



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: Lithuania

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

3361500

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

| | Amount |
|-------------------------|------------|
| State level | 7696032000 |
| Regional / entity level | 1873322000 |

3) Per capita GDP (in €)

9590

4) Average gross annual salary (in €)

7476

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

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

Question 1: data of the Department of Statistics to the Government of the Republic of Lithuania

Question 2: data of the Ministry of Finance;

Question 3: data of the Department of Statistics to the Government of the Republic of Lithuania

Question 4: data of the Department of Statistics to the Government of the Republic of Lithuania

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 €)

60629000

7) Please specify

For the Supreme Court of Lithuania - 4317000 Euro

For the Supreme Administrative Court - 1754000 Euro

For the Court of Appeal of Lithuania - 3167000 Euro

For district and regional courts – 51390000 Euro

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 | 41573000 |
| Annual public budget allocated to computerisation (equipment, investments, maintenance) | <input checked="" type="checkbox"/> Yes | 721067 |
| Annual public budget allocated to justice expenses | | NA |
| Annual public budget allocated to court buildings (maintenance, operation costs) | <input checked="" type="checkbox"/> Yes | 1989900 |
| Annual public budget allocated to investments in new (court) buildings | <input checked="" type="checkbox"/> Yes | 7314585 |
| Annual public budget allocated to training and education | <input checked="" type="checkbox"/> Yes | 144810 |
| Other (please specify): | <input checked="" type="checkbox"/> Yes | 579240 |

Comment :

Other – long-term property purchase.

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:

2004 - 31632000 Euro;

2005 - 37173000 Euro;

2006 - 41310000 Euro;

2007 - 43897000 Euro;

2008 - 51390000 Euro.

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:

According to the Article 83 of the Code of Civil Procedure the following shall be released from the payment of the official fee in cases which are heard by a court: 1) plaintiffs (employees) in cases concerning all claims arising from the legal relationships of employment; 2) plaintiffs in cases concerning the ad judgment of family support; 3) plaintiffs in cases concerning compensation of damages connected with harm to a person's health or the loss of his life including cases concerning damages connected with an incidence of harm to a person's health, the loss of his life in an accident at work, or a professional illness; 4) plaintiffs in cases concerning compensation of property or non-property damages created by criminal activity; 5) a prosecutor, state and municipal institutions, and other parties when filing a statement of claim or application in order to defend public, state, and/or municipal interests in that part of a case, in which it is sought to defend a public, state, and/or municipal interest; 6) parties in cases concerning damages, which have arisen due to false conviction, false arrest through the use of custodial measures, wrongful detention, wrongful use of judicial coercion, or wrongful imposition of an administrative penalty and/or arrest as well as due to damages, which have arisen due to the wrongful actions of a judge or court in hearing a civil case; 7) parties in cases concerning property lost in connection with political repression; 8) an enterprise (institution), against which a bankruptcy or restructuring case has been filed or in which an extrajudicial bankruptcy procedure is being executed, and any other party to the proceeding when filing appeals of judgments and cassation appeals in these cases; 9) plaintiffs and parties filing property claims in bankruptcy or restructuring cases; 10) state and municipal institutions (establishments) when filing statements of claim concerning the collection of funds; 11) the Bank of Lithuania, the joint stock company Turto Bankas, and the State Property Fund; 12) spouses when filing petitions to dissolve a marriage by mutual consent (article 3.51 of the Civil Code) and at the request of one spouse (article 3.55 of the Civil Code); 13) applicants when filing applications by the procedure established in Part V, Chapter XXXIX of this Code; 14) parties – in the other cases provided in this Code or other laws.

According to the part 3 of the article the court, while taking into consideration the person's material situation, shall be entitled by means of summary proceedings to release him in part from the payment of the official fee at the request of the person. A petition to release a person in part from the payment of the official fee must be reasoned. Proof confirming the grounds of the request must be annexed to the petition. The court ruling concerning this petition must be reasoned.

According to the Article 84 of the Code of Civil Procedure the court, by means of summary proceedings, while taking into consideration the person's material situation, prior to making a judgment (ruling) shall be entitled to defer payment of the official fee. A petition to defer payment of the official fee must be reasoned. Proof proving the necessity of deferring the official fee must be annexed to the petition.

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

8097196

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 105584000

Comment :

For the Supreme Court of Lithuania - 4317000 Euro

For the Supreme Administrative Court - 1754000 Euro

For the Court of Appeal of Lithuania - 3167000 Euro

For the Prosecutor General's Office - 42900000 Euro

For the National Courts Administration - 2054000 Euro

For district and regional courts – 51390000 Euro

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

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

. ☒ Amount 4129000

Comment :

5299130.4 € was allocated to legal aid in the year of 2008. 777391.3 € was allocated for primary legal aid. 4521739.1 € was allocated for secondary legal aid.

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 | NAP | NAP |

Comment :

Annual public budget allocated to legal aid is not divided into two separate budgets (budget allocated to legal aid in criminal law cases and budget allocated to legal aid in non criminal cases).

For advocates who provide legal aid in criminal cases it was paid 2248711.8 € in the year of 2008. For advocates who grant legal aid in non criminal law cases it was paid 903869.5 €.

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 42955283

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:

| | budget | budget | of the budget among the individual courts | budget at a national level |
|--|--------|--------|---|----------------------------|
| | | | | |

| | | | | |
|---------------------|-----|-----|-----|-----|
| Ministry of Justice | No | No | No | No |
| Other ministry | Yes | No | No | Yes |
| Parliament | No | Yes | No | No |
| Supreme Court | No | No | No | No |
| Judicial Council | Yes | No | No | No |
| Courts | Yes | No | Yes | No |
| Inspection body | No | No | No | No |
| Other | Yes | No | No | No |

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

Other ministry – the Ministry of Finance;

Other – National Courts Administration.

The courts are the budget appropriation managers. Management and allocation of the budget among the individual courts cannot be interpreted as one under the laws of Lithuania. Allocation of the budget among the individual courts belongs to the initial stage of the budget preparation process and the management of budgets is the responsibility of each court individually.

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

The Constitution of the Republic of Lithuania and the Law on Budget Structure determine that the State Budget shall be drafted for a period of three years and confirmed for the artificial year.

The State Budget is prepared based on the principles of strategic planning, State priorities, other laws and legal acts, macro-economic projections of the country's development, the Government Programme, long-term strategic plan of the Government activities, strategic plans of activities of ministries and Government agencies and the approved preliminary basic indicators of the National Budget, also the programmes and draft estimates of expenditure submitted by the managers of State budget appropriations and the strategic documents of the European Union financial assistance.

The annual budget planning process shall start with the establishment of the Government priorities. State institutions and agencies due to the fixed terms provide information to the Ministry of Finance that is required for the implementation of the macro-economic and fiscal projections. On the basis of the prepared macro-economic projections of the appropriate period the state fiscal plan is formulated. The Government of the Republic of Lithuania shall also approve the main financial indicators of the National Budget for the period of three years, preliminary controlling sums of the State investments, the common principles of the establishment of the maximum appropriations and the investment of the State resources to the appropriate spheres, the preliminary data on the amount of the European Union financial assistance.

Due to the fiscal plan the ultimate appropriations for every institution is established and having regard to this the estimate projects of the institutional strategic activity plans and State budget programmes are drafted. In accordance with the estimate projects of the strategic activity plans and State budget programmes the index of the institutional planning is generalized and its conclusions are applied in the preparation of the Draft Law on the Approval of the Financial Indicators of the State Budget and Municipal Budget for the Year Concerned (hereafter – the Draft Law on the Budget).

The State institutions and agencies, the Ministry of Finance, the Governmental Committee of the Strategic Planning and the Government of the Republic of Lithuania shall participate in the preparation of the Draft Law on Budget.

The Ministry of Finance shall submit the prepared Draft Law on Budget to the Government, which shall consider and present this Draft Law on Budget to the Seimas of the Republic of Lithuania. The Committees of Seimas and its members shall provide proposals on the Draft Law on Budget. Having regard to the respective decisions of the Government concerning these proposals, the Draft Law on the Approval of the Financial Indicators of the State Budget and Municipal Budget shall be reconsidered and approved.

The procedures of the planning, drawing up, approval of the State Budget and municipal budgets in greater details is regulated in the rules of the Government Resolution Nr. 543 adopted on 14 May 2001 concerning the drawing up and implementation of the State and municipal budgets of the Republic of Lithuania as well as in the Strategic Planning Methodology approved by the Government Resolution Nr. 827, which was adopted on 6 June 2002.

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

- Question 6: data of the Ministry of Finance;
- Question 8: data of the National Courts Administration;
- Question 11: data of the Ministry of Finance;
- Question 12: data of the Ministry of Finance;
- Question 13: data of the Ministry of Justice;
- Question 14: data of the Ministry of Justice;
- Question 16: data of the Ministry of Finance;

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 | No | Yes |

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

"Secondary legal aid" shall mean drafting of documents, defense and representation in court, including the process of execution, representation in the event of preliminary extrajudicial consideration of a dispute, where such a procedure has been laid down by laws or by a court decision. This legal aid shall also cover the litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case.

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

☒ Yes

☐ No

If yes, please specify:

In hearing civil and administrative matters as well as when hearing the civil actions brought in criminal matters, the persons eligible for secondary legal aid shall, according to paragraph 4 of the Article 14 of the Law on State-guaranteed Legal Aid, be exempt from the stamp duty and other litigation costs, the costs of the proceedings and procedural costs in the criminal matters.

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

☒ Yes

☐ No

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 | 44154 |
| in criminal cases | 35079 |
| Other than criminal cases | 9075 |

Comment :

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 | Yes | |
| for other than criminal cases? | Yes | |

Comment :

For criminal cases – Yes, with the exception when defense is mandatory. The first level – annual income must be less than 1855 € (695.6 € is added to the sum mentioned above for each dependant) and the value of person's property must not exceed property normative determined in legal acts. The second level – annual income must be less than 2782.6 € (1043.5 € is added to the sum mentioned above for each dependant) and the value of person's property must not exceed property normative determined in legal acts.

For other than criminal cases – Yes. The first level – annual income must be less than 1855 € (695.6 € is added to the sum mentioned above for each dependant) and the value of person's property must not exceed property normative determined in legal acts.

The second level – annual income must be less than 2782.6 € (1043.5 € is added to the sum mentioned above for each dependant) and the value of person's property must not exceed property normative determined in legal acts.

The costs of secondary legal aid provided to the persons, by taking account of a person's property and income shall be guaranteed and covered by the State as follows:

- 1) 100 percent – where the first level is established to the person's property and income;
- 2) 50 percent – where the second level is established to the persons property and income.

The following persons shall be eligible for secondary legal aid regardless of the property and income levels established by the Government of the Republic of Lithuania for the provision of Legal aid under the Law on State-guaranteed legal aid:

- 1) The persons eligible for legal aid in criminal proceedings according to Article 51 of the Code of Criminal Procedure (mandatory defense) and in other cases specified by laws when the physical presence of a defense lawyer is mandatory;
- 2) The aggrieved parties in the cases concerning compensation for the damage incurred through criminal actions, including the cases when the issue of compensation for damage is heard as part of a criminal matter;
- 3) the persons receiving a social allowance under the Republic of Lithuania Law on Cash Social Assistance for Low-Income Families (Single Residents);
- 4) the persons maintained in stationary care institutions;
- 5) the persons who have been established a severe disability or for whom incapacity for work has been recognized or who have reached the pensionable age and for whom the level of considerable special needs has been established, also guardians (custodians) of these persons, where State-guaranteed legal aid is required for the representation and defense of rights and interests of a ward (foster-child);
- 6) the persons who have presented a proof that they cannot dispose of their property and funds for objective reasons and that for these reasons, their property and annual income which they can freely dispose of do not exceed the property and income levels established by the Government of the Republic of Lithuania for the provision of legal aid under the Law on State-guaranteed legal aid;
- 7) the persons suffering from serious mental disorders, when issues of their forced hospitalization and treatment are being considered according to the Republic of Lithuania Law on Mental Health Care, and their guardians (custodians), where State-guaranteed legal aid is required for the representation of

rights and interests of a foster-child (ward);

8) Debtors in execution proceedings, when a recovery is levied against the last housing wherein they reside;

9) Parents or other legal representatives of minor children, when the issue of their eviction is being considered;

10) minor children, when they independently apply to a court for the defense of their rights or interests protected under law in the cases specified by laws, with the exception of those who have entered into a marriage in accordance with the procedure laid down by laws or have been recognized by the court as legal capable (emancipated);

11) The persons who it is requested to recognize as legally incapable in the matters concerning recognition of a natural person as legal incapable;

12) Persons in the matters concerning registration of birth;

13) Other persons in the matters provided for in treaties of the Republic of Lithuania.

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:

Secondary legal aid shall not be provided where:

- 1) Claims of an applicant are manifestly unfounded;
- 2) Representation in a matter has no reasonable prospects of success;
- 3) An applicant is claiming non-pecuniary damage related to the protection of his honour and dignity, but has suffered no property damage;
- 4) The application concerns a claim arising directly out of an applicant's trade or self-employed profession;
- 5) An applicant can receive required legal services without resorting to State-guaranteed legal aid;
- 6) An applicant applies with respect to the violation of the rights other than his own, with the exception of the cases of representation under the law;
- 7) The claim for which an application for secondary legal aid is filed has been passed to the applicant for the purpose of receiving State-guaranteed legal aid;
- 8) An applicant abuses State-guaranteed legal aid and his substantive or procedural rights;
- 9) An applicant to whose property and income the second level is established does not agree to pay 50 per cent of the costs of secondary legal aid.

A legal aid service shall have the right to refuse to provide secondary legal aid where:

- 1) Upon examination of the merits of a request, it establishes that the possible costs of secondary legal aid would significantly exceed the amount of property claims (property interests) of the applicant;
- 2) Upon examination of the merits of a request, it establishes that the non-pecuniary claim of the applicant lacks merit;
- 3) It establishes that the applicant is able to independently, without a lawyer's assistance exercise or defend his rights or interests protected under law;
- 4) The applicant is provided secondary legal aid in more than 3 matters.

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:

The legal expense insurance is not compulsory, so it is not in a great demand. State-guaranteed legal aid shall not be provided to the persons eligible for a litigation costs (the costs of the proceedings) insurance benefit, where this benefit, according to the conditions of an insurance contract, is paid prior to the incurrence of litigation costs (the costs of the proceedings) and where the insurance benefit covers all the costs which would be covered by the State-guaranteed legal aid provided under this Law. The applicant must indicate whether he has concluded a litigation costs (the costs of the proceedings) insurance contract and, where such a contract has been concluded, specify the costs which would be covered by the insurance benefit.

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? | No |
| 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

Please indicate the sources for answering the questions 24 and 26

Question 24: data of the Ministry of Justice and of the legal aid services.

Question 26:

- The Law on State-guaranteed Legal aid of the Republic of Lithuania;
- Decision of the Government of the Republic of Lithuania, which determines normatives of annual income and property for persons who want to get legal aid.

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 | http://www.lrs.lt |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.lrkt.lt , http://www.lat.lt , http://www.lvat.lt |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | http://www.teismai.lt , http://www.tm.lt , http://www.prokuraturos.lt |

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

- ☐ Yes
- ☒ No

If yes, please specify:

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:

Prosecutors are obliged to inform victims of crimes about a possibility to receive a compensation from a public fund for victims of crimes. An electronic application form can be found on the official site of the Ministry of Justice:

<http://www.tm.lt/paslaugos/prasymai>.

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 | No | No | No |
| Children/Witnesses/Victims | No | Yes | Yes | No |
| Victims of domestic violence | No | Yes | No | No |
| Ethnic minorities | No | Yes | No | No |
| Disabled persons | No | Yes | Yes | 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?

Compensation procedure for victims of crimes consist in all criminals cases according to a court decision. However, compensation procedure for victims of crimes in a public fund is available only for victims of violent crimes, i.e. murder, crimes against health such as assaults, wounding or wounding with intent, crimes against one's freedom, sexual crimes.

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:

Under Article 19 of the Law on the Prosecutor's Office upon establishing a violation of the rights and lawful interests of a person, society or the State, the prosecutors shall protect the public interest in the cases and according to the procedure provided for by laws upon the notification, proposal, application or complaint filed by the person, state or municipal institution or agency, or on their own initiative as well as in cases when the officers, employees of other institutions or persons having equivalent status, who are under the obligation to protect the said interest, failed to take any measures to rectify the violation.

Having grounds to believe that the requirements of legal acts have been violated, the prosecutors, when protecting the public interests, have the following powers:

- 1) to lay an action, file a statement or an application;
- 2) to request from persons production of documents and information;
- 3) to task the heads and officials of state institutions, agencies to carry out inspections and audits;
- 4) to summon persons and receive their explanations;
- 5) to take part in the court hearing of civil cases, civil actions entered by the prosecutor in criminal proceedings, administrative proceedings and appeal against the court judgements, rulings and decisions handed down in the proceedings;
- 6) to pass resolutions regarding the eviction of natural persons;
- 7) to issue a warning to a state official, a public servant or a person equal in status to them not to commit violations of law;
- 8) to pass a decision requesting an official inspection of activities of a state official, public servant or a person equal in status to them be conducted and submit a proposal to take a disciplinary or an administrative action against the said persons;
- 9) to render a decision to refer the investigation materials for examination according to the administrative procedure, where pre-trial investigation has been terminated but there is evidence of an administrative offence committed by the person.

In the cases specified in the Code of Criminal Procedure, the prosecutors may request by a decision to initiate criminal proceedings.

Acting in the protection of the public interest, the prosecutors who prosecute on behalf of the State file a civil action, provided it has not been filed, if damage has been caused by a criminal act to the State or a person who, because of his minority, illness, dependence on the accused or due to other reasons is unable to defend his rights or legitimate interests in court.

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:

According to the Article 168 of the Code of Criminal Procedure a decision of the public prosecution to discontinue a case can be contested to the judge of pretrial investigation. Decision of the judge can be contested to the county court.

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):

Under the Civil Code and the Law on the Compensation of the Harm Caused by Illegal Actions of Public Authorities and Representation of the State the damage resulting from the unlawful condemnation, unlawful arrest, unlawful detention, unlawful application of procedural coercive measures, illegal application of administrative penalty – arrest has to be reimbursed by the state in full, regardless of pre-trial investigation officers, prosecutors and court officials' fault.

Compensations for unlawful arrest and unlawful condemnation are paid from separate budgetary program on compensation of damages operated by the Ministry of Justice. These compensations may be paid according to court decisions on damages as well as through out-of-court procedure.

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:

Survey agency "Vilmorus" every month are calculating ratings of various public institutions, e. g. Parliament, Government, political parties, Church, courts, prosecutor office, police.

42) If possible, please specify:

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

| | | |
|------------------------|----|----|
| 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 | Yes |
| Higher court | Yes | Yes |
| Ministry of Justice | No | No |
| High Council of the Judiciary | Yes | Yes |
| Other external organisations (e.g. Ombudsman) | Yes | Yes |

Comment :

Other external organisations – National Courts Administration

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 | 59 |
| Specialised first instance Courts (legal entities) | 5 |
| All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts) | 67 |

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

Administrative law cases.

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:

It has been preparing for courts reorganization reform, which shall connect the district courts of cities region and the district courts of cities

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 | 54 |
| a dismissal | 59 |
| a robbery | 54 |

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

Small claims cover all the monetary claims up to 72.40 Euros.

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

Question 45: data of the National Courts Administration;

Question 48: data of the National Courts Administration.

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



755

Comment :

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

| | Number |
|--------------------------------------|--------|
| gross figure | none |
| if possible, in full time equivalent | none |

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

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? | NAP | NAP |

Comment :

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

☐ Yes

☒ No

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

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 ☐ . 2707

Comment :

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 | | NAP |
| - 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 | 1267 |
| - 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 | 388 |
| - technical staff | <input checked="" type="checkbox"/> Yes | 1052 |

Comment :

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

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 ☒ . 863

Comment :

There are 863 public prosecutors in Lithuania. 100 from them are working in the Prosecutor General's Office. 184 are working in regional prosecutor's offices. 579 are working in the district prosecutor offices.

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

☒ Yes

☐ No

If yes, please specify:

There are about 170 prosecutors assistants.

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



558

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

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

Other – Accountant of the court.

It should be mentioned that not all the courts have Court Chancellors.

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 | No | Yes | 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 | No | Yes | No | No |
| Special Website | No | Yes | No | No |
| Other electronic communication facilities | No | Yes | 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:

National Courts Administration

L. Sapiegos St. 15, LT-10312 Vilnius, Republic of Lithuania

Phone: +3705 268 5186.

Fax: +3705 268 5187.

E-mail: info@teismai.lt.

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:

Courts Information System (LITEKO).

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

☒ Yes

☐ No

Please specify:

For example, National Courts Administration (NCA) performs the analysis of the work load in courts, as well as the overviews of cases the hearings of which were prolonged longer than a year.

According to Article 104 of the Law on Courts the supervision of administrative activities of courts is performed: 1) of district courts - by the Chairman of the relevant regional court; 2) of regional administrative courts - by the Chairman of the Supreme Administrative Court; 3) of regional courts - by the Chairman of the Court of Appeals.

The supervision of the administrative activity covers: 1) measures ensuring the transparency and reasonable time of the hearing: inspection of unjustifiably lengthy instances of the proceedings, supervision of the compliance with the procedure for the preparation of cases for judicial proceedings, for accepting and sending claims, appeals and applications, investigation of grievances the object whereof does not relate to the administration of justice, supervision of the procedure for distribution of cases; 2) measures guaranteeing high professional ethics of the officials and ensuring the effectiveness of the activities of judges and the staff of courts: supervision of the compliance with the professional ethics of judges and the staff of courts, effective use of the work hours of judges and judicial staff, administrative activities of the mortgage units; 3) work of the records office of the court: inspection of the organisational work of the records office of the court, proper compliance with the instructions and legal acts regulating the work of the records office of the court, procedure of compiling registration books and other documents, administration of the archives, maintenance of work conditions, the level of the vocational training of the clerical staff, proper storing and management of material evidence.

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:

Data is collected and annual report is provided.

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:

76) Please specify the main targets applied

Functions of the court administration.

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:

The Judicial Council resolves issues concerning the performances of the courts according to Article 120, Part 20 of the Law on Courts.

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:

National Courts Administration analyses the reasons of the prolonged hearings of cases. According to Article 104 of the Law on Courts the supervision of administrative activities of courts is performed: 1) of district courts - by the Chairman of the relevant regional court; 2) of regional administrative courts - by the Chairman of the Supreme Administrative Court; 3) of regional courts - by the Chairman of the Court of Appeals.

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):

In supervising the administrative activities of lower courts, every court of higher jurisdiction, (which is responsible for supervising administrative activities of courts within its jurisdiction) draws up an annual plan of supervision of administrative activities of courts. The Regulations on Administration in Courts (12.3 point) establish that the planned complex investigation of administrative activities of a court (judges) has to be done not less than once in 5 years.

83) Is there a system for monitoring and evaluating the functioning of the prosecution services?☒ Yes☐ No

If yes, please specify:

The Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic with the approval of the Seimas. Deputies of the Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic upon the nomination of the Seimas. The Prosecutor General shall be accountable for his activities to the President of the Republic and the Seimas of the Republic of Lithuania. The Seimas of the Republic of Lithuania shall set the priorities for the activities of the prosecutor's office and exercise parliamentary control over the activities. The Prosecutor General shall submit information about the prosecutor's office to the Government of the Republic of Lithuania and the public. Procedural actions of prosecutors shall be controlled by the superior prosecutor and the court. The superior prosecutor shall establish violations of procedural laws and reverse unlawful decisions. The economic and financial activities of the Office of the Prosecutor General, territorial offices of prosecutors shall be controlled by the Prosecutor General (the prosecutors authorised by him), the State Control and other authorised state institutions. According to the articles 206, 209 and 213 of the Statute of the Seimas, the Prosecutor General must also account to the Seimas for his/her respective activities in general procedure.

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):

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 | 1 | 0 |
| Civil proceedings - Article 6§1 (non-execution) | NA | NA | NA | NA |
| Criminal proceedings - Article 6§1 (duration) | 1 | 0 | 0 | 1 |

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:

For instance, a court may impose in civil case provisional safeguards basing on a reasonable request of the interested person filed in writing even before the date of a claim lodging to the court. A person requesting for imposition of provisional safeguards must provide the court with proofs of certain danger to claimant's property interests. In criminal cases there are provisional measures and other procedural measures that can be applied quite rapidly. For this reason, pre-trial investigation judges have working hours even in weekends, thus allowing speedy decisions, e. g. on detention of suspects, on sanctioning of real-time monitoring of telecommunications or other electronic data, etc.

Shorter than common period of two months is set in administrative cases concerning breaches of laws regulating elective or referendum relations.

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):

Civil cases concerning the adjudgment of amounts of money not exceeding 1000 litas (~ 290 euros) shall be heard pursuant to the general rules of contentious proceedings except the exceptions provided in the law, regulating civil procedure. The court hearing such a case shall be entitled to itself decide by what form and procedure to hear the case. The case shall be heard by oral proceedings if at least one of the parties requests it.

In criminal cases there are several possibilities for shortened procedure:

- Discontinuation of the case, if the person admits guilt and there are other grounds for release him from criminal liability (e.g. reconciliation with the victim of crime, under warrant, etc.).
- Procedure of penal order, if the sanction allows imposition of criminal fine.
- Expedited proceedings, if the circumstances of the case are clear and defendant does not request for more time to prepare for his defense.

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:

Civil cases concerning the ad judgment of amounts of money not exceeding 1000 Litass (~ 290 Euros) could be heard by courts in oral or written proceedings. Court and litigants should agree on this.

Documents in civil cases can be presented to court (and vice versus) in electronic form if the court has made an agreement with litigants (except the final decision).

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, | 28507 | 276855 | 272045 | 33317 |

| | | | | |
|--|-------|--------|--------|-------|
| commercial and administrative law cases (litigious and non litigious)* | | | | |
| 1 Civil (and commercial) litigious cases* | 21365 | 185878 | 180071 | 27172 |
| 2 Civil (and commercial) non-litigious cases* | | | | |
| 3 Enforcement cases | | | | |
| 4 Land registry cases** | | | | |
| 5 Business register cases** | | | | |
| 6 Administrative law cases | 3463 | 4703 | 6574 | 1592 |
| 7 Other | 3679 | 86274 | 85400 | 4553 |
| Total criminal cases (8+9) | 3646 | 16472 | 16082 | 4036 |
| 8 Criminal cases (severe criminal offences) | | | | |
| 9 Misdemeanour and / or minor offences cases | | | | |

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):

Other - cases that have been heard in district and regional administrative courts.

According to the Criminal Code of the Republic of Lithuania the criminal act is divided into crime and misdemeanour. Therefore the cases 8 category also includes cases with the commission of crime, whereas the cases of 9th category involve only cases with commission of the misdemeanour.

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)* | 4331 | 16752 | 13374 | 7709 |
| 1 Civil (and commercial) litigious cases* | 1278 | 8548 | 7559 | 2267 |
| 2 Civil (and commercial) non-litigious cases* | | | | |
| 3 Enforcement cases | | | | |
| 4 Land registry cases** | | | | |
| 5 Business register | | | | |

| | | | | |
|---|------|------|------|------|
| cases** | | | | |
| 6 Administrative law cases | 1831 | 2824 | 3035 | 1620 |
| 7 Other | 1222 | 5380 | 2780 | 3822 |
| Total criminal cases (8+9) | 760 | 6845 | 6731 | 874 |
| 8 Criminal cases (Severe criminal offences) | | | | |
| 9 Misdemeanour and/or minor offences cases | | | | |

Comment :

Other - cases that have been heard in the Supreme Administrative Court of Lithuania.

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) | 211 | 496 | 611 | 96 |
| 1 Civil (and commercial) litigious cases* | 211 | 496 | 611 | 96 |
| 2 Civil (and commercial) non-litigious cases* | | | | |
| 3 Enforcement cases | | | | |
| 4 Land registry cases** | | | | |
| 5 Business register cases** | | | | |
| 6 Administrative law cases | | | | |
| 7 Other | | | | |
| Total criminal cases (8+9) | 127 | 509 | 520 | 116 |
| 8 Criminal cases (severe criminal offences) | | | | |
| 9 Misdemeanour cases (minor offences) | | | | |

Comment :

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* | 2397 | 9162 | 11599 | 2397 |
| Employment dismissal cases* | | | | |
| Robbery cases | 400 | 1153 | 1195 | 358 |
| Intentional homicide | 102 | 265 | 274 | 93 |

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* | | NA | 2.31 month | | |
| Employment dismissal cases* | | | | | |
| Robbery cases | | NA | 4.28 month | | |
| Intentional homicide | | NA | 4.56 month | | |

Comment :

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

Divorce on the basis of the fault of one or both of the spouses;
Divorce on the application of one of the spouses;
Divorce by the mutual consent of the spouses.

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

The length of proceedings is calculated from the receiving the procedural documents in the court until the decision of the court.

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:

In case there are grounds to appeal in cassation, the prosecutor can appeal the case in cassation.

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

☒ Yes

☐ No

Please specify:

Upon establishing a violation of the rights and lawful interests of a person, society or the State, the prosecutors shall protect the public interest and lay an action or file a statement in civil or administrative proceedings.

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 | 84141 | 40418 | 21095 | NAP | 2673 | 12416 |

Comment :

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

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

Question 90-95: data of the National Courts Administration;

Question 100: data of the Ministry of Finance;

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:

According to article 51 of the Law on courts a judicial vacancy at a district court may be filled by a national of the Republic of Lithuania of high moral character, having a university degree in law, possessing the qualifications required under the law, who has submitted a health certificate, is a person of at least of five years' standing in the legal profession and has passed the judicial examination. A person having a Doctor's or Habil. Doctor's of Social Sciences (Law) degree, also a person of at least five years' standing as a judge, if not more than five years have lapsed since he last held that position, shall be exempt from sitting for the judicial examination.

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.

The career of the judges is regulated by the Law on Courts and the regulations of the Judicial Council on Entering the candidates in the register of persons seeking judicial promotion, Regulations of the Selection of Candidates for Judicial Appointments, the Assessment Criteria for Candidates for Judicial Office, the Regulations of Selection of the Persons Seeking Promotion in Judicial Office and the Assessment Criteria for Persons Seeking Promotion in Judicial Office.

Article 65 of the Law on Courts: Register of Persons Seeking Promotion in Judicial Office

1. A person seeking judicial office at a court of a higher level shall be included in the register of persons seeking promotion in judicial office.
2. The register of persons seeking promotion in judicial office and the personal files of persons seeking judicial office at a court of a higher level shall be administered by the National Courts Administration.
3. The procedure of including persons in the register of persons seeking promotion in judicial office shall be approved by the Judicial Council.

4. The National Courts Administration shall communicate the information about the persons who have been entered in the register of persons seeking promotion in judicial office to the Selection Commission, the President of the Republic and the Judicial Council.

Article 66 of the Law on Courts: Requirements for a Person Seeking Judicial Office at the Regional Administrative Court or the Regional Court

A judge entered in the register of persons seeking promotion in judicial office, of at least five years standing as a judge of a district court as well as a person having Doctor's or Habil. Doctor's of Social Sciences (Law) degree and of at least five years' standing as a university lecturer in law who has submitted a health certificate may be appointed a judge of a regional administrative court or a regional court.

Article 67 of the Law on Courts: Requirements for a Person Seeking Judicial Office at the Supreme Administrative Court or the Court of Appeals

1. A judge entered in the register of persons seeking promotion in judicial office, of at least four years' standing as a judge of a regional administrative court or a regional court as well as a person having a Doctor's or Habil. Doctor's of Social Sciences (Law) degree and of at least eight years' standing as a legal academic, who has submitted a health certificate, may be appointed a judge of the Supreme Administrative Court or the Court of Appeals.

2. A judge of the Court of Appeals may be appointed a judge of the Supreme Administrative Court, and a judge of the Supreme Administrative Court may be appointed a judge of the Court of Appeals irrespective of the length of service at the Court of Appeals or at the Supreme Administrative Court.

Article 68 of the Law on Courts: Requirements for a Person Seeking Judicial Office at the Supreme Court

A judicial office of the Supreme Court may be filled by:

- 1) a judge of a regional administrative court, a judge of a regional court of at least eight years' standing as a judge at any of these courts;
- 2) a judge of the Supreme Administrative Court and a judge of the Court of Appeals of at least five years' standing as a judge at any of these courts;
- 3) a person having a Doctor's or Habil. Doctor's of Social Sciences (Law) degree of at least 15 years' standing as a legal academic who has submitted a health certificate.

Article 691 of the Law on Courts: Selection of Persons Seeking Promotion in Judicial Office

1. Selection of persons seeking promotion in judicial office to be appointed to judicial vacancies shall be held in accordance with the Regulations of Selection of Persons Seeking Promotion in Judicial Office which shall be approved by the Judicial Council. When selecting persons seeking promotion in judicial office, the quality of work in judicial office, professional and personal qualities, organisational abilities and priority advantages of each applicant shall be assessed. The criteria for the assessment of persons seeking promotion in judicial office shall be determined by the Judicial Council.

2. When or Habil. Doctors of Social Sciences (Law) seek judicial office at a regional administrative court, a regional court, the Supreme Administrative Court and the Court of Appeals, only their personal qualities and general abilities shall be assessed.

3. The persons seeking promotion in judicial office shall be selected by the Selection Commission referred to in paragraph 1 of Article 551 of this Law. The requirements set out in paragraphs 3 and 4 of Article 551 of this Law shall be applied during the selection of persons seeking promotion in judicial office.

Article 551 of the Law on Courts: Selection of Candidates for Judicial Vacancies and the Selection Commission

1. Selection of the candidates for judicial office shall be made for the President of the Republic by the Selection Commission. The Selection Commission shall be composed of seven persons and shall be formed for a period of three years. The President of the Republic, the Chairman of the Judicial Council and the Chairman of the Seimas shall each appoint two members of the Commission, and one member shall be appointed by the Minister of Justice. The Chairman of the Judicial Council shall appoint the Chairman of the Selection Commission from among the members of the Commission. Members of the Judicial Council may not be appointed members of the Selection Commission.

2. The selection of the candidates for judicial office shall be made pursuant to the selection

regulations which shall be subject to the approval by the Judicial Council. When selecting candidates for judicial office at a district court, the skills, professional and personal qualities, general competence and priority advantages of the candidates shall be taken into account. The criteria for the assessment of the candidates for judicial office shall be determined by the Judicial Council.

3. A meeting of the Selection Commission shall be valid if at least five members of the Commission are present at the meeting. Decisions shall be taken by a majority of votes of all the members of the Commission.

4. The Selection Commission shall submit its conclusion about the candidates for judicial office to the President of the Republic

5. By the procedure set out in Article 691 of this Law, the Selection Commission shall also deal with the issues of selection of persons seeking promotion in judicial office, with the exception of cases specified in Articles 73 and 79 of this Law.

6. The conclusions of the Selection Commission about the candidates to judicial office shall not be binding on the President of the Republic.

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:

A person may be admitted to service at the prosecutor's office and appointed to the post of the prosecutor provided that he is a national of the Republic of Lithuania of high moral character, has a good command of the state Lithuanian language, has a university degree in law and MA in law or a professional lawyer's qualification degree or having Doctor or Habil. Doctor in Social Sciences (Law) degree, has passed an examination for candidates and has the recommendation of the Selection Commission.

A person shall be exempt from sitting for the examination for candidates for the prosecutor's post if:

- 1) he has passed the examination for candidates for judicial office, provided less than six months have passed from the date of passing of the examination;
- 2) he has a three-year record of service as a prosecutor or a judge, if not more than five years have lapsed since he last held that position;
- 3) he has Doctor of Social Sciences (Law) or Habil. Doctor degree.

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:

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

1. The prosecutor seeking promotion shall be, with his consent and based on the conclusion of the Performance Evaluation Commission, entered in the list of the prosecutors seeking promotion. A prosecutor who is on the list shall have priority in being appointed to a senior position.
2. The list of the prosecutors seeking promotion shall be handled at the Office of the Prosecutor General following the procedure prescribed by the Prosecutor General.
3. The person appointed to the position of the chief prosecutor for a five year term of office shall have a required record of service as the prosecutor and shall have his professional knowledge and administrative capacities approved by the Performance Evaluation Commission.
4. Upon the termination of the five year term of office in the appointive position, the chief prosecutor may be re-appointed based on the conclusion of the Performance Evaluation Commission.
5. A person appointed to the positions of the chief prosecutor (deputy chief prosecutor) of the department (division) of the Office of the Prosecutor General and of the chief regional prosecutor (deputy chief regional prosecutor) shall have an at least 7-year record of service as the prosecutor or judge, provided that he has an at least 2-year record of service as the prosecutor at the Office of the Prosecutor General, regional prosecutor's office, as chief prosecutor of the district prosecutor's office (deputy chief prosecutor of the district prosecutor's office), or a record of service in the judicial office at the regional court, regional administrative court, the Constitutional Court of the Republic of Lithuania, the Supreme Court of Lithuania, the Court of Appeals of Lithuania or the Supreme Administrative Court of Lithuania or, for persons having academic degrees of Doctor of Doctor Habil. in Social Sciences (Law), the academic record of service of at least 7 years.
6. The person appointed to the position of the prosecutor of the Office of the Prosecutor General, chief prosecutor of a structural unit of the regional prosecutor's office (his deputy), district chief prosecutor (his deputy) shall have an at least 5-year record of service as the prosecutor or judge or, for persons having academic degrees of Doctor or Doctor Habil. in Social Sciences (Law), the academic record of service of at least seven years.
7. The person appointed to the position of the prosecutor of the regional prosecutor's office, chief prosecutor of a structural unit of the district prosecutor's office (his deputy) shall have an at least 3-year record of service as the prosecutor or of service in judicial office, or he shall be a person having academic degrees of Doctor or Doctor Habil. in Social Sciences (Law) with the academic record of service of at least three years.

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

- ☒ Yes
☐ No

Are there exceptions? Please specify:

A person is appointed to a judicial office at a district court for the first time for a term of five years in order to ascertain whether the person qualifies for the office. A person may be appointed to hold a judicial office for a term of five years only once. The appointment of a person to a judicial office at a district court for a term of five years for the second time is not regarded as a reappointment if he discharged judicial duties after the first appointment for a term shorter than five years. Upon the expiry of the five year term, such a person may be appointed a judge of a district court, without a prior examination and selection, by the President of the Republic of Lithuania, for a term until he reaches 65 years of age.

Judges of other courts shall, from the outset, be appointed for a term until they are 65 years of age.

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 | Yes | 5 |

judges

111) Is the mandate given for an undetermined period for prosecutors?☒ Yes☐ No

Are there exceptions? Please specify:

The prosecutor, appointed to the prosecutor's position in the manner prescribed by the Law shall pursue the responsibilities by then he reaches the age of 65, if there is no ground to assume that his service is impossible. For example, if he loses citizenship of the Republic of Lithuania, if there is a conclusion of the Performance Evaluation Commission stating that the prosecutor is not suitable for the position or based on the conclusion of the medical commission he is not fit to serve as the prosecutor.

The Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic with the approval of the Seimas. Deputies of the Prosecutor General shall be appointed for a term of seven years and dismissed from office by the President of the Republic upon the nomination of the Seimas.

Source: The Law on the Prosecutor's Office of the Republic of Lithuania, the Law on courts.

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 | None | |

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? | <input checked="" type="checkbox"/> Yes | 65 |
| for prosecutors? | <input checked="" type="checkbox"/> Yes | 65 |

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

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

Important provisions of the Law on Courts should be mentioned: Article 92. Types of Training for

Judges 1. Initial training and obligatory in-service training shall be provided for judges. 2. Initial training shall be intended for persons who have been appointed judges to the district court for the first time, with a view to expanding their knowledge and building professional skills. Initial training for judges shall last at least a month before the judge assumes the duties of the judicial office. 3. Obligatory in-service training involving broadening special professional knowledge and skill building shall be aimed at by judges: 1) when they are given a promotion; 2) when they are appointed or transferred from a court of general jurisdiction to a court of special jurisdiction and also in other cases when the judge's qualifications undergo a change; 3) when regulation of public relations undergoes a fundamental change; 4) at least every five years starting from the period of previous training; 5) in other cases when appropriate. Article 93. Organisation of Training of Judges 1. Training of judges shall be organised, programmes and methodological materials shall be developed by the Judicial Council and the Ministry of Justice. 2. Programmes for training of judges, regulations on training tests and schedules, types of training, its scope and financing, other teaching-related documents shall be approved by the Minister of Justice subject to the approval of the Judicial Council. Article 94. Financing of Training of Judges 1. Training of judges shall be financed by the State. For this purpose, funding under a separate programme shall be provided for the Ministry of Finance for the organization of training of judges, development and publication of teaching materials and other training-related expenses. 2. Estimates of court expenses shall earmark funds for the planned training of judges making up at least 1.5 per cent of the allocations for judges' salaries. Article 95. Training of Court Staff Training of the court staff shall be laid down by the Law on Civil Service. Under the Law on Civil Service, beside the Government or a body authorised by it, the Ministry of Justice shall also take part in the development and management of programmes for the improvement of professional qualifications and training, organization of the improvement of professional qualifications and training of the court staff.

According to the fact that European Convention on Humans Rights and the case law of the Court is the part of national legal system, judicial training in Lithuania is relevant with problems related with implementation of this Convention. During the training the lectors are usually providing appropriate knowledge in the light of Convention.

Training Centre of the Ministry of Justice was established in January 2007 and is responsible for initial and continuous training of the judges and prosecutors throughout Lithuania. Mission of the Training Centre:

- 1) improve professional capacity of judges all branches of the administrative courts and courts of general competence;
- 2) ensure continuing professional developments of prosecutors;
- 3) organize separate training of lawyers: notaries, advocates, bailiff, etc.

Functions of the Training Centre are also:

- 1) research training needs of the judges to develop more targeted and needs-based program planning;
- 2) prepare educational programmes;
- 3) publish scientific, training and methodological legal literature.

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 | 16525 | 12330 |
| Judge of the Supreme | | |

| | | |
|--|----------|----------|
| Court or the Highest Appellate Court | 29862 | 22066 |
| Public prosecutor at the beginning of his/her career | 13206,72 | 10829,52 |
| Public prosecutor of the Supreme Court or the Highest Appellate Instance | 21460,80 | 17405,64 |

Comment :

The data of the year 2008.

119) Do judges and public prosecutors have additional benefits?

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

120) If other financial benefit, please specify:

Prosecutors receive financial benefit for the record of work and for the qualification rank.

Judges receive financial benefit for the record of work.

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 | Yes | No | No |
| Arbitrator | No | No | Yes |
| Consultant | No | No | No |
| Cultural function | No | No | No |
| Other function | No | No | No |

122) If other function, please specify:

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 | No | No | Yes |
| Arbitrator | No | No | Yes |
| Consultant | No | No | Yes |
| Cultural function | No | No | Yes |
| Other function | No | No | Yes |

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

The data of the Prosecutor General's Office and the National Courts Administration.

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

According to article 84 of the Law on Courts:

1. A disciplinary action may be brought against a judge immediately after at least one of the violations specified in paragraph 2, Article 83 of this Law comes to light but not later than within three months after the day when this violation came to the notice of the Judicial Ethics and Discipline Commission which has the right to institute a disciplinary action. Excluded from this time period shall be the time when the judge was absent from work due to ill health or a vacation.
2. A disciplinary action may not be instituted after a lapse of more than three years from the moment of the commission of the violation.
3. A disciplinary action may be brought against a member of the Judicial Council or the Judicial Court of Honor only upon the consent of the Judicial Council.
4. The Judicial Council, the Judicial Ethics and Discipline Commission and the Chairman of the court where a judge is employed or the Chairman of any court of a higher level or any person knowledgeable of the action provided for in paragraph 2 of Article 83 of this law shall have the right to make a motion for instituting a disciplinary action. The party having the right to make a motion for instituting a disciplinary action shall submit a reasoned petition for bringing a disciplinary action against the judge to the Judicial Ethics and Discipline Commission.
5. A disciplinary action against the Chairmen, Vice Chairmen of courts, Chairmen of court divisions and other judges may be instituted by the Judicial Ethics and Discipline Commission. If a motion for instituting a disciplinary action is made by a member of the Judicial Ethics and Discipline Commission, the issue of instituting a disciplinary action shall be considered by the Judicial Ethics and Discipline Commission without the participation of this member.
6. The instituted disciplinary action shall be transferred to the Judicial Court of Honor. Refusal to institute a disciplinary action shall be communicated to the party that has made a motion for instituting a disciplinary action.

The disciplinary proceedings against prosecutors could be initiated only by the General Prosecutor.

The disciplinary proceedings against the deputy of the General Prosecutor could be initiated only by the General Prosecutor. The President of the Republic of Lithuania should be informed about this.

The disciplinary proceedings against the General Prosecutor could be initiated only by the President of the Republic of Lithuania, upon removing him from office with the consent of the Seimas.

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

The Judicial Ethics and Discipline Commission is an institution of self-governance of courts

deciding the issues of instituting disciplinary actions against judges.

The Judicial Court of Honour is an institution of self-governance of courts, hearing disciplinary cases of judges and petitions of judges against libel.

The prosecutor shall be imposed a service-related penalty by order of the Prosecutor General according to the established procedure.

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) | 2 | 3 |
| 1. Breach of professional ethics | 2 | 3 |
| 2. Professional inadequacy | - | |
| 3. Criminal offence | - | |
| 4. Other | - | |

Comment :

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) | 0 | 12 |
| 1. Reprimand | 0 | 6 |
| 2. Suspension | 0 | 1 |
| 3. Withdrawal of cases | - | |
| 4. Fine | - | |
| 5. Temporary reduction of salary | - | |
| 6. Degradation of post | - | |
| 7. Transfer to another geographical (court) location | - | |
| 8. Dismissal | 0 | 1 |
| 9. Other | 0 | 4 |

Comment :

Other - a service-related penalty - censure.

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).

There were about 1590 lawyers in 2008. In 2009-Jan-31 there were 1607.

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)

NA

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 criminal cases advocate may act as counsel for the defence. An advocate's assistant may act as a counsel for the defence upon instructions of the lawyer provided there is no objection of the accused. An advocate's assistant may not take part in the trial involving a grave or very grave criminal offence.

The representative of a victim, the plaintiff or the defendant in a civil action shall be an advocate or an advocate's assistant under the advocate's instruction, and, subject to leave of the pre-trial investigation officer, the prosecutor or the judge, any other person with a university degree in law, having power of attorney of a party to a proceeding to represent his interests. The head of an institution, enterprise or an organisation or a person authorised by him may act as a representative of a legal entity.

In civil cases these organisations or persons may represent a client before a court:

- 1) advocates;
- 2) assistants of advocates holding a written consent of advocates supervising the assistants' internship to represent in a specific case;
- 3) one plaintiff after the authorisation of other plaintiffs;
- 4) persons with university degree in law if they represent their close relatives or a spouse (partner);
- 5) trade unions, if they represent members of trade unions in cases on legal relationships of labour.

Employees of respective legal entities (in the instance of appeal – persons with university degrees in law) or advocates or their assistants holding a written consent of advocates supervising the assistants' internship to represent in a specific case may act as representatives of legal entities in court.

Only advocates shall draw up a cassation appeal. Those employees of a legal person, who have a higher (university) legal education, may also draw up the cassation appeal of legal persons. If the cassator is a natural person who has a higher (university) legal education, he shall be entitled to draw up the cassation appeal himself.

Although lawyers do not have monopoly of representation in administrative cases, usually advocate or advocate's assistant shall act as attorneys in the court. The powers of an advocate or an advocate's assistant shall be confirmed by the warrant of advocate or advocate's assistant or the agreement concluded with the client. The powers of other representatives must be specified in the power of attorney issued and executed according to the procedure laid down in the Civil Code and the Code of Civil Procedure.

134) Is the lawyer profession organised through?

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

Please specify:

There is only one bar in Lithuania – the Lithuanian Bar. There are no local or regional bars.

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

Question 130: data of the Lithuanian Bar

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

139) Are lawyers fees

☒ regulated by law?

☐ regulated by Bar association?

☒ freely negotiated?

Please provide comments to explain the answer under question 139:

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):

For instance, main principles of professional activities of the advocates are defined in the Law on the Bar. They are detailed in the Code of Professional Ethics for Lawyers which is adopted at the Conference of the Bar Association.

142) Is it possible to complain about

☒ the performance of lawyers?

☒ the amount of fees?

Please specify:

According to the Law on the Bar in the event of a dispute between the client and the advocate over legal services, the client shall have the right to apply to the Lithuanian Bar Association or the court. Disputes between clients and advocates over legal services shall be settled at the Lithuanian Bar Association by the Council of the Lithuanian Bar Association or a body set up by it. These disputes shall be settled in accordance with the procedure established by the Council of the Lithuanian Bar Association and agreed with the Ministry of Justice. The Council of the Lithuanian Bar Association or a body set up by it shall have the right to adopt recommendatory decisions.

143) Which authority is responsible for disciplinary procedures

☐ the judge?

☐ the Ministry of justice?

☒ a professional authority or other?

Please specify:

A disciplinary action may be instituted against an advocate for violations of the requirements of the Law on Bar and the Code of Professional Ethics for Lawyers. A decision to institute a disciplinary action shall be taken by the Lithuanian Bar Association or the minister of justice. Disciplinary actions against advocates shall be heard by the Court of Honour of Advocates

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 | 21 | 0 | 0 | 0 |

Comment :

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 | 10 | 0 | 0 | 0 | 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 | Yes | Yes | No | Yes | No |
| Family law cases (ex. Divorce) | Yes | Yes | Yes | Yes | No |
| Administrative cases | No | No | No | No | No |
| Employment dismissals | Yes | Yes | No | Yes | 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)

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? | NA |
| family cases? | NA |
| administrative cases? | NAP |
| employment dismissals? | NA |
| criminal cases? | NAP |

Please indicate the source for answering the question 150:

The provisions of the Law on Conciliatory Mediation in Civil Disputes; Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing

Regulation (EC) No 1347/2000; Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

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:

According to the Law on Commercial Arbitration arbitration may also be applied in the Republic of Lithuania. It has to be mentioned that the Ministry of Justice has recently prepared the draft law amending that law and aiming to make the procedure of arbitration more effective and attractive. This law is now submitted for consideration of competent institutions.

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**

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).

127

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:

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:

Data of the 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 judge is responsible for the supervision of all executive proceedings.
The Ministry of Justice is responsible for supervision of bailiffs' establishment, working conditions and financial discipline.

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:

Unlawful bailiff's practices are usually conditioned by insufficient supervision of bailiffs by court (judge).

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:

The Ministry of Justice is going to revise executive costs in the nearest future.

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: | 8 |
| for breach of professional ethics | <input checked="" type="checkbox"/> number: | 4 |
| for professional inadequacy | <input checked="" type="checkbox"/> yes, number: | 4 |
| for criminal offence | <input type="checkbox"/> number: | |
| Other | <input type="checkbox"/> number: | |

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: | 7 |
| Reprimand | <input checked="" type="checkbox"/> number: | 2 |
| Suspension | <input type="checkbox"/> number: | |
| Dismissal | <input type="checkbox"/> number: | |
| Fine | <input type="checkbox"/> number: | |
| Other | <input checked="" type="checkbox"/> number: | 5 |

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

In the year of 2008 m. 110 bailiffs were actually working (17 places in various regions were free).

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

Data of the 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):

Prosecutor is entrusted with the enforcement of judgements.

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

☒ Yes

☐ No

If yes, please specify:

The Prosecutor's Office provides data only on the investigation carried out by the Prosecutor's Office.

The General Prosecutor's Office has prepared "Criminal penalties for the exercise and performance review for 2008".

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)? | <input type="checkbox"/> number | |
| a status of private worker ruled by the public authorities? | <input checked="" type="checkbox"/> number | 267 |
| a public one? | <input type="checkbox"/> number | |
| other? | <input type="checkbox"/> number | |

Comment :

174) Do notaries have duties:

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

Please specify:

According to the Law on the Notary office notaries shall perform the following notarial acts:

- 1) attestation of transactions;
- 2) issue of inheritance certificates;
- 3) issue of certificates of title to a share of the matrimonial property;
- 4) authentication of copies and extracts from documents;
- 5) certification of the signature on the deeds;
- 6) certification of veracity of the translation of an instrument from one language into another;
- 7) attestation of the fact that a natural person is alive and resides in a certain location;
- 8) acceptance for safe custody of wills equivalent to official wills as well as personal wills;
- 9) attestation of the time of delivery of certain deeds;
- 10) delivery of depositions by natural and legal persons to other natural and legal persons;
- 11) acceptance for deposit of money;
- 12) acceptance of ships' protests;
- 13) protests of bills and cheques;
- 14) entry of execution clauses in the protested and non-protestable bills and cheques;
- 15) drawing up or certification of documents in respect of the authenticity of information transferred to the register of legal persons and confirmation that a legal person may be registered because the obligations under law or the transaction of incorporation have been fulfilled and the circumstances provided in laws and the documents of incorporation have arisen;
- 16) certification of conformity of the documents of incorporation to the requirements provided by law;
- 17) performance of other notarial acts provided by law.

It shall be recognised that the facts presented in the notarised documents have been established and provide conclusive evidence until these documents or parts thereof are recognised as not valid according to the procedure established by law.

Please indicate the source for answering the question 173

Data of the 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:

Official supervision of the activities of notaries and their self-governing bodies shall be carried out by persons appointed by the Minister of Justice of the Republic of Lithuania. The Ministry of Justice of the Republic of Lithuania shall analyse the statistics of notarial acts and the earnings of the notaries for notarial acts performed and shall conduct supervision of notarial activities. Supervision of notarial activities shall be conducted in accordance with the procedure established by the Minister of Justice of the Republic of Lithuania. The persons appointed by the Minister of Justice of the Republic of Lithuania shall monitor compliance of the notaries with the requirements for notaries' offices and the working time of notaries, how they serve their clients, comply with the regulations of the notarial register and completion of the forms of attestations and notarial certifications, how they draw up, keep, store and use documents recorded in the course of their activities. Supervision of notarial activities shall not include supervision of the legality of the notarial acts performed by notaries.

An interested party who thinks that a performed notarial act or a refusal to perform a notarial act is unfair shall be entitled to appeal against it to a court in the judicial area where the notary's office is located.

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

107

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

- ☒ Yes
☐ No

If yes, please specify:

It is regulated by Civil, Criminal and Administrative codes of proceedings and internal rules of courts (local acts).

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:

It has been preparing for courts reorganization reform, which shall connect the district courts of cities region and the district courts of cities. The objectives of the reform are to modernise the judicial system so as to ensure the highest possible level of flexibility and services.

In order to equalise the different workload in district courts, it was agreed to change the number of judges working in some of these courts. These changes should reduce the time spent on case hearing in some of district courts, which have the biggest workload.

Having regard to the ways of increasing the public confidence and transparency of justice, it was decided to start audio recording of the court proceedings. According to the Law on Courts, all the proceedings should be audio-recorded from the 1th of July 2010.