

EUROPEAN COMMISSION
FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

PILOT-SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS

SCHEME FOR EVALUATING JUDICIAL SYSTEMS

Country: ESTONIA

Contact Name: Age Värv

I. General information

1. Number of inhabitants

Number: 1356045

Year of reference: 2003

Source: Statistical Office of Estonia¹

2. Total annual State/regional public budget

Budget: 39 550 672 387 kroons
(2 519 151 107 MEUR)

Year of reference: 2003

Source: Ministry of Finances of Estonia²

3. Average gross annual salary

Salary: 77172 kroons (4915 EUR)

Year of reference: 2nd quarter of 2003

Source : Statistical Office of Estonia

¹ <http://gatekeeper.stat.ee:8000/px-web.2001/dialog/statfilere.asp>

² <http://www.fin.ee/>

II. Access to Justice and to all courts

II. A. Legal aid/cost of justice

4. Annual public budget spent on legal aid

Annual budget: 23,2 million kroons (1,48 MEUR) Year : 2003

Source : Public Budget Act 2003

5. If possible, specify

- the annual public budget spent on legal aid in criminal cases

Annual budget: 22,32 million kroons (1,42 MEUR) Year : 2002

Source : Estonian Bar Association (EBA)³

- annual public budget spent on legal aid in other court cases

Annual budget: 0,68 million kroons (0,04 MEUR) Year : 2002

Source : Estonian Bar Association (EBA)⁴

6. Total number of legal aid cases (in a year)

Number of cases: no specific data available Year : 2004

Source :

7. If possible, specify:

- the total number of legal aid cases in criminal matters (in a year)

Number of cases: Approx. 93% of all legal aid cases Year : 2002

Source : Estonian Bar Association

- the total number of legal aid cases in other court cases (in a year)

Number of cases: approx. 7% Year : 2002

Source : Estonian Bar Association

³ <http://www.advokatuur.ee/>

⁴ <http://www.advokatuur.ee/>

8. Does your country have an income and asset test for granting legal aid?

NO

9. If yes, what is the maximum income level for granting legal aid?

Income level: Year :

10. Is it possible to refuse legal aid for lack of the merit of the case?
(eg. for frivolous or vexatious actions, or cases without merit)

NO

If yes, is the decision taken by :
(please indicate the right answer)

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

What factors are taken into account ?

Factors:

11. In general do litigants have to pay a court tax or fee to start a proceeding at a general jurisdiction court?

YES

If yes, is this true for :

- criminal cases? No
- other than criminal cases? Yes

12. Does your country have a private system of legal expenses insurance for individuals?

No

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

Yes

If yes, is this true for :

- criminal cases ? Yes
- other than criminal cases? Yes

14. In your country, have studies been carried out on the costs of cases brought to courts concerning: - users? No
- the State? No official studies have been carried out

If yes, please indicate the references of these studies published in the year 2002 or 2003:
(Author / instance) (Title) (Type of courts or costs reported on):

.....
.....
.....

II. B. Users of the courts and victims

15. Are there official internet sites/portals (eg. Ministry of justice, etc..) through which the general public may have free access to:

- legal texts (eg. codes, laws, regulations, etc..)? Yes

<https://www.riigiteataja.ee> (Official Gazette)

Estonian legislation in English : www.legaltext.ee

- to the case-law of the higher court/s? Yes

case law of the Supreme Court of Estonia: www.nc.ee

case law of the courts of first instance and appellate courts: <http://kola.just.ee/>

- to other documents (for examples legal forms)? Yes

If yes, please give the internet address

<http://www.just.ee/index.php3?cath=3718> (how to file an action)

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

Comments:

Information and counseling services are offered to victims of crimes by NGO. Services are free of charge and compensated from the State Budget.

17. Is there a public, free of charge and personalised specific information system, managed by the police or the justice system, on the follow up given to complaints by victims of crime? No

Comments:

18. Does your country have a public compensation fund to compensate financially victims of crimes? Yes

Source : State Compensation of Victims of Crime Act (entered into force 01.01.2002, available in English at www.legaltext.ee)

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

Yes; there are annual surveys to measure public trust in public institutions in general (the president, the parliament, the political parties, the police, the court system)

If yes, are these surveys

- at national level Yes

- at court level No

20. Is there a national or local procedure for making complaints about the performance of the judiciary (eg. through an ombudsman)? Yes / No

Please specify:

- at court level/internal procedure Yes

- at court level/external procedure Yes

- at national level/internal procedure Yes

- at national level/external procedure Yes

Comments:

The Courts Act⁵ provides:

§ 45. Supervisory control

(1) Supervisory control over the administration of justice pursuant to the requirements and over the performance of duties by judges shall be exercised by the chairman of the court. The chairman of a court has the right to demand explanations from judges, inspect compliance with the operations procedure and collect other necessary information. Chairmen of circuit courts shall also exercise supervisory control over judges of the courts of the first instance.

(2) The Minister of Justice shall exercise supervisory control over the performance of the duties by the chairmen of courts of first instance and chairmen of courts of appeal. The Minister of Justice may demand explanations from the chairman of a court concerning the administration of justice in a court pursuant to the requirements.

(3) Supervisory control over the area of activity of land registry departments, registration departments and probation supervision departments shall be exercised by the directors of administration and the Minister of Justice. The Minister of Justice shall exercise supervisory control over directors of administration. The Minister of Justice has the right to demand

⁵ English translation available at www.legaltext.ee

explanations from the employees of the departments mentioned above and from the directors of administration, to inspect compliance with the operations procedure and the budget and to collect other necessary information. The Minister of Justice shall establish the procedure for supervisory control.

§ 91. Commencement of disciplinary proceedings

(1) Disciplinary proceedings shall be commenced if elements of a disciplinary offence become evident. Disciplinary proceedings are commenced by preparation of disciplinary charges.

(2) The following have the right to commence disciplinary proceedings:

- 1) the Chief Justice of the Supreme Court, against all judges;
- 2) the Legal Chancellor, against all judges;
- 3) the chairman of a circuit court, against judges of courts of first instance in his territorial jurisdiction.
- 4) the chairman of a court, against the judges of the same court;
- 5) the Supreme Court *en banc* against the Chief Justice of the Supreme Court.

(3) A person who commences a disciplinary proceeding may gather evidence and demand explanations which are necessary to adjudicate the disciplinary matter.

The officials who have the right to supervise the judges and/or to initiate disciplinary proceedings deal with the complaints regarding the bad functioning of the judiciary.

21. As a general rule, do the institutions which receive such complaints have an obligation to respond and/or to deal with the complaint within a certain time limit?

- time limit to respond: Yes
- time limit for dealing with the complaint: No

III. Functioning of courts and efficiency of justice

III. A. Functioning

22. Total number of courts

Number of courts: 20

23. Number of general jurisdiction first instance courts

Number of courts: 12

24. Number of specialised first instance courts

Please specify the different areas of specialisation

(area of specialisation)

(number of courts)

25. Number of professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)

Number of judges: 237 Year : 2004

Source : Ministry of Justice

26. Number of non-professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)

Number of judges: 1785 lay judges Year : 2003

Source : Courts Act; Regulation no 1 (13.01.2003)

Please give details:

The number of lay judges in each county or city court is determined by the Minister of Justice after having considered the opinion of the full court of the county or city court.

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

Number of staff: approximately 1300 Year : 2003

Source : Ministry of Justice

28. Annual budget allocated to all courts

Annual budget: 16,6 MEUR (courts of 1st and 2nd instance) Year : 2003

Source : Ministry of Justice

29. Annual budget allocated to the Ministry of justice or the institution (for example Judicial Council) which is responsible for the functioning of the courts

Annual budget: 8,1 MEUR (Ministry of Justice) Year : 2003

Source : Ministry of Justice

30. Has the budget for justice increased during the last 5 years?
What are the figures?

Budget	13,5 MEUR	Year	2002
Budget	12 MEUR	Year	2001

31. Which institution is formally responsible for setting up the budget devoted to courts?

- the ministry of Justice (or equivalent) **Yes**
- the Government Yes / No
- the Parliament Yes / No
- the Judicial Council **Yes**
- the Courts Yes / No
- other:

The Minister of Justice approves the budgets of courts of the first instance or courts of appeal, considering the opinion given by the Council for Administration of Courts.

32. Who manages the budget of the courts?

- the President of the Court No
- the person administratively responsible for the court Yes (Managing director)
- other:

33. Which institution is responsible for arranging and scheduling the court hearings/sessions?

- in criminal cases: the judge
- in other than criminal cases the judge

III. B. Efficiency

34. Total number of criminal cases received by the public prosecutor (in a year)

Number of cases: no relevant statistics available Year : 2004
Source : Ministry of Justice

35. Total number of criminal cases dropped by the public prosecutor (in a year)

Number of cases: In 2002 public prosecutors have controlled all in all 38 327 suspended criminal cases (266 per prosecutor)
Year : 2002
Source : Ministry of Justice

Comments: According to Criminal Procedure Code § 163 when the offender has not been identified in a criminal case the pre-trial investigator will suspend a pre-trial investigation. The order of a preliminary investigator on the suspension of a pre-trial investigation shall be submitted to a prosecutor for approval and the prosecutor shall approve or annul the order on the suspension of the pre-trial investigation.

Please indicate also, out of this total, those dropped as the offender has not been identified

Number of cases: Year :
Source :

36. Total number of criminal cases which are concluded by a sanction/measure, imposed or negotiated by the public prosecutor (in a year)

Number of cases: no relevant statistics available Year :
Source :

37. Total number of criminal cases charged by the public prosecutor before the courts (in a year)

Number of cases: In 2002 all in all 8841 criminal cases were charged before the court, i.e. 61 criminal cases per public prosecutor Year : 2002
Source : Ministry of Justice

38. Total number of incoming criminal cases in the courts involving robbery cases (in a year)

Number of cases: 190 Year : 2002
Source : court decisions database (Ministry of Justice)

39. Total number of judicial decisions, involving robbery (in a year)

Number of cases: Year :
Source :

Please indicate, if possible:

Number of convicted persons: 180 % of convicted persons:
Number of acquitted persons: 6 % of acquitted persons:

40. Percentage of decisions involving robbery subject to an appeal to a higher court (in a year)

Percentage of decisions: No data available Year : 2004
Source :

41. Total number of incoming criminal cases in the courts,

involving intentional homicide (in a year)

Number of cases: no specific data available on homicide cases:
total number in all incoming criminal cases (incl homicide) : 10 672
Year : 2003
Source : Ministry of Justice

42. Total number of judicial decisions, involving intentional homicide (in a year)

Number of decisions: no specific data available on homicide cases:
Total number of all decisions in criminal cases (including homicide): 10 361
Year : 2003
Source : Ministry of Justice

Please indicate also if possible:

Number of convicted persons:	% of convicted persons:
Number of acquitted persons:	% of acquitted persons:

43. Percentage of decisions concerning intentional homicide subject to an appeal to a higher court (in a year)

Percentage of decisions: no data available Year :
.....
Source :

44. Total number of incoming civil and administrative cases in the courts (in a year)

Number of cases: civil cases: 24089;
administrative cases: 2206 Year : 2002
Source : statistical report 2002⁶; database kola.just.ee

45. Total number of judicial decisions in civil and administrative matters (in a year)

Number of decisions: civil cases: 22118;
administrative cases :972 Year : 2002
Source : statistical report 2002⁷; database kola.just.ee

46. Percentage of decisions concerning civil and administrative matters subject to an appeal to a higher court (in a year)

Percentage of decisions: civil matters – 11%,

⁶ http://www.just.ee/files/statistika/2002I_II.htm

⁷ http://www.just.ee/files/statistika/2002I_II.htm

administrative matters – 46%

Year : 2002

Source : database kola.just.ee; statistical reports of Appellate Courts

47. Total number of incoming divorce cases in the courts (in a year)

Number of cases: 1337

Year : 2002

Source : database kola.just.ee

48. Total number of judicial decisions in divorce cases (in a year)

Number of decisions: 995

Year : 2002

Source : database kola.just.ee

49. Percentage of decisions concerning divorce cases subject to an appeal to a higher court (in a year)

Percentage of decisions: 23%

Year : 2002

Source : database kola.just.ee

50. Total number of incoming employment dismissal cases in the courts (in a year)

Number of cases: no data available

Year :

Source :

51. Total number of judicial decisions of employment dismissal cases (in a year)

Number of decisions: no data available

Year :

Source :

52. Percentage of decisions concerning employment dismissal cases subject to an appeal to a higher court (in a year)

Percentage of decisions: no data available

Year :

Source :

IV. Use of Information Technology in the court

53. Annual IT budget allocated to the courts (if possible in Euros)

Annual budget: approx. 20% (0,524 MEUR) Year : 2003

Source : Ministry of Justice

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

- for judges Yes
- for non-judges court staff Yes

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

If yes, please specify the name and the address of this institution

(Name)

Ministry of Justice of Estonia

(Address)

Tõnismägi 5a, 15191 Tallinn, Estonia

56. What kind of facilities can be used by the clients of the courts to communicate with the courts ?

- Telephone Yes
- Mail Yes
- Fax Yes
- E-mail Yes
- Internet Yes

57. Is there an electronic form to carry out certain procedural steps? No

Comments:

The use of electronic means in the civil procedure will be made possible by the provisions of a new Code of Civil Procedure (adoption by the Estonian Parliament foreseen during the year 2004)

V. Fair trial

58. Percentage of adversary judgements in criminal cases in first instance

Percentage of judgements:

The current Estonian criminal procedure can be characterized as inquisitorial. The new criminal procedure code which introduces adversarial system will enter into force 01.07.2004 (English text available at www.legaltext.ee)

Year : 2004
Source : Ministry of Justice

59. Is there a right to an interpreter for all those within your jurisdiction if the persons cannot understand or speak the language used in court? Yes

60. Is there an effective remedy to a superior jurisdiction for all cases? Yes

61. Are reasons given for all prison sentences? Yes

62. Average length, in days, of robbery cases from the formal beginning of the prosecution until the first instance judgment

Average length: no data available Year : 2004
Source :

63. Average length, in days, of robbery cases from the formal beginning of the prosecution until the appellate judgment

Average length: 396 days Year : 2002
Source : database kola.just.ee

64. Average length, in days, of divorce cases from the deposit of the complaint until the first instance judgment

Average length: 339 days Year : 2002
Source : database kola.just.ee

65. Average length, in days, of divorce cases from the deposit of the complaint until the appellate judgment

Average length: 517 days Year : 2002
Source : database kola.just.ee

66. Average length, in days, of employment dismissal cases from the deposit of the

complaint until the first instance judgment

Average length: no data available
Source :

67. Average length, in days, of employment dismissal cases from the deposit of the complaint until the appellate judgment

Average length: no data available Year :
Source :

68. Do you, on a regular basis, measure the size of backlog cases in the courts?

Yes

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

No. However, it is possible to analyse the queueing time, when needed.

If yes, please specify:

VI. Judges

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

Annual salary : 18 744 EUR Year : 2004
Source : Courts Act, Ministry of Justice

71. Gross annual salary of a judge of the Supreme Court or of the highest appellate court

Annual salary : 25 776 EUR Year : 2004
Source : Courts Act; Ministry of Justice

72. Can judges combine their work with other professions (for example as a university professor, arbitrator, consultant)? Yes

Judges are prohibited from holding any other paid office, with the exception of teaching or research

73. Are judges recruited and nominated by an independent institution? Yes

(if yes), who are represented in this institution:

- the members of the judiciary Yes
- officials not part of the judiciary Yes
- a mixture of the two categories referred to above Yes

Is the process of selection and nomination of judges carried out according to pre-established procedures ? Yes

Pursuant to the Courts Act, the Minister of Justice announces a public competition for a vacant position of judge of a county or city court, administrative court and circuit court. An application shall be submitted to the Chief Justice of the Supreme Court. The suitability of the personal characteristics of a candidate for judicial office are assessed on the basis of an interview with the judge's examination committee. The examination committee is composed of ten members: two judges of 1st instance, two judges of 2nd instance, two judges of the Supreme Court, a representative of the Law Faculty of Tartu University, a representative of the Ministry of Justice, an advocate, a state prosecutor. The examination committee forwards its decision to the Supreme Court *en banc*. Judges of a court of the first instance and judges of a court of appeal are appointed by the President of the Republic on the proposal of the Supreme Court *en banc*.

74. Is there a system of induction and continuation training for judges?

Yes

Article 74 of the Courts Act provides that all judges are required to develop knowledge and skills of their specialty on a regular basis and to participate in training.

What is the average percentage of judges who have attended a continuation training session each year?

Percentage of judges: no data available Year :

Source :

75. Is there a system of supervision and control on the courts - other than through appeal ? No

If yes, please specify:

76. Is there in your country a system of temporary judges? No

If yes, are these temporary judges paid on the basis of their activity? Yes / No

If yes, please specify:

77. Annual number of disciplinary proceedings against judges

Number of proceedings: 4 Year : 2002

Source : the Supreme Court of Estonia

78. Annual number of sanctions against judges

Number of sanctions: 2 Year : 2002

Source : the Supreme Court of Estonia

VII. Public prosecutors

79. Annual budget for the public prosecution

Annual budget: 77 673 600 EEK (4 964 235 EUR) Year : 2003

Source : Ministry of Justice

80. Number of professional public prosecutors (in full time equivalent)

Number of prosecutors: In total there are 189 public prosecutors posts, out of them **163** were filled in 31.12.2002
Year : 2002

Source : Ministry of Justice

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

Annual salary : 123 000 EEK (**7861 EUR**) Year : 2003

Source : Ministry of Justice

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

Annual salary : 220 800 EEK (**14 111 EUR**) Year : 2003

Source : Ministry of Justice

83. Can public prosecutors combine their work with other professions? Yes

If yes, please specify: According to Prosecutors Office Act prosecutors can not be employed elsewhere outside of their professional duties, except for teaching or research.

84. Are public prosecutors recruited and nominated by an independent institution? Yes

(If yes), who are represented in this institution:

- the public prosecutors ? Yes
- other stakeholders outside? Yes
- a mixture of the two categories referred to above? Yes

The prosecutors' competition and evaluation committee shall assess the suitability of an applicant for a position. The prosecutors' competition and evaluation committee shall be comprised of the Chief Public Prosecutor, one public prosecutor, a total of two prosecutors from county and city prosecutor's offices, one judge elected by the representative body of judges, a jurist designated by the Dean of the Law Faculty of the University of Tartu and an official of the Ministry of Justice designated by the Minister of Justice. Public prosecutors are appointed to office by Chief Public Prosecutor or by the Minister of Justice.

Is the process of selection and nomination of public prosecutors done according to pre-established procedures? Yes

85. Is there a system of induction and continuation training for public prosecutors?

Yes, but not compulsory

What is the average percentage of prosecutors who have participated in continuation training each year?

Percentage of prosecutors: no specific data available. However, almost all prosecutors follow training sessions each year

Year : 2002

Source : Ministry of Justice

86. Is there a system of supervision and control on public prosecutors? Yes

If yes, please specify:

The Minister of Justice shall exercise supervisory control over the Prosecutor's Office. Nevertheless, the supervisory control over the Prosecutor's Office exercised by the Minister of Justice does not extend to the activities of the Prosecutor's Office in pre-trial criminal proceedings. The Chief Public Prosecutor shall exercise supervisory control in the Prosecutor's Office, and senior county and city prosecutors shall exercise supervisory control in the county and city prosecutor's offices. Persons exercising supervisory control have the right to demand explanations and information from prosecutors under their supervisory control.

87. Annual number of disciplinary proceedings against public prosecutors

Number of proceedings:

3

Year : 2003

Source :

Ministry of Justice

88. Annual number of sanctions against public prosecutors

Number of sanctions: 2 Year : 2003

Source : Ministry of Justice

VIII. Lawyers

89. Number of lawyers practising in your country

Number of lawyers: 262 sworn advocates
75 sworn advocate`s senior clerks
80 sworn advocate`s clerks
Lawyers, who are not advocates – approximately 500 (not an official number)

Year : 2003

Source : Ministry of Justice

90. Is there a national bar association? Yes

91. Have quality standards been formulated for lawyers? Yes, for advocates

If yes, who is responsible for formulating these quality standards?

- the bar association Yes

- the legislature Yes

- other Yes / No

92. Can disciplinary proceedings be instituted against lawyers? Yes

93. Annual number of disciplinary proceedings against lawyers

Number of proceedings: In 2001 – 7
In 2002 – 10
In 2003 – 14

Year : 2001-2003

Source : Estonian Bar Association

94. Annual number of sanctions against lawyers

Number of sanctions: In 2001 – 5
In 2002 – 1

In 2003 - 3

Year : 2001-2003

Source : Estonian Bar Association

95. Is it possible to complain about the performance of lawyers? Yes

If yes, please specify:

Any interested person has recourse to the court of honor or the Board of Estonian Bar Association for the commencement of proceedings of the court of honor.

96. What is the amount paid to a lawyer by the State in respect of legal aid for a first instance divorce case?

Amount: no specific data available Year : 2004

Source : Ministry of Justice

IX. Mediators and mediation proceedings

97. Number of accredited or registered mediators

Number of mediators: no data available Year : 2004

Source :

98. How much public budget is devoted to mediation?

Amount: no data available Year : 2004

Source :

99. Number of incoming mediation cases (in a year)

Number of cases: no data available Year : 2004

Source :

100. Number of cases solved through mediation (in a year)

Number of cases: no relevant statistics available Year : 2004

Source :

If possible, please specify:

- number of criminal cases solved through mediation:

- number of cases other than criminal solved through mediation:

101. In which areas of law is mediation most practised and successful in your country?

- in criminal cases? No

- in other than criminal cases? Yes

Year : 2004 Source :
.....

X. Enforcement agents and execution of court decisions

102. Number and types of enforcement agents

- in criminal cases:

(Type)	(Number)	(Year)	(Source)
prisons	9	2004	Ministry of Justice

- in other than criminal cases:

bailiffs	58	2004	Ministry of Justice
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103. Is there an institution to supervise or control the activities of enforcement agents?
Yes

If yes, please specify:

The Ministry of Justice exercises supervision over prisons. Supervision over the activities of the bailiffs of the territorial jurisdiction of a court is exercised by the chairman of the county or city court. The Ministry of Justice carries out formal regular supervision over all bailiffs.

104. Annual number of disciplinary proceedings against enforcement agents

Number of proceedings: 18 disciplinary proceedings against bailiffs Year : 2002

Source : Ministry of Justice

105. Annual number of sanctioned enforcements agents

Number of agents: 14 Year : 2002

Source : Ministry of Justice
.....

106. Is it possible to file a complaint against an enforcement agent? Yes

If yes, please specify:

Pursuant to the Bailiffs Act, a debtor, creditor or other interested person can lodge a complaint against the bailiff to the bailiff himself. The bailiff will deal with the complaint; when the debtor is not satisfied with the answer he receives, he can go to court (up to the Supreme Court). It also possible to lodge a complaint to the Ministry of Justice. If the complaint is well-founded, the minister will initiate the disciplinary proceeding.

107. Does the court play a role in the execution of court decisions? Yes

If yes, please specify:

A County or a city court gives the permission to bailiff to organize an auction in order to sell the real estate (immovable property) of a debtor.

108. Are the courts competent to decide against public authorities? Yes

Are the courts involved in executing decisions against public authorities? No