



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: Estonia

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants

1340935

2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	7680626639
Regional / entity level	

3) Per capita GDP (in €)

11987

4) Average gross annual salary (in €)

9903

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

16

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

Note - unfortunately because of technical issues, only full numbers could be given. The correct numbers are:

for exchange rate: 15,64664.

Per capita GDP: 11986,63.

The sources are: for questions 1, 3 and 4 - Statistics Estonia (www.stat.ee);

for question 2 - Ministry of Finance (www.fin.ee);

for question 5 - Bank of Estonia (www.eestipank.info); this exchange rate has fixed value, regulated by the President of Bank of Estonia (<https://www.riigiteataja.ee/ert/act.jsp?id=89608> - official announcement).

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

6) Total annual approved budget allocated to all courts (in €)

347249751

7) Please specify

This is the budget for the courts for first and second instance (under Ministry of Justice) and the

Supreme Court (which has a separated budget). By the Constitution the Supreme Court is also the court of constitutional review. This means that some judges of the civil, administrative and criminal chambers are also members of the constitutional review chamber - there are no judges only dealing with constitutional review. This means that the budget for the "Constitutional Court" cannot be separated from the overall budget.

The budget for courts of first and second instance was 29851918 euros, the budget for the Supreme Court was 4872479 euros.

8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned or indicate NA (not available) in case that the information cannot be supplied

Please provide comments to explain the data provided under question 8:

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	26264172
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	331382
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	959308
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	4835697
Annual public budget allocated to investments in new (court) buildings		NAP
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	456543
Other (please specify):	<input checked="" type="checkbox"/> Yes	1402650

Comment :

These numbers represent the budgets of both under Ministry of Justice and the Supreme Court. They can be separated as follows:

- salaries: Ministry of Justice: 22795942; the Supreme Court: 3468230 euros.
- computerisation: only the budget for Supreme Court is shown (331382 euros), because the budget for computerisation under Ministry of Justice is allocated to the budget of Centre of Registers and Information Systems (approx. 1600000 euros).
- justice expenses: only the budget for courts of first and second instance under Ministry of Justice is shown. It is not possible to separate these numbers in the Supreme Court.
- court buildings: Ministry of Justice: 4156891; the Supreme Court: 678806 euros.
- investments to the new court buildings can not be shown: the Supreme Court has one building. All the other court buildings belong to a national company which also invests to the new buildings. The costs are later repaid with the rent.
- training and education: Ministry of Justice (training of court clerks): 68936 euros; the Supreme Court (training of all the judges in Estonia - not only of the Supreme Court, but also of the first and second instance courts): 387607 euros.
- Other expenses: Ministry of Justice (miscellaneous expenses: transport, paper, pens, uniforms, health expenses): 1396195 euros; the Supreme Court (membership fees of international organisations - 6391 euros; land tax - 64 euros): 6455 euros.

Data concerning the Supreme Court budgetary expenditure can not be directly supplied according to the above items.

At the state budget level the expenditure of the Supreme Court in 2008 (e.g. annual public budget) was divided between the four following items: investments 331 382 EUR, appropriations 393 998 EUR (judicial training of judges and membership fees of international organisations), operational expenditure 4 147 035 EUR (incl. operational costs, including procurement and maintenance of IT equipment; personnel expenditure, i.e. salaries and labour taxes of justices and court clerks, training of

court staff, etc) and other expenditure which, in 2008, consisted in 64 EUR of land tax.

9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?

☒ Yes

☐ No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years:

The allocations from the state budget for the Supreme Court and expenditure have constantly increased since 2005, for the courts of first and second instance since 2004. For 2009 and 2010 the expenditure and thus, also, the budget volume was reduced. The budget increase was related to the change in the principles of remuneration of court officials. Also, every year the judge's salaries have been recalculated in accordance with the changes of the average annual wages of the state. The average annual wages in Estonia have increased every year from 2005 to 2008.

In year 2004, the budget for courts of first and second instance was 18168015 euros, for the Supreme Court 2540079 euros.

In 2005 the budget for courts of first and second instance increased 7,6%, for Supreme Court it decreased 3,8%.

In 2006 both budgets increased - for courts of first and second instance 10,3%, for the Supreme Court 19,4%.

In the 2007 the increase was 21% and 35,9%, in the 2008 12,5% and 18,2%.

In 2009 the budget decreased: 14,9% and 11,9%.

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

☐ for criminal cases?

☒ for other than criminal cases?

If yes, are there exceptions? Please specify:

A state fee is not charged for the following acts:

- 1) hearing of an action or appeal concerning wages, reinstatement in employment or service, or amendment of the written legal basis for termination of a contract of employment or for release of a person from service;
- 2) review of an application for expedited proceedings in a matter of a payment order in a claim for maintenance support for a child or an action for claim for support;
- 3) hearing of a claim for compensation for financial damage caused by unlawful conviction, unlawful criminal prosecution, unlawful preventive detention, other unfounded deprivation of liberty or unlawful imposition of punishment for a misdemeanour;
- 4) initial issue of court documents related to a criminal matter;
- 5) conduct of proceedings for placement of a person in a closed institution;
- 6) hearing of a claim for the restitution of property expropriated or abandoned in the course of unlawful repression and concerning compensation for the corresponding damage;
- 7) hearing of a matter concerning certification of years of pensionable service;
- 8) hearing of a protest in an administrative matter;
- 9) hearing of a claim for prohibition of the use of a Community trade mark or Community design;
- 10) hearing of an appeal against a ruling submitted through a notary based on subsection 593 (4) of the Code of Civil Procedure Act;
- 11) hearing of an action for compensation for damage caused by bodily injury, another health disorder or the death of a provider.

The following are exempt from payment of state fees:

- 1) a minor, upon filing of an appeal against a ruling in a matter in which the minor has been granted the right to independently file appeals;
- 2) a pension or support claimant, in a matter concerning unduly paid benefit or pension amounts or failure to pay such sums;
- 3) a natural person upon filing an appeal against the decision of an election committee;
- 4) a guardianship authority, upon filing of a petition for deprivation of a parent of parental rights, appointment of a guardian to a minor or another petition filed in the interests of a child which the guardianship authority is competent to submit;
- 5) a tax authority, upon submission of a bankruptcy petition or another petition related to bankruptcy proceedings or in a matter concerning determination of an amount of tax;
- 6) a county government, upon performance of the duties of a mortgagee arising from the Land Reform Act, in the case of filing of an action in a matter related to a mortgage established for the benefit of the state;
- 7) a bailiff, upon filing of a petition related to the conduct of an execution proceeding based on the Code of Enforcement Procedure, or filing of an appeal against a ruling related to an execution proceeding on the basis of § 599 of the Code of Civil Procedure.

There is also possibility to request legal aid or for procedural assistance.

11) If yes, please specify the annual income of court fees (or taxes) received by the State (in Euros)

5893680

12) Total annual approved budget allocated to the whole justice system (in €)

Please provide information concerning the budgetary elements that included in the whole justice system budget:

.

☒ Amount

118251762

Comment :

The budget for Justice System consists of two parts: area of government of Ministry of Justice and

budget of the Supreme Court.

The budget under area of government of Ministry of Justice was 113379283 euros. The budget for Supreme Court was 4872479 euros.

The area of government of Ministry of Justice consists of legal aid, Prosecutor's Office, Bureau of Forensic Medicine, Centre of Registers and Infosystems (responsible for information systems of justice system), Courts Centre of Accounting, custodial institutions, courts of first instance and courts of appeal and Estonian Data Protection Inspectorate.

13) Total annual approved public budget allocated to legal aid (in €)

Please provide comments to explain the figure provided under question 13:

. Amount 2934624

Comment :

This budget was approved by the Parliament with the final "Law of State Budget for 2008" at the second half-year of 2008. The annual approved public budget at the beginning of 2008 was 3062447 euros.

To the Bar of Association (as the provider of legal aid) the budgetary remainder of year 2007 (366042 euros) was also given over. This is why the Bar could spend more as was given for the year 2008 (look at question 14). So the total amount, which could be used by the Bar for legal aid was 3300666 euros.

14) If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	2469729	515570

Comment :

Criminal law cases include both criminal (severe cases) and misdemeanour (petty crime) cases. These amounts are not allocated by the types of cases (for example - 80% or certain sum to the criminal cases), but the whole budget for legal aid is used when necessary.

Please also look at the comment to the question 13.

15) Is the public budget allocated to legal aid included in the court budget ?

☐ Yes

☒ No

16) Total annual approved public budget allocated to the public prosecution system (in €)

Please provide comments to explain the figure provided under question 16:

. Amount 11024913

Comment :

17) Is the budget allocated to the public prosecution included in the court budget?☐ Yes☒ No**18) Authorities formally responsible for the budget allocated to the courts:**

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	No	Yes	Yes
Other ministry	Yes	No	No	Yes
Parliament	No	Yes	No	No
Supreme Court	Yes	No	No	Yes
Judicial Council	No	No	No	No
Courts	Yes	No	Yes	No
Inspection body	No	No	No	Yes
Other	No	No	No	No

19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):

Preparation - Ministry of Justice prepares the budget for courts of first and second instance. The Supreme Court prepares its budget and presents it to the Ministry of Finance, which prepares the budgets for constitutional institutions (Supreme Court, Chancellor of Justice, National Audit Office, Office of the President).

Management and allocation - given data does not apply to the Supreme Court - its budget does not need additional management or allocation.

Evaluation - the budgets are evaluated by Ministry of Finance and the National Audit Office.

More comments about the Supreme Court: The Supreme Court is financed directly from the state budget; the volume and division of the Supreme Court expenditure must be approved by the Government of the Republic. The drafting of state budget is organised and co-ordinated by the Ministry of Finances in conformity with the requirements set out in the State Budget Act. The Supreme Court itself drafts the preliminary draft project and submits it to the Ministry of Finance. The Chief Justice of the Supreme Court must ensure, with the assistance of the director of the court, the timely submission of the court's budget and, if necessary, the draft amendments to the budget, to the ministry. Negotiations are held between representatives of the Ministry of Finance and the Supreme Court concerning a budget project and the justification for and feasibility of the expenditure included therein. After the negotiations and resolution of disagreements at the level of government the Ministry of Finance compiles a draft state budget and submits it, through the government, to the parliament. In negotiations concerning a budget project with the Ministry of Finance the Supreme Court is represented by the director of the court; in negotiations with the members of the government and the parliament the Supreme Court is represented by the Chief Justice.

The implementation of the Supreme Court budget, approved by the parliament, and the purposeful use of budget funds is monitored by the Supreme Court director.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been

implemented over the last two years

- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

Additional comment to question 11:

Court fee (paid to the courts of first and second instance) was 5829768 euros.

Security on cassation (paid to the Supreme Court and refunded if a cassation is satisfied) was 63912 euros.

Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.

Sources:

questions 6, 12, 13 and 16 - State Budget Act for year 2008;

questions 8 and 11 - Ministry of Justice (on courts of first and second instance) and the Supreme Court

question 14 - statistics made by the Bar Association and the Ministry of Justice.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes
Other	Yes	Yes

21) If other, please specify (in regards to question 20):

There are also other types of legal aid:

- representing a person in pre-trial proceedings in a criminal matter;
- defending a person in extrajudicial proceedings in a misdemeanour matter;
- representing a person in pre-trial proceedings in a civil matter;
- representing a person in administrative proceedings;
- representing a person in enforcement proceedings;
- preparing legal documents.

22) Does legal aid foresee the covering or the exoneration of court fees?

☐ Yes

☒ No

If yes, please specify:

Covering of court fees is not considered as a legal aid case, there is other procedure for this in civil and administrative cases. A person can request procedural assistance for bearing procedural expenses. This means that a person may:

- be released, in part or in full, from payment of the state fee or security, or from bearing other legal costs, or may pay them in monthly instalments;
- be released from the obligation to provide security for covering procedural expenses or for damages that may arise from declaration of a judgement to be subject to immediate execution.

This is not related to public budget, because the person is released from these fees and these are not compensated to the State or to the court.

23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

NAP

24) Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
Total	35029
in criminal cases	32301

Other than criminal cases	2728
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Comment :

These numbers represent cases, where legal aid was given by court on grounds of specific incident. This means:

- no legal aid given by police or prosecutor's office are included;
- the numbers represent "cases" or "incidents" - it means, that one person may be granted legal aid many times (for example when he/she is arrested; questioned; prosecuted - every procedural act is a separated "legal aid case" in statistics).

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

☒ Yes

☐ No

26) Does your country have an income and asset test for granting legal aid:

	Yes	Amount in €
for criminal cases	No	-
for other than criminal cases?	Yes	NAP

Comment :

State legal aid will not be granted if:

- the applicant could bear the costs of legal services out of his or her existing property which can be sold without any major difficulties, except property belonging to the applicant which, pursuant to law, cannot be subject to a claim for payment, also housing or a necessary vehicle belonging to the applicant which is used daily by him or her and family members who live together with the applicant, if the number and value of the housing and vehicles equitably correlate to the size, driving needs and income of the family.
- the costs of legal services do not, presumably, exceed twice the applicant's average monthly income calculated on the basis of the average monthly income of the last four months before the submission of the application, from which taxes and compulsory insurance payments, amounts prescribed to fulfil a maintenance obligation arising from law and also reasonable costs related to housing and transport have been deducted.

So there is no fixed amount to test income and asset, but it depends upon the applicants income and property.

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

☒ Yes

☐ No

Please provide comments to explain the answer under question 27:

State legal aid is not granted if

- the applicant is able to protect his or her rights himself or herself;
- the applicant cannot have the right for the protection of which he or she is applying for state legal aid;
- the possibility of the applicant to protect his or her rights is clearly unlikely due to the circumstances.

In other than criminal cases, the applications are submitted to the court, which will decide, if there is sufficient ground for legal aid.

28) If yes, is the decision for granting or refusing legal aid taken by:

- ☒ the court?
- ☐ an authority external to the court?
- ☐ a mixed decision-making authority (court and external)?

29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?

- ☒ Yes
- ☐ No

Please specify:

There are two insurance companies providing this kind of insurance also for individual persons. This is a quite new service, presented first in 2008-2009. There is no special regulation, but it is regulated by Law of Obligations Act.

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

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	Yes
other than criminal cases?	Yes

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

As for question 23 (no comment section was available): the legal aid covers the expenses of representing a person in enforcement proceedings. A person can request procedural assistance for bearing fees related to the execution of judicial decisions. This procedure is not considered as legal aid, but as procedural assistance.

As for question 25 and 26 - in criminal proceedings legal aid is granted to the defendant - if the defendant does not have a contractual counsel, the counsel is appointed by the body conducting the proceedings, Prosecutor's Office or court. The remuneration paid to an appointed counsel is part of procedural expenses, which must be compensated by the convicted offender in the case of a conviction.

In criminal proceedings, state legal aid is provided to victims, defendants and third parties on the bases and pursuant to the procedure prescribed in the State Legal Aid Act like in civil proceeding. If a court finds that the essential interests of a victim, defendant or third party may be insufficiently protected without an advocate, the court may decide to grant state legal aid to the person on its own initiative.

As for question 30 - the rules are set in the laws about court proceedings.

In criminal proceedings, the main rules are that in the case of a conviction procedural expenses are compensated for by the convicted offender; in case of an acquittal, procedural expenses are compensated for by the state. The main exceptions are:

- if a convicted offender is obviously unable to reimburse procedural expenses, the court will order a part of the expenses to be borne by the state;
- a person who has been acquitted will reimburse any procedural expenses caused by the person's wrongful failure to perform his or her obligations or false admission of guilt.

In civil proceedings, the main rules are that the costs of an action (litigious cases) are borne by the party against whom the court decides. In a proceeding on petition (non-litigious cases), the procedural expenses shall be borne by the person in whose interests the decision is made. The main exceptions are:

- In cases where ordering payment of the opposing party's costs from the party against whom the court decides would be extremely unfair or unreasonable, the court may decide that the costs must be borne, in part or in full, by the party who incurred the costs.
- Both parties will bear their own procedural expenses in contentious family and filiation matters.
- The party who allows the term for performance of a procedural act to expire or causes the changing of the time of performance of a procedural act, postponement of hearing the matter or extension of a term by his or her belated submission of objections or evidence, or in any other manner, shall bear the additional procedural expenses arising therefrom.

In administrative cases the rules of civil proceeding apply. There is only one mayor exception: the court will order the payment of only the necessary and justified procedural expenses. This means that the court has to evaluate if complexity and character of the case obliged the administrative authority to be represented by a lawyer. It is assumed that in civil service cases and cases that are related to the competence of the administrative authority, the administrative authority would be represented by its official and no lawyers are needed.

Please indicate the sources for answering the questions 24 and 26

Source for question 24 - legal aid statistics made by the Bar Association and the Ministry of Justice.

Source for question 26 - State Legal Aid Act.

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

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

- | | | |
|---|---|--|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): | <input checked="" type="checkbox"/> Yes | https://www.riigiteataja.ee/ert/ert.jsp ;
Translations: http://www.legaltext.ee |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.nc.ee/?id=11 ;
Translations: http://www.nc.ee/?id=823
Case law: http://kola.just.ee/ and
http://www.kohus.ee/kohtulahendid/index.aspx ; |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | practical information:
http://www.just.ee/10171 ;
forms (in Estonian):
http://www.kohus.ee/10294 |

32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

☐ Yes☒ No

If yes, please specify:

Still the advocate is required to notify a client of activities relating to the provision of legal services. The court has no such obligation.

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

☒ Yes☐ No

If yes, please specify:

This information is on web pages:

<http://www.kuriteoennetus.ee/39148;>

<http://www.sm.ee/tegevus/huvitised-ja-toetused/ohvriabi.html>

http://www.ensib.ee/frame_ohvriabi.html

34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	No	Yes	No	No
Victims of terrorism	No	Yes	No	No
Children/Witnesses/Victims	No	Yes	Yes	No
Victims of domestic violence	No	Yes	No	No
Ethnic minorities	No	No	No	No
Disabled persons	No	Yes	No	No
Juvenile offenders	No	Yes	Yes	No
Other	No	No	No	No

Comment :

35) Does your country have a compensation procedure for victims of crimes?

☒ Yes☐ No

36) If yes, does this compensation procedure consist in:

☒ a public fund?

☐ a court decision?

☐ a private fund?

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

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

37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?

- ☐ Yes
☒ No

If yes, please specify:

38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?

- ☐ Yes
☒ No

If yes, please specify:

39) Do victims of crimes have the right to contest to a decision of the public prosecution to discontinue a case?

- ☒ Yes
☐ No

If yes, please specify:

A victim has the right to contest a termination of criminal proceedings. A victim may file an appeal with a Prosecutor's Office or with the Public Prosecutor's Office.

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

40) Is there a system for compensating users in the following circumstances:

- ☐ excessive length of proceedings?
☐ non execution of court decisions?
☒ wrongful arrest?
☒ wrongful condemnation?

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

The compensating system is regulated by Compensation for Damage Caused by State to Person by Unjust Deprivation of Liberty Act.

They will be compensated for damage caused by unjust deprivation of liberty:

- persons who were held in custody with the permission of a court and criminal proceedings in whose matters were terminated at the stage of pre-trial investigation or in a preliminary hearing or persons with regard to whom a judgment of acquittal has entered into force;
- persons who were detained on suspicion of a criminal offence or released when the suspicion ceased to exist;
- persons who were held in prison and whose judgment of conviction has been annulled and criminal proceedings in whose matters were terminated or persons with regard to whom a judgment of acquittal has been made;
- persons whose period of imprisonment has exceeded the term of the punishment which was imposed on the person;
- persons with regard to whom unfounded coercive psychiatric treatment has been ordered by a court in connection with the commission of an unlawful act provided for in the Penal Code provided that a court ruling made with regard to such person has been annulled;
- persons who served detention provided that the judgment ordering detention has been annulled;
- persons who were unjustly deprived of liberty by a decision of an official authorised to deprive of liberty or without conducting disciplinary proceedings, misdemeanour proceedings or criminal proceedings if such proceedings were compulsory.

The following persons shall not be compensated for damage:

- persons who, in the course of examination or court hearing, caused the unjust deprivation of liberty by their false admission of guilt or other acts performed intentionally or due to gross negligence;
- persons who absconded proceedings or pre-trial proceedings regarding a criminal matter, violated the obligation arising from a preventive measure not to leave their residence without the permission of the corresponding official or court, escaped or were hiding.

In order to receive compensation, a written application shall be submitted to the Ministry of Finance within six months as of the date on which the right to receive the compensation arises. The amounts necessary for the payment of compensation shall be prescribed in the state budget.

Compensation in an amount of seven daily rates (days' wages) shall be paid to a person for each twenty-four hour period during which the person was unjustly deprived of liberty. The daily rates (days' wages) shall be calculated on the basis of the minimum monthly wage established by the Government of the Republic, valid on the date of entry into force of a decision (order) on release of a person. The daily rates (days' wages) shall be determined by dividing the minimum monthly wage by 30, without taking account of the fractional part. Deprivation of liberty for less than one twenty-four hour period is deemed to be deprivation of liberty for one twenty-four hour period.

In year 2008, the minimum monthly wage was 4350 kroons (278 euros).

41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction (with the services delivered by the judiciary system)?

- ☐ (Satisfaction) surveys aimed at judges
- ☒ (Satisfaction) surveys aimed at court staff
- ☐ (Satisfaction) surveys aimed at public prosecutors
- ☐ (Satisfaction) surveys aimed at lawyers
- ☐ (Satisfaction) surveys aimed at citizens (visitors of the court)

☐ (Satisfaction) surveys aimed at other clients of the courts

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

There has been one satisfaction survey aimed at court staff in year 2008. This was represented to the High Council of the Judiciary, but whole analysis has not been published.

42) If possible, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	No	Yes
Surveys at court level	No	No

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

☒ Yes

☐ No

44) If yes, please specify:

Please give elements of information concerning the efficiency of this complaint procedure:

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

Comment :

It is possible to file complaints to authorities authorised to start a disciplinary procedure or the Ministry of Justice.

The following have the right to commence disciplinary proceedings:

- the Chief Justice of the Supreme Court, against all judges;
- the Chancellor of Justice, against all judges;
- the chairman of a circuit court, against judges of courts of first instance in his territorial jurisdiction.
- the chairman of a court, against the judges of the same court;
- the Supreme Court en banc against the Chief Justice of the Supreme Court.

Although the Minister of Justice has no right of command or disciplinary authority over the judges, but the Minister of Justice exercises supervisory control over the performance of the duties by the chairmen of courts of first instance and chairmen of courts of appeal.

There is no time limit to respond.

There will be a procedure regulated in court proceedings act, that a participant can complain in a proceeding about excessive length of proceeding to the chairman of court. This change of law is now in Parliament to be adopted.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.

	Total number
First instance courts of general jurisdiction	4
Specialised first instance Courts (legal entities)	2
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	22

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

General courts solve all the cases concerning criminal, misdemeanour and civil cases. The only specialized courts are administrative courts. There are also 2 courts of second instance (courts of appeal or district courts) and Supreme court.

The courts of first instance have several courthouses. Both administrative courts have 2 courthouses, general courts have 3-6 official courthouses (in one court they are divided in 7 geographical locations).

Each geographical location was counted separately even in this case when some courts were in the same court building. For example: Tartu county; Tartu administrative and Tartu district court share the same house. If in this case the geographic location should be counted as one, instead of three, there are actually 23 geographical locations.

47) Is there a change in the structure in the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?

☐ Yes

☒ No

If yes, please specify:

48) Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
a debt collection for small claims	4
a dismissal	4
a robbery	4

Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):

There are several meanings for small claims:

- claims that can be filed to the order of payment procedure (up to 6391 euros). In 2008 they could be filed to any general court. Since 2009, these claims can only be filed electronically and are solved only in one courthouse.
- claims not over 2000 euros. In this case the court may adjudicate the case by way of simplified proceedings. All general courts are competent to solve these cases.

Please indicate the sources for answering the questions 45 and 48:

Sources for question 45 - Courts Act and Regulation of Minister of Justice about the territorial jurisdiction and locations of county and administrative courts and locations of the circuit courts.
Sources for question 48 - Courts Act and Code of Civil Procedure

3. 1. 2. Judges, courts staff

49) Number of professional judges sitting in courts (please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA)

Please provide comments to explain the answer under question 49:

Number . 238

Comment :

There are 219 in courts of first and second instance. In the Supreme Court are 19 judges.

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

	Number
gross figure	NAP
if possible, in full time equivalent	NAP

51) Please provide comments to explain the answer under question 50:

There are no part time judges in Estonia - the legislation does not allow for a judge to work part time.

52) Is there in the legal system non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).

Please provide comments to explain the answer under question 52:

	Yes	Number
Do you have non-professional judges?	Yes	582

Comment :

Lay judges may participate in the administration of justice in county courts on the bases and pursuant

to the procedure provided by the Codes of procedure.

Lay judges are only used in criminal matters concerning criminal offences in the first degree in county courts (courts of first instance). The court panel consists in this case of the presiding judge and two lay judges.

53) Does your judicial system include trial by jury with the participation of citizens?

☐ Yes

☒ No

If yes, for which type of case(s)?

Comment: Although we have lay judges, it may not be considered as a jury typical to Anglo-American law system.

54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?

NAP

55) Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.

Please provide comments to explain the answer under question 55:

Number . 990

Comment :

900 are working in the courts of first and second instance; 90 are working in the Supreme Court.

56) If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

- | | | |
|---|---|-----|
| - non-judge staff (Rechtspfleger or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal | <input checked="" type="checkbox"/> Yes | 83 |
| - non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars | <input checked="" type="checkbox"/> Yes | 479 |
| - staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) | <input checked="" type="checkbox"/> Yes | 334 |
| - technical staff | <input checked="" type="checkbox"/> Yes | 94 |

Comment :

The staff divides between courts of first and second instance (first number) and the Supreme Court as follows:

- Rechtspfleger: 83 (only in courts of first instance);

- assisting the judge: 443/36
- administrating: 292/42
- technical: 82/12.

57) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and functions:

Rechtspfleger in Estonia are called assistant judges. An assistant judge is a court official who performs the duties specified by law. Upon performance of his or her duties, an assistant judge is independent but shall comply with the instructions of a judge to the extent prescribed by law.

Assistant judges are competent to make entries in a register and enter rulings concerning the maintenance of a register therein, including rulings which impose a fine. These registers involve land register, marital property register, succession register, commercial register, non-profit associations and foundations register, commercial pledge register and ship register. Assistant judges are also competent in civil cases to assist judges in preparing the case for hearing and in some non-litigious cases when prescribed by law.

3. 1. 3. Prosecutors

58) Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Number . 189

Comment :

59) Do any other persons have similar duties as public prosecutors?

- ☐ Yes
☒ No

If yes, please specify:

60) Number of staff (non prosecutors) attached to the public prosecution service (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Please provide comments to explain the answer under question 60:

Number . 88

Comment :

3. 1. 4. Court budget and new technologies

61) Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	Yes	No	No	Yes

Court administrative director	Yes	Yes	Yes	Yes
Head of the court clerk office	No	No	No	No
Other	No	No	No	No

62) You can indicate below:

- any useful comments for interpreting the data mentioned above
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process in the court

Arbitration and allocation: in courts of first and second instance, the administrative director is responsible; in the Supreme Court the Court President is responsible.

Day to day management - in courts of first and second instance, the head of court clerk office is also responsible next to the administrative director; in the Supreme Court only the administrative director is responsible.

Evaluation: in the Supreme Court, the evaluation is also made by the Court President and the Management Board.

63) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Word processing	Yes	No	No	No
Electronic data base of jurisprudence	Yes	No	No	No
Electronic files	Yes	No	No	No
E-mail	Yes	No	No	No
Internet connection	Yes	No	No	No

64) For administration and management, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	Yes	No	No	No
Court management information system	Yes	No	No	No
Financial information system	Yes	No	No	No

65) For the communication between the court and the parties, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	Yes	No	No	No
Special Website	No	No	Yes	No
Other electronic communication facilities	Yes	No	No	No

66) Is there a centralised institution which is responsible for collecting statistical data

regarding the functioning of the courts and judiciary?

- ☒ Yes
☐ No

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

Ministry of Justice
Tõnismägi 5a, 15191, Tallinn, Estonia
e-mail: info@just.ee

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and evaluation

67) Are the courts required to prepare an annual activity report?

- ☐ Yes
☒ No

68) Do you have a regular monitoring system of court activities concerning the

- ☒ number of incoming cases?
☒ number of decisions?
☐ number of postponed cases?
☒ length of proceedings (timeframes)?
☒ other?

Please specify:

We also have monitoring system for results of proceedings; categories of cases; and how many decisions are appealed and revoked, fully or partially. We also monitor the waiting time and the "age" of pending (not solved) cases.

69) Do you have a regular system to evaluate the performance of each court?

- ☒ Yes
☐ No

Please specify:

These statistical overviews (question 68) are made at least twice a year and then discussed individually with the chairmen and in the Council for Administration of Courts.

70) Concerning court activities, have you defined performance indicators (if no, go to question 72)?

- ☒ Yes
☐ No

71) Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:

- ☐ incoming cases
- ☒ length of proceedings (timeframes)
- ☐ closed cases
- ☒ pending cases and backlogs
- ☐ productivity of judges and court staff
- ☒ percentage of cases that are treated by a single sitting judge
- ☐ enforcement of penal decisions
- ☐ satisfaction of employees of the courts
- ☐ satisfaction of clients (regarding the services delivered by the courts)
- ☐ judicial quality and organisational quality of the courts
- ☒ costs of the judicial procedures
- ☐ other:

Please specify:

We do not have numerical indicators (for example - a judge should solve 400 cases per year), but we compare the results to previous years and if the number of closed cases is higher or lower then the number of incoming cases.

The detailed performance indicator's were set with the chairmen in year 2008 (for 1 year), for example on of the indicators were, that by the end of the year there should not be any "old cases" (more then 2 years old) more then a certain percent. This was called "protocol for collective intentions".

About the costs of judicial procedures - this is one of our goals to get these statistics. This environment and statistical means are not ready yet, but we are active in this area.

72) Are there performance targets defined for individual judges (if no go to question 74) ?

- ☐ Yes
- ☒ No

73) Please specify who is responsible for setting the targets:

- ☐ executive power (for example the ministry of Justice)?
- ☐ legislative power
- ☐ judicial power (for example a High Judicial Council or a Higher Court)
- ☐ other

If other, please specify:

74) Are there performance targets defined at the level of the courts (if no go to question 77)?

- ☒ Yes
- ☐ No

75) Please specify who is responsible for setting the targets:

- ☒ executive power (for example the ministry of Justice)?
- ☐ legislative power
- ☒ judicial power (for example a High Judicial Council or a Higher Court)
- ☐ other

If other, please specify:

As said before (question 71), there have been and probably will be in the future so-called "protocols for collective intentions". The targets are set together with the chairman of a court and the Ministry of Justice. Due to a financial crisis, in year 2009, none of these protocols were concluded.

76) Please specify the main targets applied

For example on of the indicators were, that by the end of the year there should not be any "old cases" (more then 2 years old) more then a certain percent.

77) Which authority is responsible for the evaluation of the performances of the courts:

- ☒ High Council of judiciary
- ☒ Ministry of justice
- ☐ inspection authority
- ☒ Supreme Court
- ☐ external audit body
- ☒ other

If other, Please specify:

Also - chairman of the court; chairman of the court of appeal (over the courts of first instance); in some cases also Chancellor of Justice (ombudsman).

78) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?

- ☐ Yes
- ☒ No

If yes, please specify:

79) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?

- ☐ Yes
- ☒ No

80) Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:

- ☒ civil cases?

☒ criminal cases?

☒ administrative cases?

81) Do you have a way of analysing waiting time during court procedures?

☒ Yes

☐ No

If yes, please specify:

Ministry of Justice will send the extract of the courts information system to the chairman of court.

82) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

☒ Yes

☐ No

Please specify (including an indication of the frequency of the evaluation):

There are no periodic visits, but ad hoc visits are made if problems occur. The Ministry of Justice supervises the Land Registry and Commercial Register departments, also the order for payment divisions and chancellery. The administering of justice is not supervised or evaluated during these visits. Rather are the visits about working conditions in a court - if the chairman and director of court are doing everything in organizing the court's work to guarantee that administering of justice (work of judge) can be as fair, quick and optimal as possible.

83) Is there a system for monitoring and evaluating the functioning of the prosecution services?

☐ Yes

☒ No

If yes, please specify:

You can indicate below:

- ☐ any useful comments for interpreting the data mentioned in this chapter
- ☐ the characteristics of your court monitoring and evaluation system

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

84) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

NA

85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

☒ Yes

☐ No

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

NA

86) Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	0	0	0	0
Civil proceedings - Article 6§1 (non-execution)	0	0	0	0
Criminal proceedings - Article 6§1 (duration)	0	0	0	0

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

☒ civil cases?

☒ criminal cases?

☒ administrative cases?

Please specify:

In civil cases there is a possibility to secure action. It means that the court may secure an action at the request of the plaintiff if there is reason to believe that failure to secure the action may render compliance with the judgment difficult or impossible. The measures are for example judicial mortgage on an immovable, seizure of the defendant's property, prohibition on the defendant from performing certain acts, including a restraining order or prohibition on a defendant from departing from his or her residence, taking the defendant into custody and imposition of detention on the defendant. In a matrimonial matter, maintenance matter or other family matter, the court may also regulate the rights of parents to a common child; communication of a parent with a child; surrender of a child to the other parent; or other matters related to marriage and family which need to be settled expeditiously due to the circumstances.

By Code of Criminal Procedure - If a person is suspected of a criminal offence in the second degree and the facts relating to the subject of proof of which are explicit and all necessary evidence concerning which have been collected, the Prosecutor's Office may request that the court adjudicate that criminal matter pursuant to expedited procedure. The request shall be made within forty-eight hours after the person has been interrogated as a suspect directly after commission of the criminal offence or after the person has been detained as a suspect.

In administrative matters, the filing of an action or protest shall not prevent the execution or issue of an administrative act or taking of a measure against which the action or protest is filed unless otherwise provided by law. This means that an administrative court may issue a ruling on the provisional protection of the rights of a person filing an action in all stages of proceedings at the reasoned request of the person filing the action or on its own initiative, if otherwise execution of a court judgment is impracticable or impossible. The court may apply the measures for securing an action; suspend the validity or execution of a contested administrative act; prohibit the issue of a contested administrative act or taking of a contested measure; or require an administrative authority to issue an administrative act being applied for or take a measure being applied for or terminate a continuing measure. There is also one other special urgent procedure: granting of permission to perform administrative acts - an administrative judge sitting alone will, without holding a court session, immediately hear an application and adjudicate the grant of permission to take an administrative measure, unless otherwise prescribed by law. As an exception, the grant of permission may be adjudicated without holding a court session and outside the working hours of the court.

88) Are there simplified procedures for:

- ☒ civil cases (small claims)?
- ☒ criminal cases (petty offences)?
- ☐ administrative cases?

Please specify (for example if you have introduced a new law on simplified procedures):

In civil cases we have order of payment as a simplified procedure. As an other option - in justified cases, an action with a value not more than 20 000 kroons (1278 euro) may be adjudicated by way of simplified proceedings at the discretion of the court, taking account of only the general procedural principles provided by Code of Civil Procedure. As a third option - at the request of the plaintiff, an action for payment of money arising from a bill of exchange or cheque, or an action for compulsory execution arising from a mortgage or maritime mortgage can be heard by way of documentary proceedings if all the facts in proof of the claim can be supported by documents and all necessary documents are annexed to the action or the plaintiff is able to submit them to the court within the term set thereby.

In criminal cases there are many simplified procedures: alternative proceeding, settlement proceeding, summary proceeding and expedited proceeding.

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

☒ Yes

☐ No

If yes, please specify:

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

4. 2. 2. Penal, civil and administrative law cases

90) Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*	74161	279192	259078	94275
1 Civil (and commercial) litigious cases*	12318	19778	19630	12466
2 Civil (and commercial) non-litigious cases*	39648	73615	50522	62741
3 Enforcement cases	147	483	368	262
4 Land registry cases**	5292	115560	117082	3770
5 Business register cases**	15823	67020	68719	14124
6 Administrative law cases	933	2736	2757	912
7 Other	NAP	NAP	NAP	NAP
Total criminal cases (8+9)	3112	33550	32080	4582
8 Criminal cases (severe criminal offences)	767	19984	19768	983
9 Misdemeanour and / or minor offences cases	2345	13566	12312	3599

91) Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):

The number for resolved cases does not represent the same number as in official statistics of Estonia - we do not have the formula (pending+incoming-resolved=pending), because there are also cases which have been joined, separated or forwarded to the appropriate court (in case of incorrect jurisdiction).

Land registry cases and business register cases involve both - cases solved in the registry departments as a everyday action (company registration, selling of immovable) and cases solved by the court (the judge) if there is a dispute over rights and obligations. If these numbers are needed separately:

Land registry cases (solved by departments/by courts): pending 01.01.08 (4670/622); incoming (115020/540); resolved (116426/656); pending 31.12.08 (3264/506).

Business registry cases (solved by departments/by courts): pending 01.01.08 (15596/227); incoming (66446/574); resolved (68126/593); pending 31.12.08 (13916/208).

These numbers show, that the registration is very active, but there are only some disputes, which need solving by the judge.

The numbers for civil cases also represent cases solved by assistant judges (independent court clerks or Rechtspfleger).

The number for criminal and misdemeanour cases show all the cases solved under the Code of Criminal Procedure and Code of Misdemeanour Procedure. This means that the case number does not only show the cases where a punishment is judged. This number also shows other procedures solved under these codes, for example: appealing against decisions of bodies conducting extra-judicial proceedings, substitution of fine by detention, premature release of convicted, preliminary investigation, international co-operation, legal aid and so on.

Criminal cases are offences for which the principal punishment in the case of natural persons is a pecuniary punishment or imprisonment and in the case of legal persons, a pecuniary punishment or compulsory dissolution.

Misdemeanour cases are offences for which the principal punishment is a fine or detention.

92) Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 91.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*	1074	3869	3559	1384
1 Civil (and commercial) litigious cases*	573	1803	1588	788
2 Civil (and commercial) non-litigious cases*	65	347	341	71
3 Enforcement cases	23	91	86	28
4 Land registry cases**	47	256	246	57
5 Business register cases**	16	166	161	21
6 Administrative law cases	342	1161	1102	401
7 Other	8	45	35	18
Total criminal cases (8+9)	82	2311	2251	142
8 Criminal cases (Severe criminal offences)	79	2143	2087	135
9 Misdemeanour and/or minor offences cases	3	168	164	7

Comment :

Same comments for criminal cases apply as for question 91.

Other cases (nr 7) mentioned here, are the cases, which are presented directly to the court of second

instance: petitions for annulment of a decision of an arbitral tribunal and complaints on the decision of appeal committee located by the Public Procurement Office.

93) Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 88.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	54	283	251	86
1 Civil (and commercial) litigious cases*	21	158	145	34
2 Civil (and commercial) non-litigious cases*	NAP	NAP	NAP	NAP
3 Enforcement cases	2	20	14	8
4 Land registry cases**	0	1	0	1
5 Business register cases**	0	1	0	1
6 Administrative law cases	31	103	92	42
7 Other	NAP	NAP	NAP	NAP
Total criminal cases (8+9)	21	96	91	26
8 Criminal cases (severe criminal offences)	15	51	49	17
9 Misdemeanour cases (minor offences)	6	45	42	9

Comment :

The Supreme Court is the court of cassation, therefore only those cases are heard which have been given leave to appeal. The data presented shows the number of incoming/resolved/pending cases which have been actually heard by the Supreme Court (e.g. those cases have been granted the leave to appeal, they are declared admissible). Records are maintained on court cases, not appeals, i.e. there may be several appeals in one court case.

Comments:

Line 2 of the table – the Supreme Court of Estonia does not collect statistical data separately for litigious and non-litigious cases.

Line 8 of the table - a criminal offence is a serious offence the principal punishment prescribed for which is a pecuniary punishment or imprisonment.

Line 9 of the table - a misdemeanour offence is an offence the principal punishment prescribed for which is a fine or detention.

94) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please

indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*	111	906	624	393
Employment dismissal cases*	464	575	550	489
Robbery cases	34	110	102	42
Intentional homicide	55	87	84	58

95) Average length of proceeding (from the date of lodging of court proceedings) in days, number of pending cases more than 3 years and percentage of cases subject to appeal: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 92:

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	0,5	0	91	30	90
Employment dismissal cases*	24,3	8,7	387	150	553
Robbery cases	14,5	0	113	141	254
Intentional homicide	70,0	0	275	289	478

Comment :

About employment dismissal cases - in Estonia, it is not possible or also reasonable to divide dismissal cases from the employment cases. All these cases are marked as employment cases, but almost each and every one of them is connected to a dismissal case.

The numbers for robbery and intentional homicide cases may not be 100% accurate - attempts may not been fully excluded.

Question 95 - under the question "total procedure/average total length" are given average lengths for cases, proceeded in I and II instance (where the decision of first instance has been appealed on). So this lengths covers the average length of a proceeding solved in two instances.

96) Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:

Divorce is litigious case.

A vital statistics office or a court grants a divorce.

A court grants a divorce at the request of a spouse if:

- the spouses disagree about the divorce,
- together with the divorce a spouse desires to resolve disputes concerning a child and disputes concerning support or division of joint property or
- a vital statistics office is not competent to grant the divorce (for example one of spouses does not reside in Estonia).

Upon granting a divorce, a court shall, at the request of the spouses, settle disputes concerning a child and disputes concerning support or division of joint property. If a court does not satisfy a petition for divorce, requests in disputes concerning a child, support or division of joint property shall not be heard.

There are no procedural differences in courts proceedings.

97) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

The length of proceeding is given as a arithmetical average. The beginning of a proceeding is filing the case to the court. The end on proceeding is a final decision which ends the proceeding. The suspension of proceeding is taken into consideration; the time for judgment to enter into force, is not.

98) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):

- ☒ to conduct or supervise police investigation
- ☒ to conduct investigation
- ☒ when necessary, to demand investigation measures from the judge
- ☒ to charge
- ☒ to present the case in the court
- ☒ to propose a sentence to the judge
- ☒ to appeal
- ☐ to supervise enforcement procedure
- ☒ to end the case by dropping it without the need for a judicial decision
- ☐ to end the case by imposing or negotiating a penalty without a judicial decision
- ☐ other significant powers

Please specify:

99) Does the prosecutor also have a role in civil and/or administrative cases?

- ☐ Yes
- ☒ No

Please specify:

100) Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 100 and indicate in particular if the data given include traffic offences:

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	40860	15808	7045	3424	4014	NA

Comment :

www.just.ee/44763

40860- total number of proceedings

15808 – Code of Criminal Procedure (CCP) §2001

7045 – CCP §200

3424 – CCP §201-205

4014 – agreement process
(NA) -number of cases is included in 3424 (CCP §202).

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years**

About question 86 - there were two cases in year 2008, which were solved with a "strike out":
Treial vs Estonia: the Government was prepared to pay to the applicant the global sum of 2500 euros. The court decided to strike the application out of its list of cases. The other case was Kärberg vs Estonia, where the applicant withdrew his application and the case was stroke out.

Please indicate the sources for answering the questions 90 to 95 and 100:

Ministry of Justice

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recruitment, nomination and promotion

101) How are judges recruited?

- ☐ Through a competitive exam (for instance after a law degree)?
- ☐ A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- ☐ A combination of both
- ☒ Other

Other, please specify:

A person who has undergone judge's preparatory service or is exempted therefrom and has passed a judge's examination may be appointed as a judge of a county or administrative court.

A person who is an experienced and recognised lawyer and who has passed a judge's examination may be appointed as a judge of a circuit court (second instance). A person who worked as a judge directly before appointment shall be exempted from the judge's examination.

A person who is an experienced and recognised lawyer may be appointed as a justice of the Supreme Court.

Judges shall be appointed to office on the basis of a public competition.

A candidate for judicial office shall undergo preparatory service in the judicial institution where the candidate for judicial office is appointed to office. A part of the preparatory service shall be carried out in other courts specified in the preparatory service plan of the candidate for judicial office so that the candidate for judicial office would have undergone preparatory service in a county court, an administrative court and a circuit court.

A person who is an experienced and recognised lawyer and with regard to whom the judge's examination committee finds without doubt that past experience enables the person to assume the office of judge without undergoing preparatory service may be exempted from preparatory service by a reasoned decision of the judge's examination committee. The judge's examination committee may reduce the preparatory service of a person by up to one year if the person has worked as an advocate or prosecutor, consultant of court, law clerk or judge for at least two years.

A judge's examination shall consist of an oral and a written part: oral part of a judge's examination means the assessment of the theoretical knowledge of a candidate for judicial office; written part of a judge's examination means case analysis. The results of the parts of a judge's examination are evaluated by the examination committee.

A candidate for judicial office must pass a security check before being appointed judge, for which he or she shall submit, through the judge's examination committee, the form used to apply for an access permit to state secrets classified as top secret, and his or her consent for collection of information concerning him or her.

The judge's examination committee forwards its decision and the information obtained as a result of the security check to the Supreme Court en banc and notify the examinee thereof. The Supreme Court en banc makes a proposal to the President of the Republic to appoint a judge to office.

102) Are judges initially/at the beginning of their carrier recruited and nominated by:

- ☐ An authority composed of judges only?

- ☐ An authority composed of non-judges only?
- ☒ An authority composed of judges and non-judges?

103) Is the same authority competent for the promotion of judges?

- ☒ Yes
- ☐ No

If no, please specify which authority is competent for the promotion of judges:

104) Which procedures and criteria are used for promoting judges? Please specify.

There is not special procedure for "promoting". If a position of judge is vacant, a public competition for a vacant position of judge is announced. The judges will candidate on the same basis as other candidates, except - a person who worked as a judge directly before appointment shall be exempted from the judge's examination for position of judge of a circuit court.

105) How are prosecutors recruited?

- ☐ Through a competitive exam? (for example after a law degree)
- ☐ A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- ☒ A combination of both
- ☐ Other

Other, please specify:

106) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- ☐ An authority composed of prosecutors only?
- ☐ An authority composed of non-prosecutors only?
- ☒ An authority composed of prosecutors and non-prosecutors?

107) Is the same authority formally responsible for the promotion of prosecutors?

- ☐ Yes
- ☒ No

If no, please specify which authority is competent for promoting prosecutors:
We do not have promotion system for prosecutors.

108) Which procedures and criteria are used for promoting prosecutors? Please specify:

109) Is the mandate given for an undetermined period for judges?

☒ Yes

☐ No

Are there exceptions? Please specify:

Judges are appointed for life. Chairmen of courts and manager of courthouses are appointed for certain time-period, but upon release of the duties of this position, they will retain the authority of a justice in this court, unless released from the office of judge.

110) Is there a probation period for judges? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for judges	Yes	3

111) Is the mandate given for an undetermined period for prosecutors?

☒ Yes

☐ No

Are there exceptions? Please specify:

Prosecutor General and Chief Prosecutors are appointed for a five year period.

112) Is there a probation period for prosecutors? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for prosecutors	No	

113) If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the mandate? Is it renewable?

Please specify the length

for judges? ☐ Yes

for prosecutors? ☐ Yes

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
☐ **the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years**

About question 102 - The judge's examination committee is comprised of two judges of the court of first instance elected by the Court en banc, two circuit court judges, two justices of the Supreme Court, one jurist designated by the council of the Law Faculty of the University of Tartu, a representative of the Ministry of Justice designated by the Minister of Justice, a sworn advocate designated by the leadership of the Bar Association and a public prosecutor designated by the Chief Public Prosecutor.

The prosecutors' competition and evaluation committee is comprised of the Chief Public Prosecutor, one prosecutor of the Public Prosecutor's Office, a total of two prosecutors from the district prosecutor's offices, one judge elected by the Court en banc, 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.

About question 109 - two kind of "probation periods" may be specified: preparatory service or a period when the judge has worked as such less than 3 years. About the last criteria: A person may be released from the office of judge due to unsuitability for office only within three years after appointment to office. Once a year, chairmen of courts shall submit their opinion concerning judges of less than three years length of service employed in the corresponding courts to the judge's examination committee. Usually, if a judge is released under these conditions, it means, that the person does not have suitable personal characteristics. During the years, only one judge has been released due this reason.

There is no probation period for prosecutors.

5. 1. 2. Training

114) Nature of the training of judges. Is it compulsory?

- ☐ Initial training
- ☒ General in-service training
- ☐ In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
- ☐ In-service training for management functions of the court (e.g. court president)
- ☐ In-service training for the use of computer facilities in the court)

115) Frequency of the training of judges

	Annual	Regular	Occasional
Initial training	No	No	No
General in-service training	Yes	No	No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Yes	No	No
In-service training for management functions of the court (e.g. court president)	No	No	No
In-service training for the use of computer facilities in the court	Yes	No	No

116) Nature of the training of prosecutors. Is it compulsory?

- ☒ Initial training
- ☒ General in-service training
- ☒ Specialised in-service training (specialised public prosecutor)
- ☒ In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- ☐ In-service training for the use of computer facilities in the public prosecution service)

117) Frequency of the training of prosecutors

	Annual	Regular	Occasional
--	--------	---------	------------

Initial training	No	Yes	No
General in-service training	No	Yes	No
Specialised in-service training (specialised public prosecutor)	No	Yes	No
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	Yes	No	No
In-service training for the use of computer facilities in the public prosecution service)	No	No	Yes

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court**
- ☐ **the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years**

Pursuant to the Courts Act a judge is required to develop knowledge and skills of his or her speciality on a regular basis and to participate in training. The Training Council one of the self-management bodies of the judiciary is responsible for the planning of the training of judges and is entitled to determine that a completion of a part of an annual training is mandatory for judges.

Training used to be organized by the Estonian Law Centre Foundation, which was established specifically for the training of judges. There are academic requirements to become a judge, but no special initial training (although there are courses for young judges). Neither do judges have special training in management functions. General in-service training covers mainly topics concerning new legislation, new case law, computer skills, psychology, case management, judicial opinion writing etc.

Annual training programs are composed mainly for specialised judges (criminal, administrative, civil), but there are no access limitations to trainings depending of the specialisation of a judge. Also, in smaller court houses there are judges who are not specialised and can hear both civil and criminal cases. Exceptional are administrative judges, who deal only with administrative cases. The curricula covers also the European Convention on Human Rights and the case-law of the Human Rights Court to the extent considered necessary on the basis of training needs analysis. The main characteristics of the Estonian judicial training system are described above and extensive reforms have not been carried out in the past few years.

Since 1 January 2009, instead of the Estonian Law Centre Foundation, the Supreme Court provides support services to the Training Council. To that end a training department was set up within the Supreme Court.

About question 117 - Initial training takes place regularly, immediately when the new prosecutor starts work. Annual training has been composed with the principle that General in-service training as well as Specialised in-service training, which are both necessary in prosecutors' everyday work, take place regularly.

As computer skills are one of the expectancies of employing people, In-service training for the use of computer facilities in the public prosecution service take place occasionally, in case there is a certain need for the training or changes have occurred in the systems, which needs training occasionally.

5. 2. Practice of the profession

5. 2. 1. Salaries

118) Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 118:

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career	34776	27835
Judge of the Supreme Court or the Highest Appellate Court	47817	38138
Public prosecutor at the beginning of his/her career	22085	16988
Public prosecutor of the Supreme Court or the Highest Appellate Instance	36692	28205

Comment :

Upon calculating the net annual salary the minimum exempt from income tax (27 000 EEK per year) and income tax (21%) were deducted from the gross annual salary. In addition to a salary judges receive additional remuneration for years of service, which is not included in the figures provided. As of the fifth year in employment as a judge the additional remuneration is 5% of the official salary, as of the tenth year 10% and as of the fifteenth year 15% of the official salary.

For 2009 and 2010 the official salaries of judges, including the Supreme Court justices, are temporarily decreased by 8% as compared to the salary level of 2008 (on the basis of Temporary Payment of Salaries Based on the Average Wages Act).

119) Do judges and public prosecutors have additional benefits?

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

120) If other financial benefit, please specify:

- survivor's pension for judge's family member;
- allowance upon death of judge
- A judge who is released from office due to liquidation of the court or closure of a courthouse or reduction of the number of judges shall be paid the six months' salary of his or her last position.
- If a judge of a higher court is appointed, due to liquidation of the court or reduction of the number of judges, as a judge of a lower court with his or her consent, he or she shall retain the salary of the previous position together with additional remuneration during one year.

Prosecutors have no other benefits.

121) Can judges combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No

Research and publication	No	No	No
Arbitrator	No	No	No
Consultant	No	No	No
Cultural function	No	No	No
Other function	Yes	No	No

122) If other function, please specify:

A judge may be active for research, but not in the sense as in the explanatory note: the judge may do research in a university or other scientific body. As a part of scientific study, a judge may be active in drafting of legal norms. No publication of articles in newspapers is allowed.

A judge shall notify of his or her employment other than in the office to the chairman of the court. Employment other than in the office of judge shall not damage the performance of official duties of a judge or the independence of a judge upon administration of justice.

123) Can prosecutors combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	Yes
Consultant	No	No	Yes
Cultural function	No	No	Yes
Other function	No	No	No

124) If other function, please specify:**125) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

☐ Yes

☒ No

If yes, please specify:

Please indicate the source for answering the question 118

Courts Act for judges and a regulation of the Government of the Republic for prosecutors.

5. 2. 2. Disciplinary procedures**126) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

For judges:

The following have the right to commence disciplinary proceedings:

- the Chief Justice of the Supreme Court, against all judges;

- the Chancellor of Justice, against all judges;
- the chairman of a circuit court, against judges of courts of first instance in his territorial jurisdiction.
- the chairman of a court, against the judges of the same court;
- the Supreme Court en banc against the Chief Justice of the Supreme Court.

By the Prosecutor's Office Act the following have the right to initiate disciplinary proceedings against prosecutors:

- 1) the Minister of Justice and the Chief Public Prosecutor against all prosecutors
- 2) a leading prosecutor against prosecutors who serve in his or her subordination.

127) Which authority has the disciplinary power on judges and prosecutors? Please specify:

For judges: For the adjudication of disciplinary matters of judges, the Supreme Court shall comprise the Disciplinary Chamber which is comprised of five justices of the Supreme Court, five circuit court judges and five judges of courts of the first instance. A judge on whom a disciplinary punishment is imposed may file an appeal to the Supreme Court en banc within thirty days after the decision is pronounced. This means that both the Disciplinary Chamber and the Supreme Court en banc have disciplinary powers on judges.

By the Prosecutor's Office Act the following have the right to impose disciplinary penalties on a prosecutor:

- 1) the Minister of Justice on the proposal of the prosecutors' disciplinary committee on all prosecutors
- 2) the Chief Public Prosecutor on the proposal of the prosecutors' disciplinary committee on all prosecutors.

128) Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 128:

	Judges	Prosecutors
Total number (1+2+3+4)	4	0
1. Breach of professional ethics	0	0
2. Professional inadequacy	4	0
3. Criminal offence	0	0
4. Other	NAP	NAP

Comment :

In 2008 the disciplinary chamber of the Supreme Court adjudicated four disciplinary cases initiated against three judges in relation to inappropriate performance of official duties. Against one judge proceedings were initiated on two occasions. In two cases the disciplinary proceedings were initiated by a chairman of a circuit court, in one case by a chairman of a county court and in one case by the Chief Justice of the Supreme Court.

129) Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 129

	Judges	Prosecutors
Total number (total 1 to 9)	4	0
1. Reprimand	2	0
2. Suspension	0	0
3. Withdrawal of cases	NAP	0
4. Fine	1	0
5. Temporary reduction of salary	0	0
6. Degradation of post	NAP	0
7. Transfer to another geographical (court) location	NAP	0
8. Dismissal	0	0
9. Other	1	0

Comment :

In three of the cases adjudicated judges were found guilty of a disciplinary offence. One disciplinary proceeding was terminated due to the fact that the judge resigned from the service during the proceedings (line 9 of the table). Removal from service (line 2 of the table) is not a separate disciplinary punishment in Estonia. The disciplinary chamber may remove a judge from service for the period of deciding on the commencement of a disciplinary proceeding or the adjudication of the disciplinary matter concerning the judge. In that case the disciplinary chamber is entitled to reduce the salary of the judge for the period. The salary may be reduced by not more than a half. The chairman of the court may assign duties other than the administration of justice to a judge who is temporarily removed from service.

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
☐ **the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years**

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

130) Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).

665 lawyers.

131) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 133.

- ☐ Yes
- ☒ No
- ☐ Not applicable

132) Number of legal advisors. If there is no data available, please indicate it (NA)

NAP

133) Do lawyers have a monopoly of representation in (multiple options are possible):

- ☐ Civil cases*?
- ☒ Criminal cases - Defendant*?
- ☐ Criminal cases - Victim*?
- ☐ Administrative cases*?

* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases:

In civil and administrative cases before the Supreme Court, the representative must be a sworn advocate. In first and second instance the representatives may also be:

- persons who have completed the national curriculum of academic legal studies;
- procurists in all court proceedings related to the economic activities of a participant in a proceeding;
- one plaintiff on the authorisation of the co-plaintiffs or one defendant on the authorisation of the co-defendants;
- ascendants, descendants and spouses of participants in proceedings;
- other persons whose right to act as a contractual representative is provided by law.

A public servant or employee of a participant in a proceeding may act as a contractual representative of the participant in the proceeding if the court considers him or her to have sufficient expertise and experience to represent the participant in the proceeding.

In criminal cases - if victim requests legal aid, the representative provided by state will be a lawyer. A contractual representative of victim must be an advocate or any other person who has acquired Master's Degree in law on the basis of an accredited curriculum or has a foreign certificate of higher education concerning completion of equivalent studies.

134) Is the lawyer profession organised through?

- ☒ a national bar?
- ☐ a regional bar?
- ☐ a local bar?

Please specify:

Estonian Bar Association, founded on 14 June 1919, is a self-governing professional association which organises the provision of legal services in private and public interests and protects the professional rights of advocates. The Bar Association is a legal person in public law. The Bar Association operates pursuant to the law, legal acts of the bodies of the Bar Association, and good morals. The Bar Association may be dissolved only by an Act.

The bodies of the Bar Association are the general assembly, the Board, the Chairman, the audit committee, the court of honour and the professional suitability assessment committee. The general assembly is the highest body of the Bar Association. The general assembly consists of all members of the Bar Association. The legal acts and resolutions adopted by the bodies of the Bar Association are mandatory for the members of the Bar Association.

Please indicate the source for answering the questions 130 and 132:

The Bar Association

6. 1. 2. Training

135) Is there a specific initial training and/or examination to enter the profession of lawyer?

- ☒ Yes
- ☐ No

136) Is there a mandatory general system for lawyers requiring continuing professional training?

- ☒ Yes
- ☐ No

137) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

- ☐ Yes
- ☒ No

If yes, please specify:

6. 1. 3. Fees

138) Can users establish easily what the lawyers' fees will be?

- ☐ Yes
- ☒ No

Please provide comments to explain the answer under question 138

An advocate's fee will be agreed upon in a contract with a client. An advocate is required to notify a client of all costs. An advocate is required to issue an invoice to a client regarding the advocate's fee and the costs of legal services; the amounts of the fee and the costs of legal services shall be separately indicated in the invoice.

By the code of conduct - the relationship between the attorney and his client is founded upon trust. Therefore, all information given or received by him in the course of rendering legal services, is confidential. The confidentiality requirement shall also extend to include the fact of seeking legal assistance from the advocate, as well as to the content of such legal assistance and to the fees.

139) Are lawyers fees

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

Please provide comments to explain the answer under question 139:

An advocate's fee will be agreed upon in a contract with a client. The management of a law office or an advocate makes the first proposal to the client as to the amount of a fee and explain the grounds for the formation of the fee.

The Bar Association may not set limits to advocates' fees. If a client finds that a claim for an advocate's fee or the costs of legal services is unsubstantiated, the client may contest the claim in the court of honour of the Bar Association.

By the code of conduct - An attorney may render pro bono legal services. An attorney shall inform his client of the availability of state legal aid where applicable. Where the state has paid for the legal assistance, the attorney shall not be justified in charging any retaining or other fees as compensation for any of his costs or expenses from the client.

6. 2. Evaluation

6. 2. 1. Complaints and sanctions

140) Have quality standards been formulated for lawyers?

- ☒ Yes
- ☐ No

141) If yes, who is responsible for formulating these quality standards:

- ☒ the bar association?
- ☒ the legislature?
- ☐ other?

Please specify (including a description of the quality criteria used):

There are quality criteria in the Bar Association Act and in the Code of Conduct. Last one is adopted by the Bar Association itself.

Some formal quality criteria are in the law:

A person may be admitted to the Bar Association, if he or she has fulfilled an accredited law curriculum of academic studies, has oral and written proficiency in Estonian and is honest and of high moral character. An advocate is required to use all means and methods which are in conformity with law in the interests of a client while preserving his or her professional honour and dignity and continuously enhance their professional knowledge and expertise.

The Code of Conduct is very detailed and can be found on web page:

[http://www.advokatuur.ee/?](http://www.advokatuur.ee/?id=175&PHPSESSID=438620cd3bcc565592e29441bc0ca667)

[id=175&PHPSESSID=438620cd3bcc565592e29441bc0ca667](http://www.advokatuur.ee/?id=175&PHPSESSID=438620cd3bcc565592e29441bc0ca667).

142) Is it possible to complain about

☒ the performance of lawyers?

☒ the amount of fees?

Please specify:

These matters can be complained about to the court of honour, which will hear matters concerning disciplinary offences committed by advocates, and other matters which are placed within the competence of the court of honour by law.

143) Which authority is responsible for disciplinary procedures

☐ the judge?

☐ the Ministry of justice?

☒ a professional authority or other?

Please specify:

Disciplinary offences committed by advocates are heard by court of honour. Any interested person has recourse to the court of honour or the Board for the commencement of proceedings of the court of honour.

An interested person may file an action with an administrative court against a decision of the court of honour.

144) Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 141:

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	9	0	0	0

Comment :

There were 32 complaints, in 17 cases disciplinary proceeding was initiated.

145) Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 145:

	Reprimand	Suspension	Removal	Fine	Other
Annual number	8	0	0	1	0

Comment :

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years**

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

146) Does the legal system provide for mediation procedures? If no go to question 151

☐ Yes

☒ No

147) If applicable, please specify, by type of cases, the organisation of mediation

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	No	No	No	No	No
Family law cases (ex. Divorce)	No	No	No	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	No	No	No	No
Criminal cases	No	No	No	No	No

148) Is there a possibility to receive legal aid for mediation procedures?

☐ Yes

☒ No

If yes, please specify:

149) Number of accredited mediators. If there is no data available, please indicate it (NA)

150) Please Indicate the total number of judicial mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

civil cases?	<input type="checkbox"/> Yes
family cases?	<input type="checkbox"/> Yes
administrative cases?	<input type="checkbox"/> Yes
employment dismissals?	<input type="checkbox"/> Yes
criminal cases?	<input type="checkbox"/> Yes

Please indicate the source for answering the question 150:

7. 1. 2. Other forms of alternative dispute resolution

151) Can you give information concerning other forms of alternative dispute resolution (e.g. arbitration, conciliation)? Please specify:

The Code of Civil Procedure regulates arbitral tribunal. There is a permanent arbitration court by the Estonian Chamber of Commerce and Industry, which acts on law, arbitral agreement and rules of the Arbitration Court. More information can be found on web page:
<http://www.koda.ee/?id=1364>.

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years**

A law of mediation will come into force in 01.01.2010.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

152) Do you have in your system enforcement agents (judicial officers)? If no go to question 154

- ☒ Yes
☐ No

153) Number of enforcement agents. If there is no data available, please indicate it (NA).

47

154) Are enforcement agents (multiple options are possible):

- ☐ judges?
☒ bailiff practising as private profession ruled by public authorities?
☐ bailiff working in a public institution?
☐ other enforcement agents?

Please specify their status and powers:

A bailiff is an independent person who holds an office in public law. A bailiff engages in liberal profession and holds office in his or her own name and at own liability. An undertaking or a state official shall not be a bailiff. In the taxation of professional activities of bailiffs, provisions applying to sole proprietors are applied. Bailiffs organise the enforcement of enforcement instruments.

155) Is there a specific initial training or examination to enter the profession of enforcement agent?

- ☒ Yes
☐ No
☐ Not applicable

156) Is the profession of enforcement agent organised by?

- ☒ a national body?
☐ a regional body?
☐ a local body?
☐ not applicable

157) Can users establish easily what the fees of the enforcement agents will be?

- ☒ Yes
☐ No

☐ Not applicable

158) Are enforcement fees:

- ☒ regulated by law?
☐ freely negotiated?
☐ not applicable

Please indicate the source for answering the question 153:

Ministry of Justice

8. 1. 2. Supervision

159) Is there a body entrusted with the supervision and the control of the enforcement agents?

- ☒ Yes
☐ No
☐ Not applicable

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

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

Please specify:

The Minister of Justice supervises the professional activities of bailiffs through officials authorised by the Minister of Justice.

The Minister of Justice may involve a representative of the plenary assembly of bailiffs in the supervision activities. The Minister of Justice may delegate the supervision of individual matters to the plenary assembly of bailiffs and issue instructions for the exercising of such supervision. The Minister of Justice may amend the resolutions adopted by the plenary assembly of bailiffs concerning such matters.

161) Have quality standards been formulated for enforcement agents?

- ☐ Yes
☒ No
☐ Not applicable

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

162) Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?

- ☐ Yes
☒ No

if yes, please specify

163) Is there a system for monitoring the execution?

- ☐ Yes
☒ No

If yes, please specify

8. 1. 3. Complaints and sanctions

164) What are the main complaints of users concerning the enforcement procedure? Please indicate a maximum of 3.

- ☒ no execution at all?
☐ non execution of court decisions against public authorities?
☒ lack of information?
☒ excessive length?
☐ unlawful practices?
☐ insufficient supervision?
☐ excessive cost?
☐ other?

Please specify:

In many cases people (debtor of claimant) find it easier first turn to the Ministry of Justice and after that to the enforcement agent.

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

- ☒ Yes
☐ No

If yes, please specify:

Yes, there is a new Bailiffs Act from 01.01.2010. Also, the auctions have been made electronic and easily accessible.

166) Is there a system measuring the timeframes of the enforcement of decisions :

- ☒ for civil cases?
☒ for administrative cases?

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

- ☒ between 1 and 5 days
☐ between 6 and 10 days
☐ between 11 and 30 days
☐ more

If more, please specify

168) Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of disciplinary proceedings	<input checked="" type="checkbox"/> number:	9
for breach of professional ethics	<input checked="" type="checkbox"/> number:	0
for professional inadequacy	<input checked="" type="checkbox"/> yes, number:	9
for criminal offence	<input checked="" type="checkbox"/> number:	0
Other	<input checked="" type="checkbox"/> number:	0

169) Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of sanctions	<input checked="" type="checkbox"/> number:	6
Reprimand	<input checked="" type="checkbox"/> number:	3
Suspension	<input checked="" type="checkbox"/> number:	0
Dismissal	<input checked="" type="checkbox"/> number:	0
Fine	<input checked="" type="checkbox"/> number:	3
Other	<input checked="" type="checkbox"/> number:	0

You can indicate below:

- ☐ any useful comments for interpreting the data mentioned in this chapter
☐ the characteristics of your enforcement system of decisions in civil matters and the main reforms that has been implemented over the last two years

Please indicate the source for answering the questions 167, 168 and 169:

Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

170) Is there a judge who is in charge of the enforcement of judgments?

- ☒ Yes

☐ No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

If a court decision is enforced, the court shall send a copy of the decision to the body executing the court decision (for example prison).

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

☐ Yes

☒ No

If yes, please specify:

You can indicate below:

- ☐ **any useful comments for interpreting the data mentioned in this chapter**
- ☐ **the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years**

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

172) Do you have notaries in your country? If no go to question 177

- ☒ Yes
☐ No

173) Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):

a private one (without control from public authorities)?		NAP
a status of private worker ruled by the public authorities?	<input checked="" type="checkbox"/> number	100
a public one?		NAP
other?		NAP

Comment :

A notary is a holder of office in public law who is empowered by the state to attest, at the request of persons, facts and events which have legal meaning and perform other notarial acts in order to ensure legal certainty. A notary is independent in the performance of notarial acts. Notary is not an undertaking or a state official. A notary executes his or her office as a liberal profession in his or her own name and at his or her own responsibility.

174) Do notaries have duties:

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

Please specify:

Notaries:

- attest transactions and declarations of intention, authenticity of signatures and copies, correctness of translations of documents and authenticity of signatures of translators;
- attest other facts and events which have a legal meaning, including voting or ballot results and results of drawing of lots, and sea protests;
- receive deposits of and transfer money, securities and valuables;
- issue certificates concerning data entered in registries and printouts from registries;
- prepare lists of assets;
- forward petitions and notices;
- organise and attest auctions;
- issue certificates concerning preparation of notarial documents subject on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;
- settle succession matters in the cases and pursuant to the procedure provided for in the Law of Succession Act.

Please indicate the source for answering the question 173

Ministry of Justice

9. 1. 2. Supervision

175) Is there an authority entrusted with the supervision and the control of the notaries?

☒ Yes

☐ No

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

☒ a professional body?

☐ the judge?

☒ the Ministry of justice?

☐ the prosecutor?

☐ other?

☐ not applicable

Please specify:

The Ministry of Justice supervises the professional activities of notaries. The Ministry of Justice may involve the Chamber of Notaries in the supervision activities.

The Ministry of Justice may delegate supervision over compliance with the requirements of the Money Laundering and Terrorist Financing Prevention Act and legislation established on the basis thereof and of other individual matters to the Chamber of Notaries. In the delegated area of supervision, the Ministry of Justice may give instructions for the exercise of supervision and amend resolutions adopted by the Chamber of Notaries with respect to such matters.

Supervision does not extend to the content of notarial acts.

You can indicate below:

☐ **any useful comments for interpreting the data mentioned in this chapter**

☐ **the characteristics of your system of notaries and the main reforms that have been implemented over the last two years**

10. Court interpreters

10. 1. function

10. 1. 1. Statute

177) Is the title of court interpreter protected?

- ☐ Yes
☒ No

178) Is the function of court interpreter regulated?

- ☐ Yes
☒ No

179) Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations

NAP

180) Are there binding provisions regarding the quality of court interpreting in judicial proceedings?

- ☒ Yes
☐ No

If yes, please specify:

In case of written translation the court may request authentication of the translation by a sworn translator or a notary or caution the translator that he or she bears liability for a knowingly false translation.

Before commencing interpretation or translation in a proceeding, an interpreter or translator is cautioned that he or she bears liability for false interpretation or translation, and the interpreter or translator shall give a signature to that effect. An interpreter or translator need not be cautioned if he or she has been sworn in for provision of that class of interpretation or translation pursuant to the procedure provided in the Sworn Translators Act. A translator or interpreter who is not a sworn translator or interpreter shall be warned that he or she may be punished pursuant to criminal procedure for a knowingly false translation or interpretation.

A translation or interpretation of any aspect of a procedural act rendered by a translator or interpreter shall be precise and complete. If a non-staff translator is not sufficiently proficient in language for specific purposes or in the form of expression of a deaf or mute person, he or she is required to refuse to participate in the criminal proceedings.

181) Are the courts responsible for the selection of court interpreters?

- ☒ Yes
☐ No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

11. Functioning of justice

11. 1. Foreseen reforms

11. 1. 1. Reforms

182) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc. Please specify:

Legal aid: in 2010 the new legal aid system, is being introduced - the cases will be allocated to the lawyers by the Bar (formerly, the judge or prosecutor usually found a suitable lawyer). It is also possible for Ministry of Justice to supervise the quality of legal aid funded by state.

Court system: in December 2009, the draft for the new Courts Act was presented to the Parliament. The draft has been composed by the working group consisting of representatives of the Supreme Court and the draft has been widely discussed among the judges. All the suggestions have been submitted to the Parliament with the draft itself. By the draft, the whole court system will be separated from the executive power and will be independent and self-governed.

Information systems: New information system has been implemented - e-file. E-file allows electronic documents in criminal proceedings to be submitted via electronic system, no other means needed. So are the police, the Prosecutor's Office and the courts connected. In beginning of 2010, e-file in civil and administrative court proceeding will be also launched- participants can file their cases, read decisions and other documents via electronic system. For log-in ID-card is needed.

Timeframes of proceedings: a new instrument will be implemented in the court proceeding - a participant may file a petition to accelerate the case, if there have not been any measures before and the case is getting to long (in the mean of reasonable timeframe).

Mediation - A law of mediation will come into force in 01.01.2010. The mediators can be lawyers, notaries or natural persons both sides agree upon.

Enforcement agents - in 01.01.2010 the new Bailiffs Act will come into force. It strengthens the supervision over enforcement proceeding and also creates self-governing bodies of bailiffs and interim trustees.