



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Estonia

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

1 340 194

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	5 317 986 254
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

10 674

4) Average gross annual salary (in €)

9 508

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

NAP

A.1

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

Statistic Estonia provided the needed metadata. Q nr 4 includes taxes.

Q2 : Decreased due to cuts in public sector spending. A major role plays also the decrease in public demand and the depreciation of the building sector. Also rethinking the revenue had an impact on the decrease of the total annual public expenditure - an increase in taxes and due to the increase of unemployed the tax revenues decline.

1. 2. Budgetary data concerning judicial system

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

6) Annual approved public budget allocated to the functioning of all courts, in € (if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	26 797 340
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	20 629 784
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	271 414
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	841 964
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	4 821 159
5. Annual public budget allocated to investments in new (court) buildings		NA
6. Annual public budget allocated to training		

and education	<input checked="" type="checkbox"/> Yes	214 574
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	18 445

7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:

Unpredictable expenses.

8) Are litigants in general 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 to the rule to pay court a tax or fee? Please provide comments on those exceptions:

A state fee is not charged for the following acts:

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

The following are exempt from payment of state fees:

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

9) Annual income of court taxes or fees received by the State (in €)

12 909 414

10) Annual approved public budget allocated to the whole justice system, in €(this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

.	<input type="checkbox"/> NA	98 519 256
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11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	No
Judicial protection of juveniles	Yes
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	2982213	NA	NA

13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.

. ☒ Amount 9 135 614

Comment :

14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :

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

15) If any other Ministry and/or inspection body and/or other, please specify (considering question 14):

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

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

More comments about the Supreme Court: the Supreme Court is financed directly from the state budget; the volume and division of the Supreme Court expenditure must be approved by the Government of the Republic. The drafting of state budget is organised and co-ordinated by the Ministry of Finance in conformity with the requirements set out in the State Budget Act. The Supreme Court itself drafts the preliminary draft project and submits it to the Ministry of Finance. The Chief Justice of the Supreme Court must ensure, with the assistance of the director of the court, the

timely submission of the court's budget and, if necessary, the draft amendments to the budget, to the ministry. Negotiations are held between representatives of the Ministry of Finance and the Supreme Court concerning a budget project and the justification for and feasibility of the expenditure included therein. After the negotiations and resolution of disagreements at the level of government the Ministry of Finance compiles a draft state budget and submits it, through the government, to the parliament. In negotiations concerning a budget project with the Ministry of Finance the Supreme Court is represented by the director of the court; in negotiations with the members of the government and the parliament the Supreme Court is represented by the Chief Justice.

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

A.2

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

- Other expenses at the budget of the Supreme Court are membership fees of the international organizations. Training budget of the Supreme Court includes training costs of justices of the Supreme Court and judges of the first and second instance courts; it covers costs for renting the premises, catering, fees for lecturers, materials etc.

- The Supreme Court's accounting department is run by a head of department (the official is appointed by the Chief Justice, his or her work is organised by the Court Director) whose responsibility is to organise the Supreme Court's accounting and reporting. In addition to the head of the department acting as the head accountant, the department employs one other accountant.

Q6#2#2 : Explanation of the decrease of 21.45% of the annual approved budget of the courts dedicated to gross salaries between 2008 and 2010 is that probation supervision went from courts to prison competence. Also economic crisis, that caused wage cuts.

Q6#2#7 - The annual public budget allocated to training and education between 2008 and 2010 decreased by 53 %. In 2010 public sector spending was decreased/cut and this is why also the budget allocated to training and education is lower. In 2012 for example it is twice as big as in 2010.

Q9 : The increase is caused by the law that increased the state fees.

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

Q6- Ministry of Justice, Supreme Court,

Q9- Ministry of Finance,

Q10 Q11 Q12 Q13 – Ministry of Justice, Supreme Court.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

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

17) Does legal aid include the coverage of or the exemption from court fees?

☐ Yes

☒ No

If yes, please specify:

If yes, please specify:

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

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

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

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

☐ Yes

☒ No

If yes, please specify:

19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).

	Criminal cases	Other than criminal cases
	No	Yes

Comment :

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	NA
in criminal cases	NA
other than criminal cases	NA

Comment :

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
Victims	Yes

Comment :

If a person is a suspect or an accused person in criminal proceedings a lawyer will be appointed to assist him and his financial means are not taken in to consideration. A victim gets a lawyer on state if he is not financially able to pay for the lawyer.

22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system

☒ Yes

☐ No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	YES	NAP
for other than criminal cases?	YES	NAP

Comment :

In application for legal aid, the applicants have to mark their financial state and attestations to characterise these data. Considering these data, the state decides, wheather to grant legal aid or not.

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

☒ Yes

☐ No

If yes, please explain the exact criteria for denying legal aid:

If yes, please explain the exact criteria for denying legal aid:

State legal aid is not granted if

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

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

25) Is the decision to grant or refuse legal aid taken by :

☒ the court?

☐ an authority external to the court?

☐ a mixed decision-making authority (court and external bodies)?

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

☒ Yes

☐ No

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

27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:

criminal cases?	Yes
other than criminal cases?	Yes

B.1

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 20 and 23

Sources of Q 20, 23 – Bar Association

2. 2. Users of the courts and victims

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

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

The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:

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

Comment :

Other documents internet addresses include forms and practical information.

29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

☐ Yes

☒ No

If yes, please specify:

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

☒ Yes

☐ No

If yes, please specify:

This information is on webpages:

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

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

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

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	Yes	Yes	No
Victims of terrorism	Yes	Yes	No
Children (witnesses or victims)	Yes	Yes	No
Victims of domestic violence	Yes	Yes	No
Ethnic minorities	Yes	Yes	No
Disabled persons	Yes	Yes	No
Juvenile offenders	Yes	Yes	No
Other (e.g. victims of human trafficking)	Yes	Yes	No

Comment :

Other: the possibility of an in camera proceeding, excluding the public, language assistance during a court proceeding for ethnic minorities or disabled persons, prohibition on publishing personal details and photographs of minor defendants and witnesses.

32) Does your country allocate compensation for victims of crime?

☒ Yes

☐ No

If yes, for which kind of offences

Compensation shall be paid to victims of crimes of violence committed in the territory of the Republic of Estonia and to their dependants and to persons specified in the victim support Act.

(1) A crime of violence is an act committed against the life or health of a person which is punishable pursuant to criminal procedure and as a result of which the injured person:

- 1) dies;
- 2) sustains serious damage to his or her health;
- 3) sustains a health disorder lasting for at least six months.

(2) Action which is taken by an injured person or a third party to prevent a criminal offence, apprehend a criminal offender or assist a victim of crime and which results in one of the consequences specified in subsection (1) of this section is also deemed to be a crime of violence.

(3) Acts specified in subsection (1) or (2) of this section are deemed to be crimes of violence even if:

- 1) the offender is incapable of guilt;
- 2) the offender has not been identified or apprehended or if the offender cannot be convicted for other reasons but the evidence collected with regard to the criminal matter suggests that a crime of violence has been committed.

33) If yes, does this compensation consist in:

- ☒ a public fund?
- ☒ damages to be paid by the responsible person (decided by a court decision)?
- ☐ a private fund?

34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?

- ☐ Yes
- ☒ No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

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

- ☐ Yes
- ☒ No

If yes, please specify:

36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?

Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a judicial decision".

- ☒ Yes
- ☐ No
- ☐ NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, please specify:

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

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

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

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

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

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

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

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

The following persons shall not be compensated for damage:

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

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

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

38) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)

- ☐ (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 the parties
- ☒ (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- ☐ (Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

<http://www.riigikohus.ee/vfs/1041/Uuringu%20aruanne%202010.pdf>

Survey for the Court users satisfaction of courts.

39) If possible, please specify:

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

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

☒ Yes

☐ No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	Yes	No	No
Higher court	Yes	No	No
Ministry of Justice	Yes	No	No
High Council of the Judiciary	Yes	No	No
Other external bodies (e.g. Ombudsman)	Yes	No	No

Comment :

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

The following have the right to commence disciplinary proceedings against judges:

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

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

There is no time limit to respond.

The Courts Act stipulates, that a participant can file a complaint in a concrete proceeding about the excessive length of proceeding to the chairman of court. The chairman of the court has, according to the Courts Act, the right to impose measures to speed up the proceedings: if a judge without a good reason fails to perform a necessary procedural act, fails to appoint a session in due time or if it is evident that the time planned by the judge for performing the procedural act or other organisation of proceedings does not ensure the conducting of proceedings within a reasonable period of time, a chairman of a court shall decide on the implementation of such measure organising the administration of justice, which presumably provides the opportunity to finalise the proceedings within a reasonable period of time. The chairman of the court may

- 1) establish a reasonable term for the judge to perform the procedural act or finalise the proceedings;
- 2) provide the judge with other organisational guidelines for conducting the proceedings and organising the work and working time;
- 3) redistribute the court cases among the judges taking account of the division of tasks plan;
- 4) in exceptional case, also deviate from the division of tasks plan in the distribution of work, primarily taking into account the peculiarities of the court case, the specialisation of the judge and different workload of the judges.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	4
42.2 First instance specialised Courts (legal entities)	2
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	22

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	2
Commercial courts	NA
Labour courts	NA
Family courts	NA
Rent and tenancies courts	NA
Enforcement of criminal sanctions courts	NA
Administrative courts	2
Insurance and / or social welfare courts	NA
Military courts	NA
Other specialised 1st instance courts	NA

Comment :

There are two administrative courts of first instance in Estonia (Tallinn and Tartu). For guaranteeing wider access to justice, these two courts have several court buildings in other cities besides Tallinn and Tartu, in Pärnu and Jõhvi, where judges and their supporting legal staff work.

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

☒ Yes

☐ No

If yes, please specify:

In 2011, two of the four courthouses of Viru County Court were merged and the number of geographic locations of Estonian courts is currently 21.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for	

small claims	4
a dismissal	4
a robbery	4

Please give the definition for small claims and indicate the monetary value of a small claim:

There are several meanings for small claims:

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

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

Courts Act, Regulation of Minister of Justice about the territorial jurisdiction and locations of county and administrative courts and locations of the circuit courts, Code of Civil Procedure

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010)

(please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please provide in the "comment" box below any useful comment for interpreting the data above.

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	224	83	141
1. Number of first instance professional judges	163	49	114
2. Number of second instance (court of appeal) professional judges	42	18	24
3. Number of supreme court professional judges	19	16	3

Comment :

47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	9	7	2
1. Number of first instance court presidents	6	4	2
2. Number of second instance (court of appeal) court presidents	2	2	0
3. Number of supreme court presidents	1	1	0

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure

NAP

If possible, in full-time equivalent

NAP

Comment :

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure

NA

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

☐ Yes

☒ No

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

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

51) Number of citizens who were involved in such juries for the year of reference:

NAP

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	<input checked="" type="checkbox"/> Yes	976
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input checked="" type="checkbox"/> Yes	67
2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	468
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	339
4. Technical staff	<input checked="" type="checkbox"/> Yes	91
5. Other non-judge staff	<input checked="" type="checkbox"/> Yes	11

Comment :

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

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

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

54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?

☒ Yes

☐ No

If yes, please specify:

Cleaning and housing of 1st and 2nd instance courts.

C.1

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 have been implemented over the last two years

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

46), 47) Judges' staff numbers are collected by the Supreme Court

52) Supreme Court and Ministry of justice

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	175	NA	NA
1. Number of prosecutors at first instance level	NA	NA	NA
2. Number of prosecutors at second instance (court of appeal) level	NA	NA	NA
3. Number of prosecutors at supreme court level	NA	NA	NA

Comment :

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	NA	NA	NA
1. Number of heads of prosecution offices at first instance level	NA	NA	NA
2. Number of heads of prosecution offices at second instance (court of appeal) level	NA	NA	NA
3. Number of heads of prosecution offices at supreme court level	NA	NA	NA

Comment :

57) Do other persons have similar duties to public prosecutors?

☒ Yes

☐ No

Number (full-time equivalent)

6

58) If yes, please specify their title and function:

Advisors, preparing the documents, cases.

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

☐ Yes

☒ No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

☒ Yes

80

C.2

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 have been implemented over the last two years

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

60, Prosecutors Office

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

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

Comment :

The Supreme Court's Management Board composed of the Chief Justice, Chairmen of the Chambers (Civil Chamber, Criminal Chamber and Administrative Law Chamber) and the administrative director evaluate the overall use of the Supreme Court's budget.

ministry of Justice also is monitoring the budget of I and II instance courts.

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

Word processing	100% of courts
Electronic data base of jurisprudence	100% of courts
Electronic files	100% of courts
E-mail	100% of courts
Internet connection	100% of courts

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

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	100% of courts

64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?

Electronic web forms	100% of courts
Website	100% of courts
Follow-up of cases online	100% of courts
Electronic registers	100% of courts
Electronic processing of small claims	100% of courts
Electronic processing of undisputed debt recovery	100% of courts
Electronic submission of claims	100% of courts
Videoconferencing	100% of courts
Other electronic communication facilities	100% of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	Yes	Yes	Yes

Comment :

C.3

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

In 2010, the Ministry of Justice in cooperation with the Supreme Court started to develop the new version of the court information system. The objective of the project is to create a user-friendly system which will simplify the work of courts and enable the better administration of justice. In addition to the former functionalities of the current court information system, the new system will have several developments, among other things for example the possibility of obtaining a quick review of the information required for the judge's work, including the review of judicial practice by different court instances. The project is being funded from the European Regional Development Fund. The activities required for the implementation of information system, including testing and user training, will be financed from the budgets of the Supreme Court and of the courts of the first and second instances.

3. 2. Performance and evaluation

3. 2. 1. Performance and evaluation

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

☒ Yes

☐ No

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

Ministry of Justice

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

☒ Yes

☐ No

68) Do you have, within the courts, a regular monitoring system of court activities concerning:

The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).

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

If other, please specify:

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

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

The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).

- ☒ Yes
- ☐ No

Please specify:

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

70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72)

- ☒ Yes
- ☐ No

71) Please select the 4 main performance and quality indicators that have been defined:

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

If other, please specify:

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

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

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

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

☐ Yes

☒ No

73) Who is responsible for setting the targets for each judge?

☐ 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:

NAP

74) Are there performance targets defined at the level of the court (if no please skip to question 77)?

☒ Yes

☐ No

75) Who is responsible for setting the targets for the courts?:

☒ executive power (for example the ministry of Justice)?

☐ legislative power

☒ judicial power (for example a High Judicial Council, Higher Court)

☐ other

If other, please specify:

As said before (question 71), there have been and probably will be in the future so-called "protocols/agreements for collective intentions" between the 1st and 2nd instance courts and the Ministry of Justice. The targets are set in cooperation of the chairman/president of a court and the Ministry of Justice.

76) Please specify the main targets applied to the courts:

For example the percent of old pending cases.

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

☒ High Council of judiciary

☒ Ministry of justice

☐ inspection authority

☒ Supreme Court

☐ external audit body

☒ other

If other, please specify:

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

78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

- ☐ Yes
☒ No

If yes, please specify:

79) Do you have specialised court staff that is entrusted with these quality standards?

- ☐ Yes
☒ No

80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

- ☒ in civil law cases
☒ in criminal law cases
☒ in administrative law cases

81) Do you monitor waiting time during court procedures?

- ☒ Yes
☐ No

If yes, please specify:

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

82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?

This question does not concern the specific evaluation of performance indicators.

- ☒ Yes
☐ No

Please specify the frequency of the evaluation:

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

83) Is there a system for monitoring and evaluating the performance of the public prosecution service?

- ☐ Yes
☒ No

If yes, please give further details:

C.4

You can indicate below:

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

4. Fair trial

4. 1. Principles

4. 1. 1. General information

84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a legal professional)?

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) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	NA	NA	NA	NA
Civil proceedings - Article 6§1 (non-execution)	NA	NA	NA	NA
Criminal proceedings - Article 6§1 (duration)	NA	2	NA	1

Please indicate the sources:

Ministry of Foreign Affairs

D.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter

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?

☐ there is no specific procedure

If yes, please specify:

In civil cases there is a possibility to secure action. It means that the court may secure an action at the request of the plaintiff if there is reason to believe that failure to secure the action may render compliance with the judgment difficult or impossible. The measures are for example judicial mortgage on an immovable, seizure of the defendant's property, prohibition on the defendant from performing certain acts, including a restraining order or prohibition on a defendant from departing from his or her residence, taking the defendant into custody and imposition of detention on the defendant. In a matrimonial matter, maintenance matter or other family matter, the court may also regulate the rights of parents to a common child; communication of a parent with a child; surrender of a child to the other parent; or other matters related to marriage and family which need to be settled expeditiously due to the circumstances. By Code of Criminal Procedure - If a person is suspected of a criminal offence in the second degree and the facts relating to the subject of proof of which are explicit and all necessary evidence concerning which have been collected, the Prosecutor's Office may request that the court adjudicate that criminal matter pursuant to expedited procedure. The request shall be made within forty-eight hours after the person has been interrogated as a suspect directly after commission of the criminal offence or after the person has been detained as a suspect.

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

88) Are there simplified procedures for:

- ☒ civil cases (small disputes)?
- ☒ criminal cases (small offences)?
- ☐ administrative cases?
- ☐ there is no simplified procedure

If yes, please specify:

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

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

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

- ☒ Yes
- ☐ No

If yes, please specify:

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

4. 2. 2. Caseflow management and timeframes of judicial proceedings

90) Comment:

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	36 716	75 865	84 136	27 675
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	12 046	21 622	21 107	12 425
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	23 436	50 687	58 786	13 949
3. Enforcement cases	NA	NA	NA	NA
4. Land registry cases**	NA	83 804	83 795	9
5. Business register cases**	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	1 174	3 556	3 243	1 301
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:

Property cases
Adoption cases
Payment order
family cases
inheritance cases
international legal aid
readjustment cases
enforcement cases
insolvency cases
legal aid and notaries fees
organisational cases
other non-litigious cases
bankruptcy
registry

93) If "other cases", please indicate the case categories included:

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	10 769	14 354	20 629	3 409
8. Criminal cases (severe criminal offences)	2 147	9 479	9 070	2 080
9. Misdemeanour and / or minor offences cases	8 622	4 875	11 559	1 329

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

Misdemeanour cases are cases where the punishment is monetary penalty or arrest. Severe criminal cases are cases where the punishment is imprisonment over 5 years.

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

Q 94. In the beginning of year 2010, there were 8622 pending misdemeanour cases which is not customary. The situation is caused by few years ago 31000 incoming enforcement case expiration petitions which could not be solved in two years.

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	1 269	4 266	4 370	1 160
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	743	1 907	2 069	580
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	117	942	938	76
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	409	1 417	1 318	504
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10

Total criminal cases (8+9)	147	2 431	2 394	179
8. Criminal cases (Severe criminal offences)	142	2 311	2 274	174
9. Misdemeanour and/or minor offences cases	5	120	120	5

Comment :

Registry cases in 2nd instance are included in civil non-litigious cases.

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	51	294	257	88
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	27	175	148	54
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	NA	NA	NA
3. Enforcement cases	2	12	10	4
4. Land registry cases	0	3	3	0
5. Business register cases	0	1	1	0
6. Administrative law cases (litigious and non-litigious)	22	103	95	30
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	21	104	115	10
8. Criminal cases (severe criminal offences)	13	63	67	9
9. Misdemeanour cases (minor offences)	8	41	48	1

Comment :

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

Comments:

Line 2 of the table in Q99 – Although according to Estonian court procedure it is possible to distinguish between litigious and non-litigious cases the Supreme Court of Estonia does not collect statistical data separately for litigious and non-litigious cases.

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	245	530	498	273
Employment dismissal cases	559	682	714	485
Robbery cases	51	225	229	47
Intentional homicide	11	20	24	7

102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	2,6	0,4	191	134	NA	NA
Employment dismissal cases	19	1,5	274	176	NA	NA
Robbery cases	29	0	154	62	NA	NA
Intentional homicide	81	4	340	93	NA	NA

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

Divorce is litigious case.

A vital statistics office or a court grants a divorce.

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

- the spouses disagree about the divorce,
 - together with the divorce a spouse desires to resolve disputes concerning a child and disputes concerning support or division of joint property or
 - a vital statistics office is not competent to grant the divorce (for example one of spouses does not reside in Estonia).
- Upon granting a divorce, a court shall, at the request of the spouses, settle disputes concerning a child and disputes concerning support or division of joint property. If a court does not satisfy a petition for divorce, requests in disputes concerning a child, support or division of joint property shall not be heard.

There are no procedural differences in courts proceedings.

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

The Supreme Court of Estonia does not collect statistical data about the length of the proceedings in the third court instance.

105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):

- ☒ to conduct or supervise police investigation
- ☒ to conduct investigations
- ☒ when necessary, to 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 discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- ☒ to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- ☐ other significant powers

If "other significant powers", please specify:

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

☐ Yes☒ No

If yes, please specify:

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	NA	21 522	2 895	8 952

108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	21 522
1. Discontinued by the public prosecutor because the offender could not be identified	12 863
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	5 714
3. Discontinued by the public prosecutor for reasons of opportunity	2 945

109) Do the figures include traffic offence cases?

☒ Yes☐ No

D.2

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**

Q91 : Statistics given for 2010 do not include (data not available) enforcement and business registry cases, and no pending cases statistics of land registry cases. Also incoming non-litigious cases have decreased – for example less contract disputes and service contract disputes.

Q94 : We have completed our statistics given to CEPEJ compared with statistics given in 2008, so that severe criminal offences and misdemeanour cases are widened. So all criminal cases are shown in statistics. Also extra advisors were given to judges to help to prepare the cases for solving.

It also seems that that the questions in 2008 year questions were differently interpreted than they should have been understood.

Q97 : Extra advisors were given to judges to help to prepare the cases for solving.

Q100 : We have completed our statistics given to CEPEJ compared with statistics given in 2008, so that severe criminal offences and misdemeanour cases are widened. So all criminal cases are shown in statistics. Also in 2010 extra advisors were given to judges to help to prepare the cases for solving.

It also seems that that the questions in 2008 year questions were differently interpreted than they should have been understood.

Q107#4#1 : The reason for the decrease in the number of cases negotiated by the prosecutor lies in the overall decrease in the number of cases sent to court.

11455 cases were sent to court in 2008. In 2010 8952 cases were sent to court. Therefore the number of settlement proceedings decreased as well.

As we have explained, the figure presented (Concluded by a penalty, imposed or negotiated by the public prosecutor) is the number of cases sent to court to be adjudicated by way of settlement proceedings.

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

Questions 99 and 100 Registry of the Supreme Court

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

- ☐ Mainly through a competitive exam (for instance, following a university degree in law)
- ☐ Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- ☐ A combination of both (competitive exam and working experience)
- ☒ Other

If other, please specify:

A person who has undergone judge's preparatory service or is exempted therefrom and has passed a judge's examination may be appointed as a judge of a county or administrative court. A person who is an experienced and recognised lawyer and who has passed a judge's examination may be appointed as a judge of a circuit court (second instance). A person who worked as a judge directly before appointment shall be exempted from the judge's examination. A person who is an experienced and recognised lawyer may be appointed as a justice of the Supreme Court.

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

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

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

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

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

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

111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].

- ☐ An authority made up of judges only?
- ☐ An authority made up of non-judges only?
- ☒ An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

Judge's examination committee: 2 first instance, 2 second instance and 2 third instance courts' judges, one lawyer nominated by the Council of the Tartu University law faculty, representative of Ministry of Justice, nominated by Minister of Justice, attorney-at-law, nominated by bar association, state prosecutor, nominated by state prosecution office.

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

- ☐ Yes
☒ No

If no, which authority is competent for the promotion of judges ?

There is no formal promotion system of judges in Estonia. If a judge of a lower instance court would like to apply for a judges position in a circuit court, he or she has to go through the ordinary recruitment procedure, where the last decision is made by the Supreme Court en banc (General Assembly). The Supreme Court en banc makes a proposal to the President of the Republic to appoint a judge to office at higher instance court.

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

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

114) Is there a system of qualitative individual assessment of the judges' activity?

- ☒ Yes
☐ No

115) Is the status of prosecution services:

- ☐ Independent?
☒ Under the authority of the Minister of justice ?
☐ Other?

Please specify:

116) How are public prosecutors recruited?

- ☐ Mainly through a competitive exam (for instance, following a university degree in law)
☐ Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
☒ A combination of both (competitive exam and working experience)
☐ Other

If "other", please specify:

117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]

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

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

Attorney General, a member of State Prosecution Office, 2 second instance court prosecutors, 1 judge, nominated by Court en banc, a lawyer nominated by Tartu University's dean of law department and representative of Ministry of Justice

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

☒ Yes

☐ No

If no, please specify which authority is competent for promoting public prosecutors:

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

NAP

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

☐ Yes

☒ No

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

☒ Yes

☐ No

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

A person may be released from the office of judge due to unsuitability for office only within three years after appointment to office if the judge has been declared unsuitable for office by a decision of the Supreme Court en banc.

A judge in respect of whom a conviction by a court for a criminal offence or a decision of the Disciplinary Chamber of the Supreme Court to remove the judge from office has entered into force, is deemed to be removed from office.

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)
	3

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

☒ Yes

☐ No

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

Dismissal as a disciplinary sanction, dismissal due to his bankruptcy, release due to his age (older than 65).

124) If there is a probation period for public prosecutors, how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of the probation period (in years)
	NAP

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

NAP

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

☐ Yes

☒ No

Please indicate the length of the mandate (in years)

5 years

E.1

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. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Compulsory
In-service training for management functions of the court (e.g. court president)	No training offered
In-service training for the use of computer facilities in courts	Optional

128) Frequency of the in-service training of judges:

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

129) Training of public prosecutors

Initial training	Compulsory
General in-service training	Compulsory
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Compulsory
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	No training offered
In-service training for the use of computer facilities in office	No training offered

130) Frequency of the in-service training of public prosecutors

General in-service training	Annual
-----------------------------	--------

In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Annual
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	No training offered
In-service training for the use of computer facilities in office	No training offered

131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s).

If your judicial training institutions do not correspond to these criteria, please specify it.

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	No	Yes	No
One institution for prosecutors	No	Yes	No
One single institution for both judges and prosecutors	No	No	No

Comment :

Judicial Training Department of the Supreme Court is organizing the judges training in Estonia and for prosecutors the Prosecutors Office.

E.2

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

- Comment for interpretation of the answer to question 127: According to the Estonian Courts Act a judge is required to develop knowledge and skills of his or her speciality on a regular basis and to participate in training. In-service training for court managers will be provided in 2011.

- comment regarding the curricula: In 2010, the Training Council adopted the Judicial Training Strategy for the period 2010-2015. The Curricula gives attention to the European Convention on Human Rights and the case law of the Court as well as to the EU law.

- reforms in Estonian training system for judges:

Until 31.12.2008, the Estonian Law Centre Foundation was responsible pursuant to law for developing the judicial training of Estonian judges. From 01.01.2009 the Supreme Court of Estonia is responsible for developing the judicial training curricula offered on an ongoing basis to Estonian judges, as well as implementing the curricula. The programmes offered cover all areas of law, including European law, as well as judicial skills. This work includes processing regular assessments of judicial training needs. The Estonian Judicial Training Council oversees the work of the Judicial Training Department of the Supreme Court. In addition, the Supreme Court's supporting services provide to 1st and 2nd instance judges regular overviews on practical issues (case law analysis'), and access to the electronic database of Estonian Supreme Court's decisions.

5. 3. Practice of the profession

5. 3. 1. Practice of the profession

132) Salaries of judges and public prosecutors.

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	31 992	25 632
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	43 992	35 112
Public prosecutor at		

the beginning of his/her career	15 108	11 845
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	34 512	26 591

Comment :

A judge's salary is provided by the Salaries of State Public Servants Appointed by the parliament or President of the Republic Act. According to Article 1 Section1 and Articles 7 and 8 of the said Act the salaries of the Chief Justice and the Justices of the Supreme Court compose of 6,0 and 5,5 Estonian medium salaries and these salaries are annually (in the beginning of every year) amended according to the Estonian medium salary of the last year. As a temporary measure (induced by economical crisis), the salaries of the judges are on legal basis kept in years 2009 and 2010 at the same level as in year 2008.

In autumn 2008 Estonia began to reduce the expenditure of the public sector which concerned directly also the courts' budgets. In 2009 the salaries of judges, including justices of the Supreme Court, were frozen at the level of year 2007 which meant that the actual salary decreased up to 8%.

Q132#1#1 : In addition to a salary judges receive additional remuneration for years of service, which is not included in the figures provided. As of the fifth year in employment as a judge the additional remuneration is 5% of the official salary, as of the tenth year 10% and as of the fifteenth year 15% of the official salary.

Q132#1#2 : In addition to a salary judges receive additional remuneration for years of service, which is not included in the figures provided. As of the fifth year in employment as a judge the additional remuneration is 5% of the official salary, as of the tenth year 10% and as of the fifteenth year 15% of the official salary.

Q132#1#3 : Decrease (31.59%) is due to cuts in public sector spending, economic crises.

133) Do judges and public prosecutors have the following additional benefits?

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

134) If other financial benefit, please specify:

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

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

136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.

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

A judge can not be an arbitrator chosen by the parties to a dispute, but he or she can be an impartial arbitrator.

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

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

138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:

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

☐ Yes

☒ No

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

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

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

- ☐ Citizens
- ☒ Relevant Court or hierarchical superior
- ☒ High Court / Supreme Court
- ☐ High Judicial Council
- ☐ Disciplinary court or body
- ☐ Ombudsman
- ☐ Parliament
- ☐ Executive power
- ☒ Other?
- ☐ This is not possible

If "executive power" and/or "other", please specify:

Legal Chancellor has the right to initiate disciplinary proceedings against judges. According to the Estonian constitution, the tasks of the Legal Chancellor include the supervision of the activities of institutions exercising public functions as well as the review of the constitutionality and legality of legislation.

141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):

- ☒ Citizens
- ☒ Head of the organisational unit or hierarchical superior public prosecutor
- ☒ Prosecutor General /State public prosecutor
- ☐ Public prosecutorial Council (and Judicial Council)
- ☐ Disciplinary court or body

- ☐ Ombudsman
- ☐ Professional body
- ☒ Executive power
- ☐ Other?
- ☐ This is not possible

If "executive power" and/or "other", please specify:

Minister of Justice also has the right to initiate disciplinary proceedings against public prosecutors

142) Which authority has disciplinary power on judges? (multiple options possible):

- ☐ Court
- ☒ Higher Court / Supreme Court
- ☐ Judicial Council
- ☒ Disciplinary court or body
- ☐ Ombudsman
- ☐ Parliament
- ☐ Executive power
- ☐ Other?

If "executive power" and/or "other", please specify:

143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):

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

If "executive power" and/or "other", please specify:

Ministry of Justice

144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Judges	Public prosecutors
Total number (1+2+3+4)	8	0
1. Breach of professional ethics	1	0
2. Professional inadequacy	4	0
3. Criminal offence	3	0
4. Other	0	0

Comment :

In 2010, total number of disciplinary proceedings against judges was 5, the number of criminal proceedings against judges was 3.

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Judges	Public prosecutors
Total number (total 1 to 9)	2	0
1. Reprimand	1	0
2. Suspension	0	0
3. Removal of cases	NAP	0
4. Fine	0	0
5. Temporary reduction of salary	1	0
6. Position downgrade	NAP	0
7. Transfer to another geographical (court) location	NAP	0
8. Resignation	0	0
9. Other	0	0

Comment :

In 2010, the Disciplinary Chamber pronounced 5 judgements: one judge was acquitted, there was one reduction of salary and one reprimand. In 2 cases, the disciplinary proceedings had to be ended, after the judges resigned from office.

Q145 : In 2008 there were 4 disciplinary cases and 3 criminal cases of which in 2 were judges pronounced guilty. In 2010 there were 5 disciplinary cases and 2 criminal cases where judges were pronounced guilty.

In 2010 two disciplinary cases were ended because the judge quit its job on the middle of disciplinary proceedings and in one case the judge was considered correct and in two cases the judge was considered guilty in disciplinary proceedings.

E.3

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

142) According to the Estonian Courts Act, for the adjudication of disciplinary cases of judges, the Supreme Court shall comprise the Disciplinary Chamber which is comprised of five justices of the Supreme Court, five circuit court judges and five judges of courts of the first instance for the term of three years. The Supreme Court en banc (General Assembly) shall resolve appeals filed against the decisions of the Disciplinary Chamber and decide the commencement of disciplinary proceedings against the Chief Justice of the Supreme Court, and notify the parliament thereof.

Please indicate the sources for answering questions 144 and 145

144 and 145 Statistics collected by the Disciplinary Chamber of Judges (Supreme Court) and Prosecutors Office

6. Lawyers

6. 1. Status of the profession and training

6. 1. 1. Status of the profession and training

146) Total number of lawyers practising in your country.

788

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

☐ Yes

☒ No

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

NA

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

- ☐ Civil cases?
- ☒ Criminal cases - Defendant?
- ☐ Criminal cases - Victim?
- ☐ Administrative cases?
- ☐ There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

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

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

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

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

150) Is the lawyer profession organised through? (multiple options possible)

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

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

- ☒ Yes
- ☐ No

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

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

☒ Yes

☐ No

153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?

☐ Yes

☒ No

If yes, please specify:

Source : Bar Association

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

Estonian Bar Association

6. 2. Practising the profession

6. 2. 1. Practising the profession

154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?

☒ Yes

☐ No

155) Are lawyers' fees freely negotiated?

☒ Yes

☐ No

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

☐ Yes laws provide rules

☐ Yes standards of the bar association provide rules

☒ No, neither laws nor bar association standards provide rules

F.2

Useful comments for interpreting the data mentioned in this chapter:

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determined for lawyers?

☒ Yes

☐ No

If yes, what are the quality criteria used?

legal competence;
 permanent residence in Estonia or citizenship of other EU country;
 required level of legal education;
 required level of estonian language;
 honesty and morality

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

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

If "other", please specify:

159) Is it possible to file a complaint about :

- ☒ the performance of lawyers?
☒ the amount of fees?

Please specify:

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

160) Which authority is responsible for disciplinary procedures?

- ☐ the judge
☐ the Ministry of justice
☒ a professional authority
☐ other

If other, please specify:

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

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

161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	33	NA	NA	NA	NA

Comment :

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	9	4	0	1	4	0

Comment :

F.3

You can indicate below any useful comments for interpreting the data mentioned in this chapter

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

☒ Yes

☐ No

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

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	No	Yes	No	No	No
Family law cases (ex. Divorce)	No	Yes	No	No	No
Administrative cases	No	Yes	No	No	No
Employment dismissals	No	Yes	No	No	No
Criminal cases	No	Yes	No	No	No

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

☒ Yes

☐ No

If yes, please specify:

It is possible to receive legal aid in any case and if there is a possibility for a mediation procedure, it is covered by legal aid. A person who receives legal aid, can use it also for the mediation procedures taking place in the middle of court proceedings.

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

79

167) Number of judicial mediation procedures.

Please indicate the source in the "comment" box below:

Total number of cases (total 1+2+3+4+5)

NAP

1. civil cases

NAP

2. family cases

NAP

3. administrative cases

NAP

4. employment dismissals cases

NAP

5. criminal cases

NAP

Comment :

168) Does the legal system provide for the following ADR.

If "other", please specify it in the "comment" box below:

Mediation other than judicial mediation?	Yes
--	-----

Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	No

Comment :

Source : Ministry of Justice

G.1

- 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

Please indicate the source for answering question 166:

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

169) Do you have enforcement agents in your judicial system?

☒ Yes

☐ No

170) Number of enforcement agents

48

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

☐ judges?

☒ bailiffs practising as private professionals under the authority (control) of public authorities?

☐ bailiff working in a public institution?

☐ other enforcement agents?

Please specify their status and powers:

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

172) Is there a specific initial training or examination to become an enforcement agent?

☒ Yes

☐ No

173) Is the profession of enforcement agents organised by?

☒ a national body?

☐ a regional body?

☐ a local body?

☐ NAP (the profession is not organised)

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

☒ Yes

☐ No

175) Are enforcement fees freely negotiated?

☐ Yes

☒ No

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

☒ Yes

☐ No

Please indicate the source for answering question 170:

Chamber of bailiffs and trustees in bankruptcy

8. 1. 2. Efficiency of enforcement services

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

- ☒ Yes
☐ No

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

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

If other, please specify:

179) Have quality standards been determined for enforcement agents?

- ☒ Yes
☐ No

If yes, what are the quality criteria used?

Bailiffs Act

§ 17. Requirements for appointment as bailiff

(1) A citizen of a member state of the European Union who is proficient in oral and written Estonian, is honest and of high moral character and who has acquired a nationally recognized Bachelor's degree or nationally recognized professional higher education in law or who has acquired a corresponding qualification in the meaning of § 28 (2)2 of the Education Act of the Republic of Estonia or a corresponding qualification of a foreign state may become a bailiff and who has:

- 1) acted as an assistant bailiff, sworn advocate, judge, notary or trustee in bankruptcy for at least one year or
- 2) worked in a position requiring academic or professional higher education in law no less than for five years before applying for the office of a bailiff and who has passed the bailiff examination.

(2) The following persons shall not be appointed as bailiffs:

- 1) a person who has been punished for an intentionally committed criminal offence pursuant to criminal procedure;
- 2) a person who has been removed from office as a judge, notary, sworn translator or bailiff;
- 3) a person who has been disbarred;
- 4) a person who has been released from public service for disciplinary offence;
- 5) a person who is bankrupt;
- 6) a person whose professional activities as an auditor have been terminated, except for termination on the basis of auditor's application;
- 7) a person whose vocation as a trustee in bankruptcy or patent agent has been revoked, except for revocation of vocation on the basis of the person's application.

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

- ☐ a professional body
☐ the judge
☒ the Ministry of Justice
☐ other

If "other", please specify:

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

☐ Yes

☒ No

if yes, please specify

182) Is there a system for monitoring the execution?

☐ Yes

☒ No

If yes, please specify

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

☐ no execution at all?

☐ non execution of court decisions against public authorities?

☒ lack of information?

☒ excessive length?

☒ unlawful practices?

☐ insufficient supervision?

☐ excessive cost?

☐ other?

If other, please specify:

184) 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:

185) Is there a system measuring the timeframes of the enforcement procedures:

☐ for civil cases?

☐ for administrative cases?

186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:

NA

187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

Total number of disciplinary proceedings

(1+2+3+4)	NA
1. for breach of professional ethics	NA
2. for professional inadequacy	NA
3. for criminal offence	NA
4. Other	NA

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	NA
1. Reprimand	NA
2. Suspension	NA
3. Dismissal	NA
4. Fine	NA
5. Other	NA

Comment :

H.1

You can indicate below:

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

Please indicate the source for answering the questions 186, 187 and 188:

Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

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

- ☒ Judge
- ☐ Public prosecutor
- ☒ Prison and Probation Services
- ☒ Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

Judge if there are some unsolved matters or questions about enforcement.

Prison if the punishment is imprisonment and Probation Services if the punishment is probation.

In monetary punishments Courts Centre of Accounting - monitoring.

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

- ☐ Yes
- ☒ No

191) If yes, what is the recovery rate?

- ☐ 80-100%
- ☐ 50-79%

☐ less than 50%

☒ it cannot be estimated

Please indicate the source for answering this question:

H.2

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. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

☒ Yes

☐ No

193) Are notaries:

If other, please specify it in the "comment" box below.

private professionals (without control from public authorities)?

☐ number

private professionals under the authority (control) of public authorities?

☒ number

97

public agents?

☐ number

other?

☐ number

Comment :

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

☒ within the framework of civil procedure?

☒ in the field of legal advice?

☒ to certify the authenticity of legal deeds and certificates?

☒ other?

If "other", please specify:

Authentication of contraction of marriage and divorce, issue of apostilles, deposit of money, securities, documents.

195) Is there an authority entrusted with supervising and monitoring the the notaries' activity?

☒ Yes

☐ No

196) Which authority is responsible for supervising and monitoring notaries:

☒ a professional body?

☐ the judge?

☒ the Ministry of justice?

☐ the public prosecutor?

☐ other?

If other, please specify:

I.1

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. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

☐ Yes

☒ No

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

☐ Yes

☒ No

199) Number of accredited or registered court interpreters:

NAP

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

☐ Yes

☒ No

If yes, please specify (e.g. having passed a specific exam):

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

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

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

- ☐ No

Comment :

Source : Ministry of Justice

J.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Please indicate the sources for answering question 199:

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

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

- ☒ "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- ☒ "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- ☒ "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

203) Is the title of judicial experts protected?

- ☒ Yes
☐ No

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

- ☒ Yes
☐ No

205) Number of accredited or registered judicial experts (technical experts)

NAP

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

- ☐ Yes
☒ No

If yes, please specify, in particular the given time to provide a technical report to the judge:

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

- Yes ☒ for recruitment and/or appointment for a specific term of office
 Yes ☒ for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
 No ☐.

Comment :

Who is selecting the judicial expert depends on many matters.
 The parties have also sometimes the possibility to choose the expert.
 Source : Ministry of Justice

K.1

You can indicate below any useful comments for interpreting the data mentioned in this chapter:

Please indicate the sources for answering question 205:

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:

- 1. (Comprehensive) reform plans**
- 2. Budget**
- 3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**
- 4. High Judicial Council**
- 5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**
- 6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crime and prison system**
- 10. Other**

1. One of the momentous factors in the development of Estonia's courts is definitely the fact that the judges have worded the principles of development of the court system. The discussion about the development of the court system's self-organisation, its financing and administration culminated in February 2007, when the Court en banc comprised of all Estonian judges approved the principles of development of the court system. The document concerning the principles of development of the court system as an independent branch of power, for the first time in the history of the Republic of Estonia, set out the directions and objectives of its development. The main objective of the reform is that, for further development of the principle of separation of powers, the administration of courts should be separated from the executive power and an independent administrative authority, which is a part of the single court system in legal and organisational senses and subjected to the management model of the court system as a whole, should be established.

In March 2008, the Minister of Justice put together a working group to prepare the amendments to the legislation regulating judicial administration and organisation. The draft law of the Courts Act was presented to the Estonian parliament in 2009. In March 2011, the draft law of Courts Act was withdrawn from legislative proceeding upon termination of the term of authority of the parliament. No new draft law is introduced, yet.

2. It is also discussed the possibility to consolidate certain proceeding in to certain centers - prisoner complaints in administrative courts and procurement cases. In 2009 Payment order center was opened in Estonia, which is at the moment solving about 50% of civil cases. So it showed great success.