la famille, syndicat, etc....) et pour quelles affaires.

Civil cases:

The Civil Procedure Act gives the right to appear in Court:

· of First Instance:

in County Court - to everyone who is capable to contract,

in District Court - only to lawyers or individuals who passed the Legal State Exam

· of Second Instance:

in Higher Court - only to lawyers or individuals who passed the Legal State Exam

· of Third Instance:

in the Supreme Court - only to lawyers or individuals who passed the Legal State Exam.

Criminal cases:

- Defendant: By The Criminal Procedure Act only a lawyer or a prospective entrant is entitled to defend the accused. Only a lawyer is permitted to be a defender in the Supreme Court.

- Victim: The monopoly is given to lawyers only when representing the minor victims only in specific cases.

Administrative cases: The General Administrative Procedure Act gives the right to appear in front of state authorities to everyone who is capable to contract.

134) La profession d'avocat est-elle organisée à travers :

- ☒ un barreau national ?
☐ un barreau régional ?
☐ un barreau local ?

Veuillez préciser :

Lawyers practicing the legal profession in the Republic of Slovenia shall necessarily associate into the Bar Association of Slovenia (The Bar Act, Art. 41).

The Bar Association shall pursue and discuss the problems of lawyers' practice, it shall provide for uniform development of the Bars, it shall adopt the Code of Conduct and shall perform other tasks specified by the law (The Bar Act, Art. 42).

Veuillez indiquer les sources des réponses aux questions 130 et 132:

The Bar Association of Slovenia

6. 1. 2. Formation**135) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?**

- ☒ Oui
☐ Non

136) Existe-t-il un système de formation continue générale obligatoire pour les avocats ?

- ☐ Oui
☒ Non

137) La spécialisation dans certains domaines est-elle liée à certaines formations/à un certain niveau de diplôme/à certaines autorisations ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

There are no obligatory rules about continuous training for lawyers in Slovenia.

The Article 14 of the Code of Professional Conduct of the Bar Association of Slovenia enacts that the lawyer shall permanently engage in his expert advance studies and shall mind his general education and broad knowledge. Through his professional practice he shall assert and intensify the importance of legal aid as well as the good reputation of the social function of the Bar. The Code also provides that the lawyer shall help other lawyers with his expert knowledge and shall contribute to the expert and general education of prospective entrants and pupils.

Every year a "Lawyers school" is organized in order to introduce them the latest education about the newer legislation and other issues important to Slovenian lawyers by the Slovenian Bar Association. Nevertheless, the attendance of lawyers is not obligatory. The lawyer who has been awarded the title of specialist in a certain subject or the academic title of Master of Law shall on his demand be recognized the status of specialist lawyer, provided that he has practiced the legal profession and/or has held a judicial office in the claimed domain for at least five years.

The lawyer who has been elected assistant senior lecturer, associate professor or full professor of the Faculty of Law, shall be recognized the status of lawyer specialized in the legal domain where he practiced his pedagogical and scientific work, even if he does not fulfill the conditions of the five years' practice required in the preceding paragraph. The requirement referred to in the first paragraph of this Article shall be subject to the decision of the body referred to in the third paragraph of Article 31 hereof. There shall be no appeal against its decision.

6. 1. 3. Honoraires

138) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats ?

☒ Oui

☐ Non

Veillez apporter toute précision permettant d'interpréter la réponse ci-dessus

139) Les honoraires des avocats sont-ils

☒ réglementés par la loi ?

☐ réglementés par le Barreau ?

☐ librement négociés ?

Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

On 1.1 2009 the new Act on the attorney's fee (attorney's price list), adopted by parliament, came to force. This new law replaced the Attorney's tariffs, adopted by the Slovenian Bar Association that was agreed with the Minister of Justice.

However, this situation did not last long – the amendment of the Attorney's act, which came into force on 9.5.2009, provided the end of validity of the new Act on attorney's fee, but it is still used until enforcement of the new regulation by the Slovenian Bar Association, previously approved by the Minister of Justice.

6. 2. Evaluation

6. 2. 1. Plaintes et sanctions

140) Des normes de qualité ont-elles été formulées pour les avocats ?

- ☒ Oui
☐ Non

141) Si oui, qui est responsable de la formulation de ces normes de qualité:

- ☒ le Barreau ?
☐ le législateur ?
☐ autre ?

Veuillez préciser (y compris une description des critères de qualité utilisés):

Acts or omissions that constitute disciplinary violations are divided into gross and light disciplinary violations and may be committed during the conduct of lawyer profession or present violations of diligent performance of work and practice in the Law firm. The rules of professional conduct are defined both in the Bar Act provisions and the provisions of the Statute and Code. The violations of the professional conduct relate to acts or omissions affecting other lawyers (i.e. contacting the counter party that is represented by another lawyer), to the bar Association (i.e. repeated non-payment of membership duties), violations committed in relation to the representation of the client (i.e. cancellation of the power of lawyer in an inappropriate behaviour or statements of the lawyer). Gross violations present mostly violations of the duties related to clients, conduct of other activities that are not compatible with the lawyer profession and violations relating to the conflict of interest rules.

142) Existe-t-il une possibilité de déposer une plainte concernant

- ☒ la prestation de l'avocat ?
☒ le montant des honoraires ?

Veuillez préciser :

The customers can make an official complaint to the Slovenian Bar Association. The disciplinary prosecutor shall require the introduction of the disciplinary proceedings, if he is informed of the facts and evidences on the basis whereof it is possible to soundly infer that the lawyer and/or the prospective entrant or the pupil has violated his duty. In his demand for introduction of the disciplinary proceedings, the Disciplinary Prosecutor shall specify the breach of duty as well as state the facts and propose evidences to be submitted for their identification.

On the demand of the President of the Supreme Court and the Minister of Justice, the disciplinary prosecutor shall require the introduction of the disciplinary proceedings in front of the Disciplinary Board. In the disciplinary proceedings against lawyers there shall be imposed the following disciplinary measures: warning, reprimand, fine and denial of the right to practice the legal profession or the practice in a law office.

Disciplinary matters against the lawyer, the prospective entrant and/or the pupil shall be subject to the decision of the Disciplinary Commission, except in the matters which in compliance with the provisions specified in Bar Act fall under the competence of the Disciplinary Board. In front of the disciplinary commission and in the Disciplinary Board the charge shall be represented by the disciplinary prosecutor elected by the Assembly of the Bar Association.

143) Quelle est l'autorité compétente pour traiter des procédures disciplinaires

- ☐ le juge ?
- ☐ le ministère de la justice ?
- ☒ une instance professionnelle ou autre ?

Veillez préciser :

The disciplinary prosecutor, who presents charges against lawyers in front of the Senate of Disciplinary Commissions of the first and the second instances or in front of the Disciplinary Board, shall be elected by the Assembly of the Bar Association out of the lawyers for the term specified by the laws of the Bar Association.

The Senate of Disciplinary Commissions of the first and the second instances, who decides in individual discipline cases, is assembled out of the president and two members. The president and one member for each Senate of Disciplinary Commissions of the first and the second instances are elected by the Assembly of the Bar Association out of the lawyers. The other member is elected by the Bar Association out of the list of five members, appointed by the Minister of Justice, chosen among lawyers with at least five years of experience on legal matters after passing bar examination.

Disciplinary matters due to the breach of the legal duties for which it is possible to deny the right to practice the legal profession, the practice and/or the pupillage in the law office shall be subject to the decision of the Disciplinary Board in the Senate that consists of two judges of the Supreme Court of the Republic of Slovenia and of three lawyers. The President of the Senate shall be a judge. An appeal against the decision of the Disciplinary Board may be filed and shall be subject to the decision of the Supreme Court of Slovenia in the Senate of five judges. Both judges, members of the Disciplinary Board Senate, shall be appointed in advance with the annual time schedule of activities of the Supreme Court of the Republic of Slovenia. The lawyers, members of the Senate, shall be elected by the Assembly of the Bar Association for a two years' term. On the demand of the President of the Court and the Minister of Justice, the disciplinary prosecutor shall require the introduction of the disciplinary proceedings in front of the Disciplinary Board. (The Bar Act, Art. 64- 67).

144) Procédures disciplinaires initiées à l'encontre des avocats: veuillez compléter le tableau. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

	Faute déontologique	Insuffisance professionnelle	Délit pénal	Autre
Nombre annuel	23	0	0	0

Commentaire :

The Slovenian Bar Association provided the following available data:

Between the beginning of March 2008 and the end of February 2009 (1 year) there were 23 procedures initiated against lawyers. There were 62 propositions for the start of disciplinary proceedings in this period that were dismissed, while in 23 cases the demands for the imposition of the disciplinary procedure were filed by the disciplinary prosecutor. As for the reasons of the procedures – mainly all the reasons for disciplinary proceedings concern the breach of professional ethics. In case the irregularity would concern a severe professional inadequacy, this would lead to a damages liability and not to a disciplinary procedure. Furthermore, no proceedings in the mentioned period were started because of a criminal offence.

145) Sanctions prononcées à l'encontre des avocats: veuillez compléter le tableau.

Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus:

	Réprimande	Suspension	Révocation	Amende	Autre
Nombre annuel	2	0	NAP	8	0

Commentaire :

The reasons for the disciplinary proceedings against lawyers in which sanctions were pronounced were the following:

Fine (8):

1. Unjustified withholding of monetary means, received for the client,
2. Billing the client at a higher rate than the Tariff prescribes without a preliminary written agreement
3. Not giving the client the documents the client has paid for or unjustified denial of making a copy of the documents
4. Prohibited advertising (breach of Professional ethics)
5. Commercial activity; performing the duties as a member of executive authorities of a company and at the same time representing the company (breach of Professional ethics)
6. Unprofessional representation of the client
7. Non-payment of the subscription fee to the Bar
8. Intended taking over of the representation of a client that is not in accordance with the law

Reprimand (2):

1. Inappropriate or offensive behaviour or expression while performing the role of lawyer
2. Intended taking over of the representation of a client that is not in accordance with the law.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'organisation du Barreau et les réformes majeures mises en œuvre au cours des deux dernières années

7. Mesures alternatives au règlement des litiges

7. 1. Médiation et autres formes de règlement des litiges

7. 1. 1. Médiation

146) Existe-t-il des procédures de médiation dans le système judiciaire ? Si non, veuillez aller à la question 151

- ☒ Oui
☐ Non

147) Le cas échéant, veuillez préciser, par type d'affaires, l'organisation de la médiation

	Possibilité de médiation privée proposée par le juge ou médiation annexée au tribunal	Médiateur privé	Instance publique (autre que le tribunal)	Juge	Procureur
Affaires civiles et commerciales	Oui	Oui	Oui	Non	Non
Affaires familiales (ex. divorce)	Oui	Oui	Oui	Non	Non
Affaires administratives	Non	Non	Oui	Non	Non
Licenciements	Oui	Oui	Oui	Non	Non
Affaires pénales	Non	Non	Non	Non	Oui

148) Est-il possible de bénéficier de l'aide judiciaire lors des procédures de médiation ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Art. 1 of The Free Legal Aid Act prescribes: "For the purposes of this Act, in addition to the rights, obligations and legal relationships, and protection against charges in criminal cases before domestic and international courts legally authorised for this, judicial protection shall also be deemed to include all legally defined forms of out-of-court settlement of disputes."

149) Nombre de médiateurs accrédités. Si les données ne sont pas disponibles, veuillez l'indiquer (NA)

NA*

150) Veuillez indiquer le nombre total de procédures de médiation par catégories d'affaires. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

les affaires civiles ?	NA
les affaires familiales ?	NA
les affaires administratives ?	NA
les affaires de licenciements ?	NA
les affaires pénales ?	NA

Veillez indiquer la source pour la réponse à la question 150 :

* Regarding question 149:

Mediators are not accredited in Slovenia. However, there are some data that might give a picture of the number of mediators: the Association of Mediators of Slovenia has over 200 members, while the Association of Mediation Organisations of Slovenia MEDIOS has 27 organisations members.

Regarding question 150:

The data on the number of judicial mediation procedures per case category is not available.

Until the adoption of the new Act on ADR in courts (November 2009), it was not obligatory for courts to have mediation programmes, so only some of the courts have introduced such programmes (six courts in the year 2008, ten courts in the year 2009).

However, data on total number of mediation procedures in six courts, that have offered mediation to parties in 2008, is available (see below in the comment after question 151).

Regarding the source: Ministry of Justice, Alternative Dispute Resolution Council

7. 1. 2. Autres formes de règlement des litiges

151) Pouvez-vous donner des informations sur les autres mesures alternatives au règlement des litiges (par ex. arbitrage, conciliation) ? Veillez préciser:

In September 2006 the Association of Mediators of Slovenia was established.

Besides court-annexed mediation there are other forms of mediation, conciliation and arbitration offered by NGOs (e.g. Legal-information Centre for NGOs -LIC, <http://www.pic.si/en/index.php?podrocje=adr>), attorneys, insurance companies, etc.

In November 2009 the new law regarding Alternative Dispute Resolution was adopted (go to the comment below).

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de mesures alternatives au règlement des litiges et les réformes majeures mises en œuvre au cours des deux dernières années

None of ADR procedures is a compulsory step in court (or prior to) proceedings – a consent is always required.

In civil and family cases some courts offer court-annexed mediation, which is again non-compulsory. If the parties agree, the court orders the mediation proceedings which are performed by mediators provided by courts. The number of mediation procedures is not collected on a national level.

At the moment, court-annexed mediation is offered by the Local Court of Ljubljana, 5 district courts, the higher court of Ljubljana and three labour and social disputes courts. In the beginning of 2010 the programs will be implemented at all first level courts (local and district) and until the end of the year 2012 at all higher courts.

An example of the District Court of Ljubljana (the largest court in the country):

Since the beginning of 2001 the District Court of Ljubljana has been offering parties alternative ways of dispute resolution within the program of solving backlogs. Since 2001 the Court has been offering court-annexed ADR with mediation in classical civil cases. Since June 2002 the program

of mediation in family-law cases has been implemented, and at the beginning of 2003 parties were also offered the program of mediation in commercial disputes.

At the District Court of Ljubljana mediation is a voluntary, confidential, fast, free of charge (for the parties) ADR procedure in which a neutral third party helps the parties to find a consensual resolution of their dispute. The procedure is fast, non-binding and confidential and does not affect an eventual later litigation in any way. After the eventual successful conclusion of mediation the parties sign an agreement in the form of a court settlement that is a final enforceable document, as the judgment in a regular court proceeding.

At the moment about 60 mediators participate in the mediation procedures at the District Court in Ljubljana. Among them are supreme, higher and district court judges, who carry out mediations free of charge in addition to their regular work. In addition to them, retired judges with wide experience in the field of civil law and advocates participate in mediation procedures on contractual basis. All of them have attended specialized training in the field of ADR and use of special communication and negotiation techniques, and have been included on the list of mediators at the District Court in Ljubljana.

In the year 2008, the District Court of Ljubljana concluded 900 mediations. Out of these, 434 ended with a settlement or with the withdrawal of the lawsuit, which means, that the mediation procedure was successful in 48,2% of mediations. More specifically:

- In civil law disputes the mediation procedure was offered in 949 cases, both parties agreed to it in 341 cases (35,9%); in 2008 mediation was concluded in 304 cases, out of which 102 (33,5%) were concluded successfully (settlement or withdrawal).
- In family law disputes the mediation procedure was offered in 500 cases, both parties agreed to it in 224 cases (44,8%); in 2008 mediation was concluded in 215 cases, out of which 143 (66,5%) were concluded successfully (settlement or withdrawal).
- In commercial law disputes the mediation procedure was offered in 1756 cases, both parties agreed to it in 557 cases (31,7%); in 2008 mediation was concluded in 381 cases, out of which 189 (49,6%) were concluded successfully (settlement or withdrawal).

Taking into account all the courts that offer mediation the figures for the year 2008 were the following: in all three kinds of procedures (civil, family, commercial) the mediation procedure was offered in 5296 cases, both parties agreed to it in 1930 cases (36,4%) and mediation was successfully concluded in 800 cases.

The new Act on alternative disputes resolution (ADR) in courts, adopted in November 2009 determines the obligation of all first instance courts and courts of appeal to offer at least one type of ADR to parties in civil, commercial, family and labour disputes.

The basic characteristics of the new act are the following:

1. All first instance courts and courts of appeal will have to offer mediation to parties in civil, family, commercial and labour disputes; the first instance courts will have 6 months to introduce programmes and the courts of appeal will have 30 months to prepare such programmes.
2. Courts will have the possibility to offer other types of ADR to parties.
3. Courts will decide on the form of programmes: they will either introduce court-annexed programmes or choose court-connected programmes, organized by external providers.
4. There will be some incentives and also some sanctions in order to enhance the use of mediation:

a. incentives:

- information sessions on mediation: courts will have the right to demand from parties that they take part in the information session on mediation;
- mediation will be free of charge for parties in family and certain labour disputes;
- in other disputes, except the commercial ones, the first 3 hours of mediation will be free of charge for parties.

b. sanctions:

- parties who will unreasonably decline the use of mediation might bear costs of the civil

procedure, irrespective of the outcome of the procedure.

5. Referral to mediation:

- on the basis of the parties' proposal;
- on the basis of the court's decision after the information session has been held; parties will have the right to oppose to such decision and in that case the decision will be automatically annulled.

6. The Republic of Slovenia as a party in a dispute will in principle be obliged to agree with mediation.

7. Parties who receive free legal aid are already now obliged to participate in mediation in good faith, in case the other party agrees with mediation.

8. Exécution des décisions de justice

8. 1. Exécution des décisions civiles

8. 1. 1. Fonctionnement

152) Existe-t-il dans votre système judiciaire des agents d'exécution? Si non, veuillez aller à la question 154

- ☒ Oui
☐ Non

153) Nombre d'agents d'exécution . Si la donnée n'est pas disponible, veuillez l'indiquer (NA).

45

154) Les agents d'exécution sont-ils (plusieurs choix possibles):

- ☐ des juges ?
☒ des huissiers de justice exerçant en profession libérale réglementée par les autorités publiques ?
☐ des huissiers de justice attachés à une institution publique ?
☐ d'autres agents d'exécutions ?

Veuillez préciser leur statut et leurs compétences (pouvoirs):

Enforcement agents are appointed by the Minister of Justice. The Execution of Judgments in Civil Matters and Insurance of Claims Act, which governs the legal status of the enforcement agents, prescribes (Article 281):

"In order to be appointed as an execution officer, a candidate shall meet the following requirements:

- 1) he must be a citizen of the Republic of Slovenia,
- 2) he must be legally capable and enjoy good general health,
- 3) he must have completed at least secondary education,
- 4) he must have at least two years' work experience,
- 5) he must have passed the examination for execution officers, based on a programme prescribed by the Minister of Justice,
- 6) he must be fluent in Slovene,
- 7) he must prove fit to hold a position of trust for the performance of acts of execution and insurance of claims as public mandates,
- 8) he must possess suitable facilities and premises necessary for the carrying-out of execution and insurance of claims."

155) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution?

- ☒ Oui
☐ Non
☐ Non applicable

156) La profession d'agent d'exécution est-elle organisée par :

- ☒ une instance nationale ?

- ☐ une instance régionale ?
- ☐ une instance locale ?
- ☐ non applicable

157) Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution?

- ☒ Oui
- ☐ Non
- ☐ Non applicable

158) Les frais d'exécution sont-ils :

- ☒ réglementés par la loi ?
- ☐ librement négociés ?
- ☐ non applicable

Veuillez indiquer la source de la réponse à la question 153:

Ministry of Justice

8. 1. 2. Supervision

159) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?

- ☒ Oui
- ☐ Non
- ☐ Non applicable

160) Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution :

- ☒ une instance professionnelle ?
- ☐ le juge ?
- ☒ le ministère de la justice ?
- ☐ le procureur ?
- ☒ autre ?

Veuillez préciser :

Supervision of the office of enforcement agent and over the work of the Chamber of Execution Officers is carried out by the Minister of Justice, ex officio or upon proposal.

Supervision over the legality and performance of the office in connection with the cases that have been assigned to the enforcement agent by the court is carried out by the president of the court that assigned the case to the agent.

Regular and direct supervision of the performance of the enforcement agent is carried out by the Chamber of Execution Officers.

161) Des normes de qualité sont-elles formulées pour les agents d'exécution ?

- ☒ Oui
☐ Non
☐ Non applicable

Si oui, quelle est l'autorité chargée de formuler ces normes de qualité et quels sont les critères de qualités utilisés?

The Ministry of Justice on the basis of the Execution of Judgments in Civil Matters and Insurance of Claims Act and the Rules on the criteria of efficiency of execution officers examines the efficiency of the execution officers, taking into account the following criteria:

- the expected minimum amount of work in a calendar year;
- the time and speed of the proceedings;
- the legality and regularity of the performance of the office of the execution officer.

162) Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution?

- ☐ Oui
☒ Non

Si oui, veuillez préciser :

163) Disposez-vous d'un système de contrôle de l'exécution ?

- ☐ Oui
☒ Non

Si oui, veuillez préciser :

8. 1. 3. Plaintes et sanctions

164) Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ?

Veuillez n'en indiquer que 3 au maximum

- ☐ absence de toute exécution ?
☐ non exécution des décisions judiciaires rendues contre des autorités publiques ?
☐ manque d'information ?

- ☒ durée excessive ?
- ☒ pratiques illégales ?
- ☐ supervision insuffisante ?
- ☒ coût excessif ?
- ☐ autre ?

Veuillez préciser:

The main complaints of users concerning the enforcement procedure generally include excessive length, unlawful practices and excessive cost. The Ministry of Justice does not have the information concerning the content of the complaints.

165) Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l'exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques?

- ☒ Oui
- ☐ Non

Si oui, veuillez préciser :

An updated central information system for the monitoring of execution proceedings was implemented in 2006. The updated information system provides a central monitoring of execution proceedings, a uniform use of templates and characteristic documents, links to the external original records and a uniform keeping of court statistics.

From 1.1.2008 proposals for enforcement on the basis of an authentic instrument may be submitted electronically at a new department within the Local Court of Ljubljana, which has exclusive jurisdiction over enforcement on the basis of an authentic instrument. The electronic system automatically issues a decision on enforcement on the basis of an authentic instrument.

166) Existe-t-il un système mesurant la durée des procédures d'exécution :

- ☐ pour les affaires civiles ?
- ☐ pour les affaires administratives ?

167) Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction :

- ☐ entre 1 et 5 jours
- ☐ entre 6 et 10 jours
- ☐ entre 11 et 30 jours
- ☐ plus

Veuillez préciser

168) Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Nombre total de procédures disciplinaires
initiales

☐ nombre : 2

pour faute déontologique	☐ nombre :	2
pour insuffisance professionnelle	☐ oui, nombre :	0
pour délit pénal	☐ nombre :	0
Autre	☐ nombre :	0

169) Nombre de sanctions prononcées à l'encontre des agents d'exécution. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations.

Nombre total de sanctions	☐ nombre :	2
Réprimande	☐ nombre :	2
Suspension	☐ nombre :	0
Révocation	☐ nombre :	0
Amende	☐ nombre :	0
Autre	☐ nombre :	0

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'exécution des décisions civiles et les réformes majeures mises en œuvre au cours des deux dernières années

Regarding question 166 - the answer is: No.

Regarding question 167 - the answer is: NA.

In Slovenia enforcement is regulated uniformly by the Execution of Judgments in Civil Matters and Insurance of Claims Act. The Slovenian enforcement system of decisions in civil matters is a court oriented system which however includes private enforcement agents (mixed system). Every enforcement first requires a warrant of execution to be ordered by the court. Courts permit enforcement on the basis of an enforceable title (court decisions, court settlements, notary's acts, and other decisions) or an authentic instrument.

A main reform in the area of enforcement of decisions in civil matters has been implemented recently. From 1.1.2008 proposals for enforcement on the basis of an authentic instrument may be submitted electronically at a new department within the Local Court of Ljubljana, which has exclusive jurisdiction over enforcement on the basis of an authentic instrument. The electronic system automatically issues a decision on enforcement on the basis of an authentic instrument.

Veuillez indiquer les sources pour les réponses aux questions 167, 168 et 169 :

Ministry of Justice, Chamber of Execution Officers

8. 2. Exécution des décisions pénales

8. 2. 1. Fonctionnement

170) Existe-t-il un juge chargé spécifiquement de l'exécution ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle).
 Si non, veuillez préciser quelle autorité est compétente pour l'exécution des jugements (par

ex: procureur) :

The district court judge decides on when and where the defendant will serve penalty of imprisonment and also on request for the postponement of imprisonment. Prisoners may be conditionally released after serving a part of their sentence under the condition that they do not commit another criminal offence during the remaining portion of the sentence. The decision on the conditional release is taken by the conditional release committee, appointed by the Minister of Justice.

171) En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?

☐ Oui

☒ Non

Si oui, veuillez préciser :

Vous pouvez indiquer ci-dessous :

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système d'exécution des décisions pénales et les réformes majeures mises en œuvre au cours des deux dernières années**

9. Notaires

9. 1. Statut

9. 1. 1. Fonctionnement

172) Existe-t-il des notaires dans votre pays ? Si non allez à la question 177

- ☒ Oui
☐ Non

173) Les notaires ont-ils un statut (dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations):

privé (sans contrôle par une autorité publique)?	nombre	
de profession libérale réglementée par les pouvoirs publics?	nombre	98
public?	nombre	
autre ?	nombre	

Commentaire :

The notary office is a public service whose area of work and authority shall be determined by notarial law. Notaries are exercising a public free-lance profession, independent from governmental bodies The notary office shall be organised by notaries appointed as provided under the notarial law.

174) Le notaire exerce-t-il une fonction :

- ☒ dans le cadre de la procédure civile ?
☒ dans le domaine du conseil juridique ?
☒ pour authentifier les actes/certificats ?
☐ autre ?

Veuillez préciser :

The functions of notaries as persons in positions of public trust shall be according to the provisions of the notarial law to draw up public documents of legal deeds expressed statements or legal facts from which legal rights are derived; to store documents and to receive money and securities for delivery to third persons or to state authorities; under court order to conduct any matter which they may be delegated.

Veuillez indiquer la source pour répondre à la question 173

Chamber of Notaries of Slovenia
 Constitution of the Republic of Slovenia
 Notary Act (Law of notaries),
 Decree on the number and seats of notarial posts

9. 1. 2. Supervision

175) Existe-t-il un système de supervision et de contrôle de l'activité des notaires ?

- ☒ Oui
☐ Non

176) Quelle est l'autorité chargée de superviser et de contrôler notaires:

- ☒ une instance professionnelle ?
☒ le juge ?
☒ le ministère de la justice ?
☐ le procureur ?
☐ autre ?
☐ non applicable

Veillez préciser :

-The supervision of the exercising of the notary office shall be conducted by the Ministry of Justice.

- Direct supervision of the operations of the notary shall be conducted by the Chamber of Notaries.

- The supervision of legality in operating as a notary office in matters referred to the notary by the law court shall be conducted by the president of the higher court within whose jurisdiction the notarial post is based.

Vous pouvez indiquer ci-dessous :

- **tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre**
- **les caractéristiques de votre système notarial et les réformes majeures mises en œuvre au cours des deux dernières années**

(Caution: comments and interpretation done by the Chamber of Notaries only.)

The main task imposed on the Notary under the Notaries Act includes the drawing up of public deeds, such as notarised records, notarised minutes and notarised certificates.

A public deed drawn up by the Notary proves the truth of what has been specified or certified therein. Every contract may be drawn up in the form of a notarised deed. According to the law, certain legal affairs are valid only if concluded in the form of a notarised deed.

A notarised agreement or settlement can be automatically executory, if so agreed by the parties. In such case it is not necessary to proceed to a suit; in the event of non-fulfillment, immediate judicial execution against the obligor is possible.

The Notary is obliged to keep his notarised deeds for good and shall issue to its clients the respective counterparts that are also public deeds.

The Notary may also draw up private deeds and may represent its clients in undisputed matters before the courts and other governmental bodies, provided that such matters are directly related to the notarised deed he has drawn up.

The Notary issues certificates of facts and statements that entail certain rights (in particular: authentication of signatures on documents, notarisation of copies of documents, certification of translations, confirmation of the time when the document was submitted for perusal, confirmation that the person is still alive, notarisation of the resolutions passed by the bodies of commercial companies and other legal entities, issuing protests of bills and cheques).

In the years from 2005 to 2008 the Slovene Notariat has undergone considerable changes that have a strong effect on the work of notaries and performance of their service. In the beginning of

October 2005 and 2008 a new notary tariff came into effect; according to which the notary fees were on the average lowered by 50%. Also a novel to the Notaries Act came into force. With this novel changes of the conditions for the appointment of notaries as well and for the procedure of their appointment were introduced. In addition, the novel introduces further competences of the Ministry of Justice in the surveillance of the work of notaries and of the Chamber bodies, as well as in the conducting of disciplinary procedures and dismissal of notaries.

The lowered notary fees, an increase in the number of notary posts and some loss of competences in certain fields of work (verification of signatures performed by administrative bodies, abolishment of notary form in some areas of economic laws) are the reasons that have a strong impact on stable performance of the duties of all notaries and of the institution of the notariat as such. We are of the opinion that it would be necessary to give new competences to the notaries, above all in the field of non-contentious matters in civil law. These matters are now within the competence of law courts. Such new area would be the transfer of inheritance cases to the competence of notaries. In this way the number of the present court cases in arrears would be reduced and the institution of the notariat in Slovenia would be on equal standing with other comparable European legal systems. We are convinced that by transferring some parts of the procedure in inheritance cases to notaries a large number of positive effects would be achieved. Above all, the law courts would be considerably relieved and the judges would use their working time for dealing with such fields of law cases, in which law court arrears occur. The notary office would deal with inheritance cases faster, more efficiently and more conveniently for the customers. These proposals are in agreement with the endeavours of the Ministry of Justice as well as with the recommendations of the EU-bodies for the elimination of law court arrears in Slovenia.

10. Interprètes judiciaires

10. 1. fonction

10. 1. 1. Statut

177) Le titre d'interprète judiciaire est-il protégé?

- ☒ Oui
☐ Non

178) La fonction d'interprète judiciaire est-elle régulée?

- ☒ Oui
☐ Non

179) Nombre d'interprètes judiciaires. Dans les cas où les données ne sont pas disponibles (NA) ou ne s'appliquent pas (NAP) veuillez l'indiquer dans le tableau en utilisant les bonnes abréviations

600

180) Existe-t-il des critères relatifs à la qualité de l'interprétation dans les tribunaux?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Court interpreters are bound by the laws and the Rules on court interpreters and they have to perform their office conscientiously, accurately and to their best knowledge. It is their duty to regularly update their professional skills and knowledge.

The Minister of Justice can dismiss a court interpreter in a special procedure in case doubts arise about his/her professional skills. Until now there was no such case.

181) Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires?

- ☐ Oui
☒ Non

Veuillez ajouter tout commentaire utile pour l'interprétation des données ci-dessus (notamment: si non, quelle est l'instance chargée de sélectionner les interprètes?):

The Ministry of Justice carries out the procedure of selection of court interpreters in line with the Courts Act and the Rules on court interpreters. A candidate for a court interpreter must, beside some general conditions listed below also pass a knowledge and skills examination and take an oath in front of the Minister of Justice. The general conditions are the following:

- 1) he must be a citizen of the Republic of Slovenia or the European Union,
- 2) he must be fluent in Slovene,
- 3) he must be legally capable and be personally suited,
- 4) he must not have been sentenced for a criminal offence that is punishable ex officio, because of which he would be morally unsuited to perform the interpreter's work, because this could harm the impartial and professional performance of the work or the reputation of the court
- 5) he must have completed a university degree and have suitable professional knowledge and practical skills and experience.

The Ministry of Justice administers an official list of court interpreters, from which judges choose interpreters in line with the needs of the procedure.

11. Fonctionnement de la justice

11. 1. Réformes envisagées

11. 1. 1. Réformes

182) Pouvez-vous fournir des informations relatives au débat actuel dans votre pays en ce qui concerne le fonctionnement de la justice ? Des réformes sont-elles envisagées ? Par exemple modification de la législation, modification dans la structure judiciaire, programme d'innovation, etc. Veuillez préciser:

Changes of legislation, regarding the functioning of justice are foreseen till the end of the year 2009.

The Amendment of Courts Act of Slovenia, which is defining court organization, is for the present in parliamentary proceedings. The law will come into force on the 1st of January.

The main modifications within the Amendment of Courts Act are:

1. The extension of competences of the Judicial Council – the competence in appointment of presidents of the courts is transferred from the Minister of Justice to the Judicial Council;
2. Establishing a specialized department for jurisdiction over criminal offences related to organized and economic crime;
3. For the purpose of disburdening the president of the court and setting more efficient court management the new position Director of the court is appointed;
4. With the intention of effective and economical administration of courts justice administration for local courts is held by justice administration of district courts;
5. A more flexible assigning of local and district court judges within range the of the district court by the president of the district court;
6. Establishing new quality benchmarks criteria for adjudication and new benchmarks for judicial posts by the Juducial Council.

The new Act on alternative disputes resolution (ADR) in courts, adopted in November 2009 determines the obligation of all first instance courts and courts of appeal to offer at least one type of ADR to parties in civil, commercial, family and labour disputes.

The basic characteristics of the new act are the following:

All first instance courts and courts of appeal will have to offer mediation to parties in civil, family, commercial and labour disputes; the first instance courts will have 6 months to introduce programmes and the courts of appeal will have 30 months to prepare such programmes.

Courts will have the possibility to offer other types of ADR to parties.

Courts will decide on the form of programmes: they will either introduce court-annexed programmes or choose court-connected programmes, organized by external providers.

There will be some incentives and also some sanctions in order to enhance the use of mediation:

a. incentives:

- information sessions on mediation: courts will have the right to demand from parties that they take part in the information session on mediation;
- mediation will be free of charge for parties in family and certain labour disputes;
- in other disputes, except the commercial ones, the first 3 hours of mediation will be free of charge for parties.

b. sanctions:

- parties who will unreasonably decline the use of mediation might bear costs of the civil procedure, irrespective of the outcome of the procedure.

Referral to mediation:

- on the basis of the parties' proposal;

- on the basis of the court's decision after the information session has been held; parties will have the right to oppose to such decision and in that case the decision will be automatically annulled.

The Republic of Slovenia as a party in a dispute will in principle be obliged to agree with mediation.

Parties who receive free legal aid are already now obliged to participate in mediation in good faith, in case the other party agrees with mediation.