



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Malta

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)

417 617

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 | 3 121 279 000 |
| Regional / federal entity level (total for all regions / federal entities) | NA |

3) Per capita GDP (in €)

20 200

4) Average gross annual salary (in €)

14 466

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:

Malta is in the Euro zone as from 1st January 2008. All data may be viewed from the National Statistics Office - Malta

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 | 10 260 000 |
| 1. Annual public budget allocated to (gross) salaries | <input checked="" type="checkbox"/> Yes | 7 151 000 |
| 2. Annual public budget allocated to computerisation (equipment, investments, maintenance) | <input checked="" type="checkbox"/> Yes | 1 308 000 |
| 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 | 1 399 000 |
| 4. Annual public budget allocated to court buildings (maintenance, operating costs) | <input checked="" type="checkbox"/> Yes | 100 000 |
| 5. Annual public budget allocated to investments in new (court) buildings | <input checked="" type="checkbox"/> Yes | 300 000 |
| 6. Annual public budget allocated to training and education | <input checked="" type="checkbox"/> Yes | 2 000 |
| 7. Other (please specify): | | NAP |

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:

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:

There exist exception in the eventuality that the litigant applies for Legal Aid services, in which case, all court tax fees and legal fees are borne by the Government.

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

6 702 000

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 83 998 000

11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.

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

Comment :

The Police Force also fell under the remit of the Ministry of Justice and Home Affairs in 2010 and the total budget allocated to the Police Force was of €45,013,000

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 €) | 85000 | NAP | NAP |

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

Amount 2 569 000

Comment :

The Public Prosecution Services is carried out by the Attorney General's office who not only acts as a Public Prosecution but also acts as the Principal Legal Advisor of all the Government Departments.

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 | Yes | No |
| Inspection body | No | No | No | Yes |
| Other | No | No | No | No |

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

The Auditor General regularly inspects the income and expenditure.

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

Question 6: Due to the fact that training is not compulsory at present, the budget allocated to training is rather low. Nevertheless, in comparison with 2008, the budget for 2010 was doubled, and in the following years, this was further increased.

Question 12: The discrepancy in these values is due to the fact that Legal Aid provisions are taken from the Attorney General's financial provisions and in 2008, funds were allocated in a different manner as were eventually allocated in 2010, since some of the Legal Aid funding, in 2008, was catered for by a different Ministry and such data was not then available.

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

Ministry of Finance

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 | No | No |

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

Yes

No

If yes, please specify:

All expenses are borne by the Government

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.]

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

Comment :

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

| | |
|---------------------|-----|
| Accused individuals | Yes |
|---------------------|-----|

| | |
|---------|-----|
| Victims | Yes |
|---------|-----|

Comment :

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 | €8,000 | €8,000 |
| for other than criminal cases? | €8,000 | €8,000 |

Comment :

This value is the National Minimum wage established by law from time to time, in accordance with Subsidiary Legislation 452.71

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:

The Chief Legal Officer examines the case with the applicant and if he deems that applicant has no case, he is not given the services of a Legal Aid Lawyer.

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

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

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

- Yes
 No

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

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

| | |
|----------------------------|-----|
| criminal cases? | No |
| 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

Code of Organization and Civil Procedure, Chapter 12

2. 2. Users of the courts and victims

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

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

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

- legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): Yes www.justiceservices.gov.mt
- case-law of the higher court/s? Internet address(es): Yes www.justiceservices.gov.mt
- other documents (e.g. downloadable forms, online registration)? Yes www.justiceservices.gov.mt

Comment :

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:

Information is available on the web site of the Ministry of Justice

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

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

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

33) If yes, does this compensation consist in:

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

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

- Yes
 No

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

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

- Yes
 No

If yes, please specify:

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

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

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

If necessary, please specify:

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

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

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

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

The users can take their claim to Court by filing a case against the Government and, should it be successful, as has happened in several instances, the Court will award compensation.

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 complaint, etc.) | Time limit for dealing with the complaint | No time limits |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|----------------|
| Court concerned | No | No | No |
| Higher court | No | No | No |
| Ministry of Justice | No | No | No |
| High Council of the Judiciary | Yes | Yes | No |
| Other external bodies (e.g. Ombudsman) | No | No | No |

Comment :

The Commission for the Administration of Justice set up in terms of Chapter 369 of the Laws of Malta is the High Council which sees to all these complaints.

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) | 1 |
| 42.2 First instance specialised Courts (legal entities) | 3 |
| 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) | 2 |

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

Comment :

At present there exist three specialized courts, namely the Family Court, the Court of First Instance and the Administrative Tribunal. There exist a couple of Tribunals, these being the Industrial Tribunal and the Small Claims Tribunal. There also exist several other Boards which exist, these being the Land Arbitration Board, Rural Leases Control Board, Value Added Tax Board, Partition of Inheritance Board, Rent Regulation Board and the Commission for Fair Trading.

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:

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 | 2 |
| a dismissal | 2 |
| a robbery | 2 |

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

A Small Claim is considered to be a claim of up to €3,494, as provided for in Chapter 380 of the Laws of Malta

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

This information is taken from the Code of Organization and Civil Procedure and its subsidiary legislation, as regards the Courts, as well as every other law which creates the Tribunal or Board referred to above

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) | 39 | 27 | 12 |
| 1. Number of first instance professional judges | 33 | NA | NA |
| 2. Number of second instance (court of appeal) professional judges | 6 | NA | NA |
| 3. Number of supreme court professional judges | 3 | NA | NA |

Comment :

In Malta we have no Supreme Court, the Court of Appeal is the Court of Second Instance. The Constitutional Court, then, is presided over by the 3 Judges who compose the Court of second Instance also known as the Court of Appeal in its Superior Jurisdiction.

Question 46: As to the gender issue, in the past ten to fifteen years, the authorities have promoted the appointment of women in the judicial field, and the vast majority of the women currently appointed as judges and magistrates have been so appointed in the said period.

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) | 1 | NA | NA |
| 1. Number of first instance court presidents | NA | NA | NA |
| 2. Number of second instance (court of appeal) court presidents | NA | NA | NA |
| 3. Number of supreme court presidents | NA | NA | NA |

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 Yes 16
If possible, in full-time equivalent NAP

Comment :

In Malta we do not have part time professional judges who sit in the Courts, as all the Courts are presided over by a Judge or a Magistrate, depending on the competency. Nevertheless, there is the Small Claims Tribunal, which is presided by a lawyer, not being a judge, and who has a security of tenure for a period of five years, and which decide all money claims up till €3,494. Furthermore, we also have Commissioners for Justice, who hear and decide upon depenalised contraventions, such as traffic contraventions and petty offences, The figures indicated as professional judges on an occasional basis reflect these two Tribunals, there being 9 Commissioners for Justice and 7 Small Claim Tribunal adjudicators.

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)?

This applies to cases involving crimes punishable by imprisonment for more than 10 years or, in the case of cases punishable by imprisonment for more than four years, should the accused choose to avail of the trial by jury

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

180

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

| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----|
| Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5) | <input checked="" type="checkbox"/> Yes | 374 |
| 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 | 274 |
| 3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) | <input checked="" type="checkbox"/> Yes | 100 |
| 4. Technical staff | | NAP |
| 5. Other non-judge staff | | NAP |

Comment :

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

In Malta there exists no concept of Rechtspfleger. All executive actions which may be taken in pursual of an executive title obtained by courts or through any other legal instrument has to be executed by the Officials of the Courts, namely the Court Marshals, who are the assigned particular duties in the enforcement of Executive and Precautionary Warrants

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:

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

Office of the Director General Courts

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) | 30 | 9 | 21 |
| 1. Number of prosecutors at first instance level | 30 | 9 | 21 |
| 2. Number of prosecutors at second instance (court of appeal) level | 30 | 9 | 21 |
| 3. Number of prosecutors at supreme court level | NA | NA | NA |

Comment :

All the lawyers at the Office of the Attorney General work both in Court as well as advisers to the various Ministries and Departments.

Question 55

number of prosecutors should be as follows:-

Total number of lawyers - 30 lawyers

21 females

9 males

All lawyers attend both to first and second instance cases.

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) | 1 | NA | NA |
| 1. Number of heads of prosecution offices at first instance level | 1 | NA | NA |
| 2. Number of heads of prosecution offices at second instance (court of appeal) level | NA | NA | NA |
| 3. Number of heads of prosecution offices at supreme court | NA | NA | NA |

| | | | |
|-------|--|--|--|
| level | | | |
|-------|--|--|--|

Comment :

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

- Yes
- No

Number (full-time equivalent)
NA

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

The Police Inspectors and other police officers with a higher rank may appear before the Magistrates' Court and prosecute accordingly.

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 39

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

The Office of the Attorney General.

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

Comment :

The evaluation and control of the budget is carried out the Auditor General of the Government

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

| | |
|-----------------|----------------|
| Word processing | 100% of courts |
|-----------------|----------------|

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

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

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

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

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

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

| | | | | |
|--|-----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|
| | 65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses? | 65.2 Can such court hearing be held in the police station and/or in the prison? | 65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence? | 65.4 Is videoconferencing used in other than criminal cases? |
| | Yes | No | No | Yes |

Comment :

C.3

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your judicial system and the main reforms that has been implemented over the last two years

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:

There exists an in house 'ad hoc' database and management system of all the acts and proceedings taking place in Court, which system is maintained by the Court Administration together with the Malta Information Technology Agency (MITA) which is entrusted with the technical upkeep of the system

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:

The Commission for the Administration of Justice.

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:

There exists a Code of Ethics for the members of the Judiciary which, though not providing for the organisation and quality of the judicial work, does lay upon the members of the Judiciary certain obligations which are important in ensuring the transparency and independence of the judicial process

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

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)?

NAP

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

Yes

No

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

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

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

Please indicate the sources:

D.1

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

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

civil cases?

criminal cases?

administrative cases?

there is no specific procedure

If yes, please specify:

In any of the cases, any party may file an application in Court requesting a matter to be dealt with, with urgency, and the Court may choose to decree accordingly, possibly even after hearing the parties.

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:

There exists a procedure, regulated by Section 166A of the Code of Organization and Civil Procedure, wherein anyone having a claim, which is certain and due, of up to €23,300, may file a judicial letter and notify it onto the debtor and, should the debtor fail to reply within 30 days, then the amount being requested is considered to have been

admitted and the creditor is given an executive title against the debtor without any further act to be filed.

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

Yes

No

If yes, please specify:

The Parties may appear in Court and agree on the way the case should be processed, namely as to the way witnesses are to be produced and sittings to be heard, and this will be recorded in the Court minutes

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)* | 10 022 | 5 090 | 4 485 | 10 641 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)* | 9 729 | 4 994 | 4 428 | 10 295 |
| 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** | 216 | 33 | 39 | 210 |
| 5. Business register cases** | NA | NA | NA | NA |
| 6. Administrative law cases (litigious and non-litigious) | 91 | 63 | 18 | 136 |
| 7. Other cases (e.g. insolvency registry cases) | NA | NA | NA | NA |

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

"The vast majority of cases heard before the Courts of Malta are litigious cases. Nevertheless, there is the Court of Voluntary Jurisdiction which deals with adoptions, appointment of Tutor, Curators and other Administrators, Interdiction and Incapacitation and Opening of Secret Wills."

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

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

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

| | Pending cases on 1 Jan. '10 | Incoming cases | Resolved cases | Pending cases on 31 Dec. '10 |
|-----------------------------------------------|-----------------------------|----------------|----------------|------------------------------|
| Total criminal cases (8+9) | 16 481 | 19 613 | 18 800 | 17 065 |
| 8. Criminal cases (severe criminal offences) | 3 495 | 1 612 | 1 547 | 3 515 |
| 9. Misdemeanour and / or minor offences cases | 12 986 | 18 001 | 17 253 | 13 550 |

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".

In order to simplify matters, all cases which could lead to more than six months imprisonment were indicated as "severe criminal cases" whilst all those who could give rise to up till six months imprisonment were indicated as "misdemeanour"

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.

In Malta, enforcement is cases are carried out by the Court Marshalls as a result of which, there is no need to refer the enforcement to the Court as a case, but merely a warrant of Enforcement is presented, of which, at present, no data is available. As to Business register cases, all cases relating to business matters are heard by the Civil Court, as a result of which, no separate data exists.

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) | 797 | 639 | 628 | 808 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)* | 797 | 639 | 628 | 808 |
| 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 | NA | NA | NA | NA |

| categories 3-7)* | | | | |
|-----------------------------------------------------------|----|----|----|----|
| 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 |

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) | 249 | 578 | 376 | 451 |
| 8. Criminal cases (Severe criminal offences) | 23 | 22 | 14 | 31 |
| 9. Misdemeanour and/or minor offences cases | 226 | 556 | 362 | 420 |

Comment :

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) | 49 | 46 | 36 | 59 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6) | NA | NA | NA | 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) | 49 | 46 | 36 | 59 |

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 | NA | NA |
| 8. Criminal cases (severe criminal offences) | NA | NA | NA | NA |
| 9. Misdemeanour cases (minor offences) | NA | NA | NA | NA |

Comment :

It is to be noted that in Malta there exist no Highest Instance Court as this is the Court of Second Instance. Nevertheless,

there exists the Constitutional Court which decided upon matters relating to important Constitutional matters and the Electoral Law. The numbers indicated in Item 99 are those of the Constitutional Court

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 | NA | NA |
| Employment dismissal cases | NA | NA | NA | 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):

In Malta, till June 2011 there existed no divorce proceedings, whether litigious or non-litigious. On the other hand, there exist separation proceedings, which may be either litigious or non litigious, as well as annulment proceedings, which are always litigious.

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

Length of proceedings is not calculated in Malta. It can only be discerned from annual data made available, however there is no scientific method to evaluate the length of specific proceedings.

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

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

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

Yes No

If yes, please specify:

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

| | Received by the public prosecutor | Cases discontinued by the public prosecutor (see 108 below) | Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor | Cases charged by the public prosecutor before the courts |
|---------------------------------------------|-----------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------|
| Total number of 1st instance criminal cases | NA | NA | NA | NA |

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) | NA |
| 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

Traffic offences, per se, have been depenalised, as a result of which, these are not heard before the Courts, but before the Commissioners for Justice, who do not fall within the structure of the Courts." Certain traffic offences relating to drink driving and driving without a licence and/or without an insurance, however, are still heard by the Courts, and are thus included in the figures relating to the Criminal Courts.

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

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:

Judges are appointed by the Executive (appointed by the Head of State, having been proposed by the Government) and are chosen amongst the members of the legal profession by the Government, basing itself on the reputation, standing and experience of the lawyer chosen to sit as a Judge or Magistrate. Judges are expected to have had 12 years experience as a lawyer whilst Magistrates are expected to have had 7 years of experience as a lawyer

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:

Recruitment, as indicated above, is carried out solely by the Executive

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

- Yes
- No

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

Judges are the highest member of the Judiciary and, as such, there exist no promotion amongst them. The post of Chief Justice, however, is appointed by the Government.

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

The law provides that Magistrates have to have seven years experience as a lawyer while Judges have to have twelve years experience. Apart from these criteria, there exist no other conditions. Nevertheless, the Government of the day, when choosing the lawyer who is to be appointed as a Magistrate or Judge, ensures that such person enjoys the respect of the legal community, has sufficient experience to carry out the function of a Magistrate or Judge, and has the capabilities of administering a Court

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:

They are chosen by the Public Service Commission together with the Attorney General

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:

The Minister of Justice is.

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

Other than the Attorney General and the Assistant Attorney General, who are appointed by the Government, all other prosecutors are employed on contract, as a result of which, their promotions will be regulated therein.

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:

Judges enjoy security of tenure, which means that a Judge can only be removed from office for proved misbehaviour or proved inability to perform the functions of his office. The removal is effected by the President of Malta upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal. Before any motion for removal is brought before the House it must be sent to the Commission for the Administration of Justice for investigation. The motion must contain definite charges against the Judge or Magistrate, as the case may be, on the basis of which the investigations are to be held by the Commission, as well as a statement showing the grounds on which any charge is based. If the Commission, after investigating, reports that there is no misbehaviour or no inability to perform the functions of office, then no further action can be taken upon the proposed motion. If, on the other hand, the Commission finds that there is a prima facie case of misbehaviour or incapacity, then it will be up to the House of Representatives to discuss the motion and vote upon it

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) |
| | NAP |

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:
 The Attorney General himself may be removed by Parliament solely on the same basis of a Judge. All the others are considered employees of the Government or are contacted by means of a contract of employment, and therefore their termination is regulated by their contract of employment.

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

| | |
|--|---------------------------------------------|
| | Duration of the probation period (in years) |
| | NAP |

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

NAP

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

NA

E.1

You can indicate below:

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

5. 2. Training

5. 2. 1. Training

127) Training of judges

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

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

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

| | |
|-----------------------------------------------------------------------------------------------------------|-------------------------------|
| General in-service training | Regular (e.g. every 3 months) |
| In-service training for specialised judicial functions (e.g. judge for economic or administrative issues) | Regular (e.g. every 3 months) |
| In-service training for management functions of the court (e.g. court president) | Regular (e.g. every 3 months) |
| In-service training for the use of computer facilities in courts | No training offered |

129) Training of public prosecutors

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

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

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

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

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

| | Initial training only | Continuous training only | Initial and continuous training |
|---------------------------------|-----------------------|--------------------------|---------------------------------|
| One institution for judges | No | No | No |
| One institution for prosecutors | No | No | No |

| | | | |
|--------------------------------------------------------|----|----|----|
| One single institution for both judges and prosecutors | No | No | No |
|--------------------------------------------------------|----|----|----|

Comment :

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

There is the Judicial Studies Committee which has been formed recently to aid the Judiciary in the training and is currently being taken care of by a Retired Appeal Court Judge

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 | 38 487 | |
| 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) | 38 487 | |
| Public prosecutor at the beginning of his/her career | | |
| 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) | | |

Comment :

The Chief Justice has a Gross annual salary of €44406 whilst Magistrates of the Inferior Courts have a Gross annual salary of €32,760.

The Net Annual Salary varies according to the Income Tax Bands announced, from time to time, therefore it is not possible to indicate the amounts.

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 | Yes | No |

134) If other financial benefit, please specify:

The have an additional allowance of €3,500 which is non pensionable, as well as have telephone, internet and newspapers paid for, a chauffer driven car and an allowance of around €2,000 in fuel as well as and allowance of €850 for mobile calls.

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

| | With remuneration | Without remuneration |
|--------------------------|-------------------|----------------------|
| Teaching | No | Yes |
| Research and publication | No | 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 | Yes |
| Research and publication | No | Yes |
| 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:

The Commission for the Administration of Justice is authorized to initiate disciplinary proceedings against members of the judiciary as well as members of the legal profession.

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:
The Commission for the Administration of Justice

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:
The Commission for the Administration of Justice

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:
The Commission for the Administration of Justice

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

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

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

Comment :

All proceedings before the Commission for the Administration of Justice are private, as a result of which, no data is made available

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) | NA | NA |
| 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 :

All proceedings before the Commission for the Administration of Justice are private, as a result of which, no data is made available

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

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.

1 600

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:

NAP

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:

Before any Court of Law, a party may be assisted in Court, however always by a Lawyer in the Superior Courts and by a Lawyer or Legal Procurator, in the Inferior Courts

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:

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

In Malta, though specialisation is not officially recognised, it exists in practice, and lawyers specialise in different fields such as Maritime Law, Competition Law, Intellectual Property Law and Company Law, to mention just a few, after having attended specialised courses, both locally and outside Malta

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:

Litigation costs are regulated by law however, the client and the lawyer may agree to any other fee, provided that it is not on a 'quotae litis' bases. The Chamber of Advocates

issues guidelines as to what fees, being of an extra judicial nature, are reasonable

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?

There exists a Code of Ethics for Lawyers which was drawn up by the Commission for the Administration of Justice in collaboration with the Chamber of Advocates of Malta and the criteria adopted were the Rules of Ethics applied by the same Chamber of Advocates since its inception in 1877.

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:

One may complain to the Chamber of Advocates, and the case will then be investigated and, if need be, referred to the Committee of Advocates of the Commission for the Administration of Justice. Alternatively, one may refer the matter directly to the Committee of Advocates of the Commission for the Administration of Justice.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

The Commission for the Administration of Justice is responsible for disciplinary procedures.

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 :

Proceedings are held in closed chambers and are private, as a result of which, no data is published.

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 :

Proceedings are held in closed chambers and are private, as a result of which, no data is published.

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

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

- Yes
 No

If yes, please specify:

Since persons entitled to receive legal aid may be assisted in all proceedings, they may also be assisted by a legal aid lawyer in Court related mediation proceedings but not in ADR proceedings.

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

50

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 | NAP |
| 4. employment dismissals cases | NAP |
| 5. criminal cases | NAP |

Comment :

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

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

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

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

Comment :

Arbitration is mandatory in cases relating to traffic collision which do not exceed €11,600 in value and which do not include bodily injury. Furthermore Arbitration is mandatory in cases of Condominium and contestations of Water & Electricity bills. Furthermore, parties may choose to go to arbitration on any civil and commercial litigious matter, provided both parties agree.

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

The Malta Arbitration Centre is constantly improving the services for arbitration and promotes the issue of Arbitration regularly. Its web site is www.mac.com.mt

Please indicate the source for answering question 166:

The Arbitration Act, Chapter 387 of the Laws of Malta

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

20

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:

The enforcement agents are actually the Court Marshals. Many are assigned to particular tasks of enforcement whilst others are assigned to assist the Judges and Magistrates.

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:

Ministry of Justice

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:

The Court Administration, headed by the Director General of Courts, is responsible for the Court Marshals.

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

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

The same procedures available for the executing of court decisions against private citizens apply to public authorities.

182) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

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

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

If other, please specify:

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

- Yes
- No

If yes, please specify:

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

- for civil cases?
- for administrative cases?

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

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

Comment :

188) Number of sanctions pronounced against enforcement agents.

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

| | |
|---------------------------------------|----|
| Total number of sanctions (1+2+3+4+5) | NA |
| 1. Reprimand | NA |

| | |
|---------------|----|
| 2. Suspension | NA |
| 3. Dismissal | NA |
| 4. Fine | NA |
| 5. Other | NA |

Comment :

H.1

You can indicate below:

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

Enforcement Agents are actually a group of officers chosen amongst the Marshalls of the Courts, which fall under the direct responsibility of the Administration of the Courts, and though some cases may have been lodged against such Marshalls, it is not possible to distinguish between disciplinary cases taken against Court Marshalls who act as Enforcement Agents and others who don't.

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

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:

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

- Yes
- No

191) If yes, what is the recovery rate?

- 80-100%
- 50-79%
- less than 50%
- it cannot be estimated

Please indicate the source for answering this question:

H.2

You can indicate below:

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

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

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

- Yes
 No

193) Are notaries:

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

- private professionals (without control from public authorities)? number
- private professionals under the authority (control) of public authorities? number
- public agents? NA
- other? number

Comment :

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

- within the framework of civil procedure?
 in the field of legal advice?
 to certify the authenticity of legal deeds and certificates?
 other?

If "other", please specify:

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:

The Notarial Council of Malta - www.notariesofmalta.org

I.1

You can indicate below:

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

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

- Yes
 No

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

- Yes
 No

199) Number of accredited or registered court interpreters:

NAP

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

- Yes
 No

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

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

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

Comment :

J.1

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

The Courts appoints court interpreters from persons it is made aware of by the parties to the case.

Please indicate the sources for answering question 199:

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

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

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

203) Is the title of judicial experts protected?

- Yes
- No

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

- Yes
- No

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

NAP

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

- Yes
- No

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

207) Are the courts responsible for selecting judicial experts?

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

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

Comment :

K.1

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

Please indicate the sources for answering question 205:

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

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

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

The functioning of the judicial system is always subject of debate in Malta. Attempts were made in the past to control the actions of the members of the judiciary and a Code of Ethics has recently been approved by the Commission for the Administration of Justice. Amendments to the Code of Organization and Civil Procedure were carried out recently in order to facilitate the enforcement of executive titles as well as to introduce a pre trial stage so as to accelerate the judicial process. The number of Judges and Magistrates is always an issue of contestation as the Judicial Body laments that there should be more member of the Judiciary. Amendments are being presently discussed in order to improve the Code of Organization and Civil Procedure. Discussions are also underway to improve the judicial system across the board.