



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Luxembourg

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)

511 840

#### 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  | 17 155 800 000 |
| Regional / federal entity level (total for all regions / federal entities) | NA             |

#### 3) Per capita GDP (in €)

82 100

#### 4) Average gross annual salary (in €)

42 000

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

#### A.1

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

La dernière enquête sur le salaire annuel brut a eu lieu en 2007 (pour l'année 2006) et ce sont donc toujours les données de 2006 qui sont reprises dans la question 4).

L'enquête sur les salaires 2010 est actuellement en cours (Institut national des statistiques et Eurostat).

### 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 | 70 458 676 |
| 1. Annual public budget allocated to (gross) salaries  | <input checked="" type="checkbox"/> Yes | 48 884 317 |
| 2. Annual public budget allocated to computerisation (equipment, investments, maintenance)   | <input checked="" type="checkbox"/> Yes | 1 500 000  |
| 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 | 3 643 000  |
| 4. Annual public budget allocated to court buildings (maintenance, operating costs)  | <input checked="" type="checkbox"/> Yes | 596 100    |
| 5. Annual public budget allocated to investments in new (court) buildings  |   | NAP        |
| 6. Annual public budget allocated to training and education  | <input checked="" type="checkbox"/> Yes | 119 500    |
| 7. Other (please specify):   | <input checked="" type="checkbox"/> Yes | 15 715 759 |

**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:**

On ne peut distinguer le budget du ministère public de celui de l'ensemble des tribunaux. Le budget de l'aide judiciaire quant à lui est de 3000000 Eur. Il se retrouve sous "Autres" avec notamment les indemnités des employés (4970000 Eur), des ouvriers (1000000 Eur), frais de gardiennage (1409000 Eur), achats de biens 1680000 Eur), indemnités des avocats-stagiaires (1600000 Eur), ...

**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:

Il n'est pas nécessaire de payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun. Il se peut cependant que l'une des parties soit condamné à payer des frais et dépens mais le montant de ces condamnations est très modique (quelques dizaines d'euros).

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

NA

**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.)**

NA 116 165 559

**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               | NAP |
| 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 €) | 3000000  |  |  |

**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.**

NAP

Comment :

On ne distingue pas selon que l'aide judiciaire est alloué en matière pénale ou dans d'autres matières.

Le Ministère public n'a pas de budget à part.

**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                                   | No                                 | Yes   | No  |
| Other ministry      | No                                    | No                                 | No  | No  |
| Parliament          | No                                    | Yes                                | No  | No  |
| Supreme Court       | No                                    | No                                 | No  | No  |
| Judicial Council    | No                                    | No                                 | No  | No  |
| Courts              | No                                    | No                                 | No  | 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):**

**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

Q6#2#3 / Q6#2#7 / Q6#2#8 : These figures are provisional and the actual spendings can be higher or lower once the budget is executed. When the previsions were made the authorities it was expected that the expenses of the 3 points under consideration would be higher than the years before and therefore the figures put into the provisional budget for 2010 were higher then those in 2008.

cf 26/06 (Q6#2#5, remaque explicative\_graphique 2.8 sexes) : Le Luxembourg a construit une nouvelle Cité judiciaire en 2008 qui héberge la Cour de cassation, la Cour constitutionnelle, la Cour d'appel, le tribunal d'arrondissement de Luxembourg , la justice de paix de Luxembourg ainsi que les parquets et les juridictions spécialisées (travail, jeunesse, commerce).

Cette année ont également été inaugurés les nouveaux bâtiments de la justice de paix d'Esch-sur-Alzette. Bien que ces projets aient coûtés plus de 100 millions pour l'un et autour de 15 millions d'euros pour l'autre, ces chiffres ne figurent pas dans le budget de la justice mais dans celui des bâtiments publics et comme il s'agit en plus d'échellonnements sur plusieurs années, on ne peut indiquer de chiffres...

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

Loi de budget de l'Etat 2010

## 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:

L'assistance judiciaire s'étend à tous les frais relatifs aux instances, procédures ou actes pour lesquels elle a été accordée et notamment aux:

- 1) droits de timbre et d'enregistrement
- 2) frais de greffe
- 3) émoluments des avocats
- 4) droits et frais d'huissiers de justice
- 5) frais et honoraires des notaires
- 6) frais et honoraires des techniciens
- 7) taxes de témoins
- 8) honoraires des traducteurs et interprètes
- 9) frais pour certificats de coutume
- 10) frais de déplacement
- 11) droits et frais des formalités d'inscriptions, d'hypothèques et de nantissement
- 12) frais d'insertion dans les journaux.

(Article 8 du Règlement grand-ducal du 18 septembre 1995)

#### 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             | No                        |

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.]

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

|                           |    |
|---------------------------|----|
| 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 :

**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             | NA  | NA                    |
| for other than criminal cases? | NA  | NA                    |

Comment :

L'évaluation des ressources se fait au cas par cas au vu de l'article 1er règlement grand-ducal du 29 octobre 2004 :

« (1) Sont considérées comme personnes dont les ressources sont insuffisantes les personnes bénéficiant du revenu minimum garanti dans les limites des montants déterminés suivant les dispositions de l'article 5, paragraphes (1), (2), (3), (4) et (6), de la loi du 29 avril 1999 portant création d'un droit à un revenu minimum garanti, ainsi que les personnes qui vivent en communauté domestique d'un tel bénéficiaire et dont les revenus et la fortune ont été pris en considération pour la détermination d'un revenu minimum garanti.

(2) Sont également considérées comme personnes dont les ressources sont insuffisantes les personnes qui, sans bénéficier du revenu minimum garanti, se trouvent toutefois dans une situation de revenus et de fortune telle que, si elles remplissaient les autres conditions prévues par la loi modifiée du 29 avril 1999 portant création d'un droit à un revenu minimum garanti, elles auraient droit à l'attribution du revenu minimum garanti.

(3) En cas de litige opposant entre eux des conjoints ou des personnes vivant habituellement dans le cadre d'un foyer commun, sont considérées comme personnes dont les ressources sont insuffisantes les personnes qui, en l'absence d'une prise en considération des revenus et de la fortune de la ou des personnes avec qui elles sont en litige pourraient prétendre à l'attribution du revenu minimum garanti.

(4) Peuvent également être considérées comme personnes dont les ressources sont insuffisantes, les personnes qui ne rentrent pas dans une des catégories mentionnées ci-dessus, si la situation familiale ou matérielle des personnes en question paraît particulièrement digne d'intérêt au regard de l'objet du litige ou des charges prévisibles susceptibles d'en résulter ainsi que les personnes domiciliées ou résidant dans un autre Etat membre de l'Union européenne qui établissent qu'ils ne peuvent faire face aux frais d'un litige en matière civile ou commerciale au Luxembourg en raison de la différence du coût de vie entre l'Etat de leur domicile ou résidence habituelle et le Grand-Duché de Luxembourg. ».

**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:

L'article 37-1 (3) de la loi du 10 août 1991 sur la profession d'avocat prévoit que :

« L'assistance judiciaire est refusée à la personne dont l'action apparaît, manifestement, irrecevable, dénuée de fondement, abusive, ou disproportionnée de par son objet par rapport aux frais à exposer. ».

**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?

Tout justiciable est libre de souscrire auprès de la compagnie d'assurance de son choix une assurance de protection juridique (souvent cette dernière fait partie du package assurance responsabilité civile qui elle est obligatoire).

**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 Q27 :

En matière pénale le Code d'instruction criminelle prévoit que :

« Art. 62. (L. 16 juin 1989) (1) La partie civile qui succombe est personnellement tenue de tous les frais de procédure, lorsque c'est elle qui a mis en mouvement l'action publique; lorsqu'elle s'est jointe à l'action du ministère public, elle n'est tenue que des frais nécessités par son intervention.

(2) Le tribunal peut, toutefois, compte tenu des circonstances et de la situation de fortune de la partie civile, la décharger de tout ou partie de ces frais.

(3) En cas de désistement, elle n'est tenue que des frais occasionnés par son intervention jusqu'au jour du désistement.

Art. 162-1. (L. 6 octobre 2009) Lorsqu'il paraît inéquitable de laisser à la charge d'une partie les sommes exposées par elle et non comprises dans les dépens, le juge peut condamner l'autre partie à lui payer le montant qu'il détermine.

Art. 194. Tout jugement de condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais même envers la partie publique. Les frais seront liquidés par le même jugement.

(L. 6 octobre 2009) Lorsqu'il paraît inéquitable de laisser à la charge d'une partie les sommes exposées par elle et non comprises dans les dépens, le tribunal peut condamner l'autre partie à lui payer le montant qu'il détermine. ».

Dans les autres matières le Code de procédure civile prévoit que :

« Art. 130. (Règl. g.-d. 18 février 1987) Toute partie qui succombera sera condamnée aux dépens, sauf au tribunal à laisser la totalité, ou une fraction des dépens à la charge d'une autre partie par décision spéciale et motivée.



Art. 131-1. (Rég. g.-d. 18 février 1987) Lorsqu'il paraît inéquitable de laisser à la charge d'une partie les sommes exposées par elle et non comprises dans les dépens, le juge peut condamner l'autre partie à lui payer le montant qu'il détermine. ».

## 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:**

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**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 | legilux.lu   |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es):                    | <input checked="" type="checkbox"/> Yes | jurad.etat.lu,<br>justice.public.lu,<br>mj.public.lu |
| <input type="checkbox"/> other documents (e.g. downloadable forms, online registration)?          | <input checked="" type="checkbox"/> Yes | justice.public.lu                                    |

Comment :

Circulation routière: convocation au tribunal

- \* Circulation routière: convocation au tribunal de police (Français) (pdf, 21Ko)
- \* Circulation routière: convocation au tribunal correctionnel (Français) (pdf, 21Ko)
- \* Verkehrsdelikte: Ladung vor das Polizeigericht (Deutsch) (pdf, 21Ko)
- \* Verkehrsdelikte: Ladung vor das Zuchtpolizeigericht (Deutsch) (pdf, 23Ko)

Demander copie d'un procès-verbal de police

- \* Formulaire demande d'un procès-verbal de police par un avocat (Français) (pdf, 12Ko)
- \* Formulaire demande procès-verbal de police par un particulier (Français) (pdf, 12Ko)

Enlèvement international d'enfants

- \* Formulaire en matière d'enlèvement d'enfants/ Form in connection with child abduction (Français/ English) (doc, 72Ko)
- \* Antragsformular auf Rückgabe bei Kindesentführung (Deutsch) (pdf, 10Ko)

Faillites

- \* Rapport d'activité du curateur (doc, 133Ko)
- \* Aveu de faillite (Français) (doc, 82Ko)
- \* Insolvenzantrag (Deutsch) (doc, 89Ko)
- \* Déclaration de créance (Français) (DOC, 32Ko)
- \* Forderungsanmeldung (Deutsch) (doc, 34Ko)

Formulaire de déclaration au procureur d'Etat d'un soupçon de blanchiment d'argent ou d'un soupçon de financement de terrorisme

- \* Modèle de déclaration au Procureur d'Etat d'un soupçon de blanchiment d'argent ou d'un soupçon de financement du terrorisme (Français) (pdf, 33Ko)
- \* Formular zwecks Meldung eines Verdachts auf Geldwäsche oder Terrorismusfinanzierung an die Staatsanwaltschaft (Deutsch) (pdf, 34Ko)
- \* Modèle fichier opérations financières (xls, 16Ko)

Formulaire permis de visite pour détenus préventifs/Formular Besuchserlaubnis für Untersuchungshäftlinge/Form for visiting an unconvicted prisoner/Pedido de licencas de visita para prisioneiros preventivos

- \* Permis de visite pour détenus préventifs (Français/Deutsch/English/Português) (pdf, 21Ko)

Formulaires opposition

- \* Formulaire opposition par un avocat (Français) (pdf, 8Ko)
- \* Formulaire opposition par un particulier (Français) (pdf, 14Ko)

Liquidations

- \* Rapport du liquidateur (Français) (pdf, 18Ko)

#### Ordonnance de paiement

- \* Ordonnance de paiement TAL - art 919-931 (Français) (pdf, 35Ko)
- \* Ordonnance de paiement TAL Explications (Français) (pdf, 10Ko)
- \* Ordonnance de paiement TAL Requête (Français) (pdf, 9Ko)
- \* Requête en matière d'ordonnance de paiement (Français) (DOC, 37Ko)

#### Procédures européennes

- \* Injonction de payer, formulaires à soumettre au juge
- \* Règlement de petits litiges, formulaires à soumettre au juge

#### Recouvrement d'aliments

- \* Formular Aufstellung Unterhaltszahlung (Deutsch) (pdf, 14Ko)
- \* Formulaire grille de pension alimentaire (Français) (pdf, 13Ko)
- \* Formulaire procuration recouvrement aliments (Français) (pdf, 17Ko)
- \* Formular Vollmacht Unterhaltsanspruch (Deutsch) (pdf, 14Ko)

#### Successions

- \* Formulaire succession - procuration options conjoint survivant (Français) (pdf, 6Ko)
- \* Formulaire succession - renonciation ou acceptation bénéfice inventaire (Français) (pdf, 6Ko)

### 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:

La loi du 6 octobre 2009 renforçant le droit des victimes d'infractions pénales impose des règles contraignantes aux autorités judiciaires en matière d'aide et d'information des victimes.

### 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                                    | Yes   |
| Victims of terrorism            | No                    | No                                     | No    |
| Children (witnesses or victims) | Yes                   | Yes                                    | No    |
| Victims of domestic violence    | No                    | No                                     | Yes   |
| Ethnic minorities               | No                    | No                                     | No    |
| Disabled persons                | No                    | No                                     | Yes   |
| Juvenile offenders              | No                    | Yes                                    | Yes   |
| Other (e.g. victims of          |                       |  |       |

|                    |    |    |    |
|--------------------|----|----|----|
| human trafficking) | No | No | No |
|--------------------|----|----|----|

Comment :

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

- Yes  
 No

If yes, for which kind of offences

Toute personne ayant subi au Grand-Duché un préjudice matériel ou moral résultant de faits volontaires qui présentent le caractère matériel d'une infraction a droit à une indemnité à charge de l'Etat.

**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:

Le procureur d'Etat avise dans les dix-huit mois de la réception de la plainte, la victime qui a porté plainte des suites qu'il donne à l'affaire y compris, le cas échéant, du classement de l'affaire et du motif sous-jacent.

Lorsque l'affaire est classée, l'avis précise les conditions dans lesquelles la victime peut engager des poursuites par voie de citation directe ou de plainte avec constitution de partie civile. Lorsque les peines encourues de par la loi, au titre des faits faisant l'objet de la plainte, sont des peines criminelles ou des peines correctionnelles, l'avis comporte l'information que la victime peut s'adresser au procureur général d'Etat qui a le droit d'enjoindre au procureur d'Etat d'engager des poursuites.

**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:

**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):

Loi du 30 décembre 1981 sur la détention préventive inopérante

Loi du 1er septembre 1988 sur la responsabilité de l'Etat pour fonctionnement défectueux des services de la Justice.

Aucune précision ne peut être donnée sur les montants alloués, ces montants étant déterminés au cas par cas au vu des circonstances de l'espèce.

**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:

**39) If possible, please specify:**

|                           | Surveys at a regular interval (for example annual) | Occasional surveys |
|---------------------------|--|--------------------|
| Surveys at national level | No   | No                 |
| 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 complainant, etc.) | Time limit for dealing with the complaint | No time limits |
|--|--|---|----------------|
| Court concerned                        | No   | No  | No             |
| Higher court                           | No   | No  | Yes            |
| Ministry of Justice                    | No   | No  | No             |
| High Council of the Judiciary          | No   | No  | No             |
| Other external bodies (e.g. Ombudsman) | No   | No  | No             |

Comment :

- 1) possibilité de récusation d'un magistrat ou d'une composition du siège.
- 2) Demande de prise à partie ou en renvoi pour cause de suspicion légitime devant la Cour de cassation.
- 3) Le Ministère de la Justice ne peut intervenir dans le traitement judiciaire d'un dossier (séparation des pouvoirs)

- 4) Actuellement il n'y a pas de Conseil supérieur de la magistrature au Luxembourg, mais le programme gouvernemental prévoit la création d'un tel organisme.
- 5) Le médiateur peut intervenir en cas d'inexécution d'une décision de justice par un organisme public, mais ne peut intervenir dans le traitement judiciaire d'un dossier.

### 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)   | 5            |
| 42.2 First instance specialised Courts (legal entities)   | 5            |
| 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) | 8            |

**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) | 5  |
| Commercial courts  | 2  |
| Labour courts  | 3  |
| Family courts  | 2  |
| Rent and tenancies courts                                      | 3  |
| Enforcement of criminal sanctions courts                       | 0  |
| Administrative courts  | 1  |
| Insurance and / or social welfare courts                       | 1  |
| Military courts  | 1  |
| Other specialised 1st instance courts                          | NA |

Comment :

Au regard de l'organisation judiciaire du Luxembourg il est important de noter que la plupart des "specialized courts" n'ont pas d'existence propre, mais sont des subdivisions soit des justices de paix, soit des tribunaux d'arrondissement. Seule la juridiction administrative et les juridictions sociales sont sous cet égard "à part". Ceci explique pourquoi le total dessous-rubriques de cette question est supérieur à 5.

**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:

La création d'une chambre d'application des peines est en cours de création (projet de loi en cours de discussion).

**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 | 3 |
| a dismissal                        | 3 |
| a robbery                          | 2 |

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

10.000 € (art. 129 NCPC)

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

loi sur l'organisation judiciaire, nouveau code de procédure civile

### 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)                    | 188   | 72    | 116     |
| 1. Number of first instance professional judges                    | 148   | 51    | 97      |
| 2. Number of second instance (court of appeal) professional judges | NA    | NA    | NA      |
| 3. Number of supreme court professional judges                     | 40    | 21    | 19      |

Comment :

Le chiffre (35) fourni sub 2 comprend tant les magistrats près de la Cour d'appel que ceux auprès de la Cour de cassation, ces deux cours formant ensemble la Cour supérieure de Justice ainsi que les juges siégeant à la Cour administrative. . Les juges de la Cour Constitutionnelle n'ont pas été comptabilisés à part, étant donné qu'ils ont une affectation principale soit auprès des juridictions ordinaires, soit des juridictions administratives.

**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)                    | 11    | 7     | 4       |
| 1. Number of first instance court presidents                    | 7     | 5     | 2       |
| 2. Number of second instance (court of appeal) court presidents | 3     | 2     | 1       |
| 3. Number of supreme court presidents                           | 1     | 0     | 1       |

**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

NAP

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

Yes

No

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

On trouve les juges non-professionnels essentiellement, voire exclusivement dans les matières sociales (droit du travail et droit de la sécurité sociale) où il y a une représentation paritaire des partenaires sociaux. Ces tribunaux sont cependant généralement présidés par un magistrat professionnel.

**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 type="checkbox"/> Yes            | 303 |
| 1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal  |   | NAP |
| 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 | 150 |
| 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 type="checkbox"/> Yes            | 108 |
| 4. Technical staff  | <input checked="" type="checkbox"/> Yes | 5   |
| 5. Other non-judge staff  | <input checked="" type="checkbox"/> Yes | 40  |

Comment :

Q52#2#4 : The correct figure is still 108, comprising as well persons that are fulfilling these task on a full-time basis, and those who are also in charge with other matters.

Q52#2#5 : As set out in the evaluation 2008, the figure of technical staff does also contain temporary personnel with work contracts limited in time. At the time of the 2010 report, the figure was down to 5, hence the difference.

Le greffe de la Cour constitutionnelle n'a pas de personnel spécifique, ces tâches sont assurées par le greffe de la Cour supérieure de Justice. Le chiffre fourni ne comprend pas le personnel du service informatique, qui dépend du Centre informatique de l'Etat (CTIE). Il faut encore noter que le travail de certains greffiers comprend également des tâches administratives, notamment pour ce qui est des greffiers en chef (6 entités). LE chiffre sub 5 concerne le personnel d'entretien et de nettoyage, qui est cependant variable.



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

**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:

La création de certains programmes informatiques de gestion des dossiers a été confiée à des intervenants externes. Il en est de même de la gestion, d'ailleurs au niveau de l'Etat, d'autres aspects informatiques.

Une entreprise privée est actuellement en charge du gardiennage / sécurité des bâtiments de la Justice sur base d'un marché public.

### 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**

Loi sur l'organisation judiciaire, relevés établis par le Service du personnel de la Justice (comptage manuel pour les chiffres m/f, cette donnée n'étant normalement pas disponible eu égard au principe de non-discrimination appliqué par l'Etat luxembourgeois)

#### 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)                             | 38    | NA    | NA      |
| 1. Number of prosecutors at first instance level                    | 27    | NA    | NA      |
| 2. Number of prosecutors at second instance (court of appeal) level | NA    | NA    | NA      |
| 3. Number of prosecutors at supreme court level                     | 11    | NA    | NA      |

Comment :

Quant au parquet près de la Cour, même remarque que pour les magistrats du siège auprès de cette instance.

**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)                             | 4     | 3     | 1       |
| 1. Number of heads of prosecution offices at first instance level                    | 2     | 2     | 0       |
| 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                     | 2     | 1     | 1       |

Comment :

The General Prosecution at the level of the Superior Court of Office is headed by one General State Prosecutor (Procureur general d'Etat). There are furthermore two district prosecution offices (Luxembourg and Diekirch), so there are two district prosecutors (procureurs d'arrondissements).

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

Yes

No

Number (full-time equivalent)

7

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

Le droit administratif luxembourgeois prévoit que les intérêts de l'Etat peuvent être défendus par un haut fonctionnaire de l'Etat appelé délégué du Gouvernement qui rédige des mémoires pour compte de la partie étatique et qui défend en qualité de plaideur la position de l'Etat aux audiences des juridictions administratives.

**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

37

**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**

loi sur l'organisation judiciaire, comptages manuels

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

Comment :

Pour les juridictions de l'ordre judiciaire, la gestion budgétaire est faite par le Parquet général de concert avec le Ministère de la Justice et les services financiers généraux de l'Etat.

Pour les juridictions administratives elle est faite par le président de la Cour de concert avec le Ministère de la Justice et les services financiers généraux de l'Etat.

Le contrôle incombe à la Cour des Comptes.

**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                         | 0 % of courts  |
| Electronic registers                              | 0 % of courts  |
| Electronic processing of small claims             | 0 % of courts  |
| Electronic processing of undisputed debt recovery | 0 % of courts  |
| Electronic submission of claims                   | 0 % 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   | No  | Yes  |

Comment :

Le conseil de gouvernement vient d'approuver un projet de loi sur l'utilisation de la vidéoconférence en matière pénale qui comblera certaines lacunes actuellement existantes (question 65.3)

**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

### 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:

Parquet général du Grand-duché de Luxembourg, Cité Judiciaire, bâtiment CR, L - 2080  
Luxembourg

**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:

**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:

**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:

**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:

**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:

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

**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:

Même si la réponse aux questions précédentes est négative, il n'en reste pas moins qu'en vertu de son pouvoir disciplinaire, la Cour supérieure de Justice est en mesure de prendre les mesures qui s'imposent à l'encontre de magistrats indolents et qui lui sont signalés par le Procureur général d'Etat  
Il en va de même pour les juridictions administratives où le rôle de la Cour supérieure de justice est reprise par la Cour administrative.

**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:

**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:

**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**

Il y a lieu de relever que les systèmes informatiques utilisés en matière pénale permettent un suivi individuel des affaires.

## 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)?**

19

**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):

0

**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)      | 0  | 0                    | 2                                   | 1                                       |
| Civil proceedings - Article 6§1 (non-execution) | 0  | 0                    | 0                                   | 0                                       |
| Criminal proceedings - Article 6§1 (duration)   | 0  | 0                    | 2                                   | 0                                       |

**Please indicate the sources:**

Ministère de la Justice

#### D.1

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

ad 84) Ce pourcentage est relatif aux décisions rendues par le seul tribunal de Luxembourg. Les chiffres pour Diekirch sont NA, mais sont, selon les renseignements informels obtenus, semblables.

### 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:

Tant en matière civile qu'administrative existent des procédures d'urgence, dites de référé (civil ou administratif, selon le cas).

**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:

En matière civile il a la procédure de règlement de petits litiges, suite à la transposition en droit national des textes européen afférents. Il y a en outre des procédures analogues (ordonnances de paiement, référé-provision, référé droit du travail, etc.) qui pré-existaient au procédures dites européennes.

En matière pénale, il y a un tout un éventail de possibilités pour permettre une mise en jugement plus rapide d'infractions mineures (renonciation à certains délais, décriminalisation ou décorrectionnalisation, saisine directe du juge de jugement, etc.)

**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:

Dans le cadre de la procédure de mise en état en matière civile et commerciale des délais peuvent être imposés par le juge de la mise en état, ces délais pouvant (dans une certaine mesure) faire l'objet d'un débat entre les juges et les avocats.

**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)*   | 2 124                       | 2 396          | 3 960          | 1 724                        |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*   | 2 012                       | 2 103          | 2 913          | 1 595                        |
| 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  | NA                          | NA             | NA             | NA                           |
| 4. Land registry cases**  | NAP                         | NAP            | NAP            | NAP                          |
| 5. Business register cases**  | NAP                         | NA             | NA             | NA                           |
| 6. Administrative law cases (litigious and non-litigious)   | 112                         | 293            | 273            | 129                          |
| 7. Other cases (e.g. insolvency registry cases)   | NA                          | NA             | 774            | NA                           |



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

Les tribunaux d'arrondissement sont juges de droit commun, c à d qu'ils sont compétents pour toutes les matières pour lesquelles aucun autre juge n'est expressément compétent. Leurs présidents sont compétent pour toute une série de mesures dites gracieuses (TLux : 5623 en 2009-12, TDiek: NA)

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

91.7.: il s'agit des faillites prononcées pendant l'année sous examen. Il n'y a pas de retard dans cette matière, qui est toujours urgente.

**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)                    | NA                          | 14 579         | 11 711         | NA                           |
| 8. Criminal cases (severe criminal offences)  | NA                          | 36             | 6 314          | NA                           |
| 9. Misdemeanour and / or minor offences cases | NA                          | 14 543         | 5 397          | NA                           |

**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".**

La rubrique 94.8 reprend les affaires ayant donné lieu à une audience publique, tandis que la rubrique 94.9 reprend les affaires ayant donné lieu à une ordonnance pénale rendue suite à une procédure non-contradictoire menée "sur dossier" et qui équivaut à une décision rendue par défaut. A noter qu'une partie des ordonnances pénales a fait l'objet d'un recours devant une juridiction pénale de fond et se retrouvent par conséquent parmi le premier chiffre.

**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.**

ad 91: les chiffres donnés sont ceux du TLux, à l'exclusion de ceux du TDiek, à défaut de statistiques comparables. Il peut cependant être relevé que pendant l'année judiciaire sous examen, le TAD a rendu 386 jugements et 306 affaires ont été nouvelles enrôlées. Pour les justices de paix, le problème se pose de façon analogue, à défaut de statistiques uniformes. On peut cependant retenir les chiffres-clés suivants: JPLux: 6609 affaires nouvelles, 4035 jugements, JPE/A: 2512 / 1966, JPDiek: 1801 / 1471.

**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)   | 2 104                       | 1 479          | 1 404          | 1 483                        |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*          | 2 104                       | 1 211          | 1 146          | 1 483                        |
| 2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. | NAP                         | NAP            | NAP            | NAP                          |

|  |     |     |     |     |
|--|-----|-----|-----|-----|
| (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)* |     |     |     |     |
| 3. Enforcement cases   | NAP | NAP | NAP | NAP |
| 4. Land registry cases   | NAP | NAP | NAP | NAP |
| 5. Business register cases   | NAP | NAP | NAP | NAP |
| 6. Administrative law cases (litigious and non-litigious)  | NA  | 268 | 258 | NA  |
| 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)                   | NA                          | NA             | 545            | NA                           |
| 8. Criminal cases (Severe criminal offences) | NA                          | NA             | 545            | NA                           |
| 9. Misdemeanour and/or minor offences cases  | NA                          | NA             | NAP            | NA                           |

Comment :

Au niveau de la Cour d'appel il n'y a plus lieu de distinguer les deux catégories d'infraction, le critère ci-dessus appliqué n'existant plus à ce niveau.

**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)   | 72                          | 109            | 108            | 81                           |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)   | NA                          | NA             | 66             | NA                           |
| 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   | NA                          | NA             | NA             | NA                           |
| 4. Land registry cases   | NA                          | NA             | NA             | NA                           |
| 5. Business register cases   | NA                          | NA             | NA             | NA                           |
| 6. Administrative law cases (litigious and non-litigious)  | NA                          | NA             | NA             | NA                           |
| 7. Other cases (e.g. insolvency registry cases)  | NA                          | NA             | NA             | NA                           |

**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)                   | NA                          | NA             | 42             | NA                           |
| 8. Criminal cases (severe criminal offences) | NA                          | NA             | NA             | NA                           |

|  |    |    |    |    |
|--|----|----|----|----|
| 9. Misdemeanour cases (minor offences) | NA | NA | NA | NA |
|--|----|----|----|----|

Comment :

Question 100 : The highest court in criminal matters is understood as the Cour de cassation. This court is only competent to analyse legal aspects of a case, not the factual aspects. It is therefore seized only by defendants who estimate that the law has not been correctly applied. Thus the court is wholly dependant on the defendant as far as the number of cases is concerned, which explains the variations in the figures (2008: 50 cases, 2010: 42 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    | NA                          | NA             | 256            | NA                           |
| Employment dismissal cases | NA                          | 2 509          | 2 372          | NA                           |
| Robbery cases              | NA                          | NA             | NA             | NA                           |
| Intentional homicide       | NA                          | NA             | NA             | NA                           |

**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    | NA                               | NA                                | NA                                       | NA                                       | NA                                       | NA  |
| Employment dismissal cases | NA                               | NA                                | NA                                       | NA                                       | NA                                       | NA  |
| Robbery cases              | NA                               | NA                                | NA                                       | NA                                       | NA                                       | NA  |
| Intentional homicide       | NA                               | NA                                | NA                                       | NA                                       | NA                                       | NA  |

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

La procédure de divorce par consentement mutuel dure 6 mois (2 présentations de la demande et une décision formelle du tribunal). La durée d'une procédure pour faute dépend en grande partie de la diligence des parties, sur laquelle le juge n'a guère d'emprise. Une réforme de la procédure de divorce est actuellement devant le législateur.

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

NA

**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:

essentiellement pouvoirs renforcés dans le cadre de certaines mesures d'enquête, dans lesquelles la police, avant d'agir, doit avoir l'aval du procureur d'Etat (e.g. traitement ADN, fouilles de véhicules, contrôles d'identité poussés, etc.)

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

Yes

No

If yes, please specify:

matière civile: affaires communicables au Ministère public: art. 183 NCPC  
matière commerciale: notamment affaires de faillite et de liquidations judiciaires  
matière administrative: aucune intervention

**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 | 58 855                            | 19 500  | 954  | 13 193   |

**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)   | 19 500 |
| 1. Discontinued by the public prosecutor because the offender could not be identified                            | NA     |
| 2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation | NA     |
| 3. Discontinued by the public prosecutor for reasons of opportunity  | NA     |

**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

Toutes les données chiffrées se rapportent à l'années judiciaire 2009 - 2010. Il n'a a pas de statistiques du premier au dernier jour de l'années calendrier en raison de l'existence d'une année judiciaire définie par la loi sur l'organisation judiciaire.

Question 99 (total): il y a eu 66 arrêts civils etc. et 42 arrêts pénaux. Le chiffre total de 108 figure au relevé des totaux étant donné que les autres chiffres donnés correspondent également à des totaux, la distinction entre civil / pénal étant NA à cet égard.

Q107#1#1 : There are several explanations to the increase of 38.63% of the total number of 1st instance criminal cases received by the public prosecutor between 2008 and 2010, one of which - and by far the most important - is the increase of the petty criminality, included in the figures. A second is a change of policy in money laundering cases, where, in accordance with the recommendations of the FATF, this offense is systematically prosecuted, even if almost all the elements of the case are situated outside of Luxembourg.

Q107#3#1 : There is an increase of 191.74% of the total number of 1st instance criminal cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor between 2008 and 2010. The public prosecutors made a more systematic recourse to the alternative measures such as the "mediation pénale". It must however be stressed that the increase must be seen in relation to the overall increase in the number of cases referred to the prosecutor.

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

Chaîne civile, Chaîne pénale, comptages manuels pour certains détails, rapport annuel 2009-2010,

Ad 108: le chiffre des affaires classées est une estimation basée sur les années précédentes, le chiffre réel n'ayant pu être déterminé pour le MPLux (MPDiek: 2297)

## 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:

##### 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:

Le Ministère de la Justice.

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

- Yes
- No

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

L'avancement se fait auprès des tribunaux de première instance selon un système de carrières. Auprès des juridictions supérieures les magistrats sont nommés sur avis conforme de leurs pairs.

"Loi sur l'organisation judiciaire:

Art. 43. Lorsqu'une place de président de la cour supérieure de justice, de conseiller à la cour de cassation, de président de chambre à la cour d'appel, de conseiller à la cour d'appel, de président, de premier vice-président ou de vice-président d'un tribunal d'arrondissement est vacante, il est procédé comme suit à l'émission de l'avis exigé par l'art. 90 de la Constitution.

La cour procède en assemblée générale convoquée sur la réquisition du procureur général d'État. Pour chaque place vacante, la cour présente trois candidats; la présentation de chaque candidat a lieu séparément.

En outre, le procureur général d'État émet un avis."

"Constitution:

Art. 90. Les juges de paix et les juges des tribunaux sont directement nommés par le Grand-Duc. Les conseillers de la Cour et les présidents et vice-présidents des tribunaux d'arrondissement sont nommés par le Grand-Duc, sur l'avis de la Cour supérieure de justice.

Art. 91. (Révision du 20 avril 1989).

Les juges de paix, les juges des tribunaux d'arrondissement et les conseillers de la Cour sont inamovibles.

Aucun d'eux ne peut être privé de sa place ni être suspendu que par un jugement.

Le déplacement d'un de ces juges ne peut avoir lieu que par une nomination nouvelle et de son consentement. Toutefois, en cas d'infirmité ou d'inconduite, il peut être suspendu, révoqué ou déplacé, suivant les conditions déterminées par la loi."

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

Voir sub 112

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

- Yes  
 No

**115) Is the status of prosecution services:**

- Indépendant?  
 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:

Ministère de la 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:

Voir sub 112

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

Voir sub 112

**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:

**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) |
|  | 2                                       |

**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:

La révocation comme sanction disciplinaire existe.

**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) |
|  | 2   |

**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)?**

NAP

## 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

Les candidats à la fonction de magistrat (magistrature assise et debout) doivent être détenteur d'un diplôme de maîtrise/master en droit. Ils doivent en outre être détenteur du diplôme de formation complémentaire en droit luxembourgeois qui sanctionne des études en droit d'un an. Ils sont alors assermentés comme avocats-stagiaires. Lors de leur période de stage ils effectuent toutes les tâches de l'avocat sous la direction et le contrôle d'un maître de stage. Après deux ans ils peuvent se présenter à l'examen de fin de stage judiciaire (avoué) et une fois cet examen réussi ils sont nommés avocats à la Cour (avoués). C'est généralement le classement lors de cet examen ainsi qu'un entretien devant un jury de sélection composé exclusivement de magistrats qui détermine si les candidats sont admis ou non. Une fois admis ils suivent une formation théorique de 6 mois dont 6 semaines à l'ENM de Bordeaux. A l'issue de cette période de formation ils sont affectés soit à la magistrature debout ou assise comme attachés de justice pendant deux ans lors desquels ils suivent encore des formations et ce n'est qu'après qu'ils auront une nomination définitive. Il est à remarquer que le changement entre magistrature debout et assise est assez facile et que le système des carrières et des rémunérations est identique.

## 5. 2. Training

### 5. 2. 1. Training

**127) Training of judges**

|                        |            |
|------------------------|------------|
| Initial training (e.g. | Compulsory |
|------------------------|------------|



|   |            |
|---|------------|
| attend a judicial school, traineeship in the court)   |            |
| 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)                          | Compulsory |
| In-service training for the use of computer facilities in courts  | Compulsory |

### 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)                          | Annual |
| 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)  | Compulsory |
| In-service training for the use of computer facilities in office                                      | Compulsory |

### 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)  | Annual |
| In-service training for the use of computer facilities in office                                      | Annual |

**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                    | No                       | No                              |
| One institution for prosecutors | No                    | No                       | No                              |
| One single institution          |                       |                          |                                 |

|                                 |    |    |    |
|---------------------------------|----|----|----|
| for both judges and prosecutors | No | No | No |
|---------------------------------|----|----|----|

Comment :

There is no training institution in Luxembourg but our judges and prosecutors receive their training at the Ecole Nationale de la Magistrature en France.  
cf CN 05/07

## 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

### 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  | 78 383  |   |
| 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)                                      | 152 607                                       |   |
| Public prosecutor at the beginning of his/her career  | 78 483  |   |
| 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) | 152 607                                       |   |

Comment :

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

|                         | Judges | Public prosecutors |
|-------------------------|--------|--------------------|
| Reduced taxation        | No     | No                 |
| Special pension         | No     | No                 |
| 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                 | No                | No                   |
| Research and publication | Yes               | No                   |
| Arbitrator               | No                | 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.**

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

|                          | With remuneration | Without remuneration |
|--------------------------|-------------------|----------------------|
| Teaching                 | No                | 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:

**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:

**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:

**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<br>(1+2+3+4)        | 1      | 0                  |
| 1. Breach of professional ethics | 0      | 0                  |
| 2. Professional inadequacy       | 1      | 0                  |
| 3. Criminal offence              | 0      | 0                  |
| 4. Other                         | 0      | 0                  |

Comment :

**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)                          | 0      | 0                  |
| 1. Reprimand   | NA     | NA                 |
| 2. Suspension  | NA     | NA                 |
| 3. Removal of cases                                  | NA     | NA                 |
| 4. Fine  | NA     | NA                 |
| 5. Temporary reduction of salary                     | NA     | NA                 |
| 6. Position downgrade                                | NA     | NA                 |
| 7. Transfer to another geographical (court) location | NA     | NA                 |
| 8. Resignation                                       | NA     | NA                 |
| 9. Other   | NA     | NA                 |

Comment :

La procédure disciplinaire citée sub 144 a été déclarée non fondée par l'autorité judiciaire compétente.

### 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

**Please indicate the sources for answering questions 144 and 145**

comptage manuel par la Cour supérieure de Justice

## 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.**

1 903

**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:

- Dans le cadre des affaires civiles dans lesquelles le « ministère d'avocat à la Cour » n'est pas requis c'est-à-dire un avocat inscrit à la liste 1 du Tableau de l'Ordre des Avocats, les parties peuvent se faire assister ou représenter par :
- leur conjoint ou leur partenaire au sens de la loi du 9 juillet 2004 relative aux effets légaux de certains partenariats,
  - leurs parents ou alliés en ligne directe,
  - leurs parents ou alliés en ligne collatérale jusqu'au troisième degré inclus,
  - les personnes exclusivement attachées à leur service personnel ou à leur entreprise.

Il s'agit notamment des affaires dont l'enjeu est inférieur à 10000.-EUR et uniquement pour la première instance. En instance d'appel, le recours à un avocat est nécessaire.

- Dans le cadre des affaires pénales ( 1ère instance), le défendeur et la victime peuvent se faire représenter par un avocat ou par un fondé de procuration spéciale avec une exception en matière criminelle où la personne citée doit se présenter en personne et l'avocat n'a pas la possibilité de la représenter mais uniquement de l'assister.

Pour les instances d'appel, le recours à un avocat est nécessaire sauf à la victime et au cité de se représenter eux-mêmes.

- Dans le cadre des affaires administratives, il y a lieu de distinguer entre les affaires portées devant les juridictions de l'ordre administratif et celles relevant des instances compétentes pour les recours en matière de sécurité sociale.

Dans le premiers cas de figure, les avocats à la Cour ont l'exclusivité dans la représentation devant les juridictions administratives.

Dans le second cas de figure, la requête peut être signée par le demandeur ou son représentant légal ou son mandataire qui peut être le représentant de son organisation professionnelle ou syndicale.

**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:

The answer is negative, but everything about professional qualification of lawyers is to be found in Loi du 10 août 1991 sur la profession d'avocat.

**F.1**

**Please indicate the sources for answering questions 146 and 148:**

-----  
**Comments for interpreting the data mentioned in this chapter:**

**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:**

L'avocat doit fixer ses honoraires en fonction des critères suivants :

- importance de l'affaire
- degré de difficulté de l'affaire

- résultat obtenu
- situation de fortune du client
- travail fourni par l'avocat ou par d'autres avocats du cabinet
- notoriété et expérience professionnelle de l'avocat.

Le justiciable peut donc s'orienter en fonction de ces critères et en tout état de cause demander, dès la prise de contact avec l'avocat, quel tarif horaire il appliquera ou quel est son mode de calcul s'il ne travaille pas sur base d'un tarif horaire.

### 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?

L'avocat doit faire preuve d'honorabilité, d'indépendance, de diligence, de dignité, de conscience, de probité, d'humanité, de loyauté, de délicatesse, de modération, de courtoisie, de désintéressement, de confraternité. Il doit également adopter un ton modéré et poli, en s'abstenant de termes blessants ou injurieux et évitera d'utiliser un ton méprisant, arrogant ou hautain.

##### 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:

Toute personne qui estime qu'un avocat n'a pas agi en conformité des règles déontologiques auxquelles il est soumis, peut déposer plainte à l'encontre de cet avocat auprès du Bâtonnier du Barreau dont dépend l'avocat.

Dans ce même ordre d'idée, le justiciable qui estime que les honoraires de l'avocat ne seraient pas conformes aux critères de fixation des honoraires, peut saisir le Conseil de l'Ordre du Barreau dont dépend l'avocat. Une procédure de taxation sera alors mise en œuvre et les honoraires de l'avocat feront l'objet d'une vérification.

##### 160) Which authority is responsible for disciplinary procedures?

- the judge  
 the Ministry of justice  
 a professional authority  
 other

If other, please specify:

**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 | NA   | 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 | NA  | NA          | NA            | NA         | NA      | NA                         |

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                      | No               | No                                      | No    | No                |
| Employment dismissals          | No                      | Yes              | No                                      | No    | No                |
| Criminal cases                 | Yes                     | Yes              | No                                      | No    | No                |

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

Yes

No

If yes, please specify:

L'article 37-1 (2) de la loi du 10 août 1991 sur la profession d'avocat prévoit que

« l'assistance judiciaire est accordée en matière extrajudiciaire et en matière judiciaire, en matière gracieuse ou contentieuse, en demande ou en défense ». Il est donc possible de bénéficier de l'assistance judiciaire pour la médiation.

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

NA

**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) | NA |
| 1. civil cases                          | NA |
| 2. family cases                         | NA |
| 3. administrative cases                 | NA |
| 4. employment dismissals cases          | NA |
| 5. criminal cases                       | NA |

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 :

La médiation non-judiciaire existe en matière pénale (bien qu'elle soit ordonnée par le parquet).

L'arbitrage est notamment prévu par l'article 429 du Code de procédure civile qui dispose que :

« s'il y a lieu à renvoyer les parties devant les arbitres, pour examen de comptes, pièces et registres, il sera nommé un ou trois arbitres pour entendre les parties, et les concilier, si faire se peut, sinon donner leur avis.

S'il y a lieu à visite ou estimation d'ouvrages ou marchandises, il sera nommé un ou trois experts.

Les arbitres et les experts seront nommés d'office par le tribunal à moins que les parties n'en conviennent à l'audience. ».

Le juge peut toujours proposer une conciliation aux parties.

### 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**

19

**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:

**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:**

Règlement grand-ducal du 25 septembre 2009

#### 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:

Les huissiers sont également contrôlés par le juge et le procureur.

**179) Have quality standards been determined for enforcement agents?**

- Yes  
 No

If yes, what are the quality criteria used?

Les huissiers de justice sont soumis à des règles déontologiques dont le non-respect est sanctionné.

**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

En cas de contestation ou de difficultés lors de l'exécution, le tribunal peut être saisi.

**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:**

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

If more, please specify

**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) | <input type="checkbox"/> number: | 0 |
| 1. for breach of professional ethics               | <input type="checkbox"/> number: | 0 |
| 2. for professional inadequacy                     | <input type="checkbox"/> number: | 0 |
| 3. for criminal offence                            | <input type="checkbox"/> number: | 0 |
| 4. Other   | <input type="checkbox"/> number: | 0 |

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) | <input type="checkbox"/> number: | 0 |
| 1. Reprimand                          | <input type="checkbox"/> number: | 0 |
| 2. Suspension                         | <input type="checkbox"/> number: | 0 |

- |              |                                  |   |
|--------------|----------------------------------|---|
| 3. Dismissal | <input type="checkbox"/> number: | 0 |
| 4. Fine      | <input type="checkbox"/> number: | 0 |
| 5. Other     | <input type="checkbox"/> number: | 0 |

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:**

Chambre des Huissiers de justice du Grand-Duché de Luxembourg

## 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:

Le Procureur général d'Etat est chargé de l'exécution des peines prononcées par les cours et tribunaux en matière pénale. Il prend l'initiative et surveille l'exécution de ces peines.

**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:

renseignements obtenus auprès du Service d'exécution des peines

### 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)?           | <input type="checkbox"/> number            |    |
| private professionals under the authority (control) of public authorities? | <input type="checkbox"/> number            |    |
| public agents?   | <input checked="" type="checkbox"/> number | 36 |
| other?   | <input type="checkbox"/> 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:

**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:

L'Administration de l'Enregistrement et des Domaines en ce qui concerne la régularité formelle des actes.

### 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:**

389

**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):

Diplôme de bac+4 en traduction ou interprétation

**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 :

La sélection régulière est faite par le Ministère de la Justice.

### J.1

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

Q199 : Luxembourg's population counts 45% of foreigners. During daytime another 170.000 (compared to a population of 510.000) non-residents from Belgium, France and Germany are working in Luxemburg. That explains the constant need of more court interpreters aswell as a coming new EU directive concerning translation and interpretation in court.

**Please indicate the sources for answering question 199:**

Ministère de la Justice

## 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)**

1 348

**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:  
Le délai est en principe fixé à trois mois.

**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 :

Le Ministère de la Justice est responsable de la sélection des experts. Le juge les nomme au cas par cas en accord avec les parties au procès.

### 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:**

Ministère de la Justice

## 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. Une réforme des juridictions suprêmes et de leur fonctionnement est envisagée.

2. Non

3. de nouveaux bâtiments pour une des trois juridictions de paix sont en construction.

4. La création d'un Conseil supérieur de la Justice est envisagée

5. Non

6. Des réformes sont en cours concernant le droit du divorce, de l'adoption, de l'avortement, des faillites. Une grande réforme de l'exécution des peines a été déposée au parlement. Divers instruments UE et du Conseil de l'Europe ainsi que de l'ONU sont en cours de ratification/transposition.

7. Introduction d'une chambre de l'application des peines (jusqu'ici cette tâche était dévolue au Parquet général).

8. Transposition de la directive européenne sur la médiation en matière civile et commerciale.

9. Une grande réforme du système pénitentiaire a été déposée au parlement avec notamment la construction d'une prison séparée pour les personnes en détention provisoire ainsi qu'un renforcement du système des peines alternatives (bracelet électronique).